Modern Asian Studies (2023), **57**, 1415–1447
doi:10.1017/S0026749X22000439

CAMBRIDGE UNIVERSITY PRESS

RESEARCH ARTICLE

China's and Japan's winding path to the Refugee Convention: State identity transformations and the evolving international refugee regime

David Chiavacci[1]* and Elena Soboleva[2]

[1]University of Zurich, Zurich, Switzerland and [2]HSE University, Saint Petersburg, Russia
*Corresponding author. Email: david.chiavacci@uzh.ch

(Received 11 April 2022; revised 23 September 2022; accepted 27 September 2022)

Abstract
In the early 1980s, the People's Republic of China (PRC) and Japan joined the international refugee regime. This timing similarity is puzzling due to the stark differences between the PRC as a communist and authoritarian state versus Japan as a prime example of capitalist development and democratization. Moreover, although both signed the 1951 Refugee Convention and the 1967 Refugee Protocol without major reservations, neither of them has fully implemented these treaties. Discussions regarding the PRC's and Japan's engagement with the international refugee regime tend to start with the beginning of the Indochina refugee crisis in 1975. However, this article shows that the early decades of their interaction with the international refugee regime are of crucial importance for a full understanding of the timing and form of accession to the international refugee regime. Although the Southeast Asian refugee crisis played an important role as a trigger, it was the changing character of the international refugee regime and the transformations of state identity in both countries that set the ground for the signing of the refugee-related conventions.

Keywords: Refugee policy; Refugee Convention; Refugee Protocol; Japan; People's Republic of China (PRC); State identity

Introduction

In the early 1980s, the People's Republic of China (PRC) and Japan joined the 1951 Convention Relating to the Status of Refugees (hereafter Refugee Convention) and its 1967 Protocol Relating to the Status of Refugees (hereafter Refugee Protocol). This timing similarity is puzzling due to the stark differences between the PRC, which was a revolutionary state whose Chinese Communist Party (CCP) envisioned China as the vanguard of the coming uprising of the suppressed peoples of the third world, and Japan, whose democracy was dominated over decades by the conservative Liberal Democratic Party (LDP), which turned Japan into a prime example of capitalist development and a stalwart of the United States of America (US) against the threat of

communism in East Asia. Moreover, to date, their joining of the Refugee Convention has remained partial, which means that although both signed it without major reservations, neither of them has fully implemented it.[1] The signatory states are expected to participate in international refugee protection cooperation and to ensure that rights of refugees as stipulated by the Refugee Convention and the Refugee Protocol are respected on their territory by making legal changes, adapting migration policy, and establishing institutions for refugee protection. However, there is no international supervisory body and no mechanism to enforce state compliance with international refugee protection norms.

Discussions of the PRC's and Japan's engagement with the international refugee regime tend to start with the Indochina refugee crisis[2] in 1975,[3] and only deal with the preceding years in a short and partial manner, if at all.[4] The dominant narrative is summarized by Koichi Koizumi, who wrote that there 'was little or no understanding of the concept "refugee"' before 1975 and that 'the Southeast Asian refugee exodos represented a turning point' in East Asia.[5] In this dominant perspective, the Indochina refugee crisis is an exogenous shock that forced Japan and the PRC to react and, finally, to join the Refugee Convention.[6] However, we maintain that the early decades

[1]For critical analysis of the refugee policies in Japan and the PRC and their partial implementation of the Refugee Convention and Refugee Protocol, see Won Geun Choi, 'China and its Janus-faced refugee policy', *Asian and Pacific Migration Journal*, vol. 26, no. 2, 2017, pp. 224–240; Petrice R. Flowers, 'Failure to protect refugees? Domestic institutions, international organizations, and civil society in Japan', *The Journal of Japanese Studies*, vol. 34, no. 2, 2008, pp. 333–361; Ryuji Mukae, 'Refugee policy', in *Open borders, open society? Immigration and social integration in Japan*, (ed.) Toake Endoh (Opladen: Verlag Barbara Budrich, 2022), pp. 71–100; Lili Song, 'China and the international refugee protection regime: Past, present, and potentials', *Refugee Survey Quarterly*, vol. 37, no. 2, 2018, pp. 139–161.

[2]In 1975, the establishment of communist governments in the former French colonies in Indochina led to an exodus of refugees from Cambodia, Laos, and Vietnam. The resulting humanitarian crisis was especially acute in 1979 and 1980. For more detailed accounts, see Frank Frost, 'Vietnam, ASEAN and the Indochina Refugee Crisis', in *Southeast Asian affairs*, (ed.) Leo Suryadinata (Singapore: ISEAS Publishing, 1980), pp. 347–367; W. Courtland Robinson, *Terms of refuge: The Indochinese exodus and the international response* (London: Zed Books, 1998).

[3]See, among others, Choi, 'China and its Janus-faced refugee policy', pp. 224–240; Petrice R. Flowers, *Refugees, women, and weapons: International norm adoption and compliance in Japan* (Stanford: Stanford University Press, 2009); Michael Strausz, *Help (not) wanted: Immigration politics in Japan* (Albany: SUNY Press, 2019).

[4]For publications, which include some discussions of the preceding years, see Osamu Arakaki, *Refugee law and practice in Japan* (Aldershot: Ashgate, 2008), pp. 12–16; Hiroshi Honma 浩 本間, *Nanmin mondai to ha nani ka* 難民問題とは何か [What is the refugee problem?] (Tokyo: Iwanami Shoten, 1990), pp. 139–146; Ryuji Mukae, *Japan's refugee policy: To be of the world* (Fucecchio: European Press Academic Publishing, 2001), pp. 133–137; Elena Soboleva, 'China and the refugee dilemma: A new asylum destination or a challenge to international norms?', in *Immigration governance in East Asia: Norm diffusion, politics of identity, citizenship*, (eds) Gunter Schubert, Franziska Plümmer, and Anastasiya Bayok (London: Routledge, 2021), p. 160; Song, 'China and the international refugee protection regime', p. 141; Lili Song, *Chinese refugee law and policy: A door behind the bamboo curtain?* (Cambridge: Cambridge University Press, 2020), pp. 9–10.

[5]Koichi Koizumi, 'Refugee policy formation in Japan: Developments and implications', *Journal of Refugee Studies*, vol. 5, no. 2, 1992, p. 123.

[6]See, among others, Choi, 'China and its Janus-faced refugee policy', p. 232; Flowers, *Refugees, women, and weapons*; Honma, *Nanmin mondai to ha nani ka*; Mukae, 'Refugee Policy'; Song, 'China and the international refugee protection regime', p. 145.

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

of interaction with the international refugee regime are of crucial importance for a full understanding of the accession to the Refugee Convention of the PRC and Japan. Our argument is that although the Southeast Asian refugee crisis played an important role as a trigger, it was the changing character of the international refugee regime and the transformations of state identity in both countries that set the foundations for the signing of these international conventions. While both the PRC and Japan were marked by the continuing dominance of the CCP in a one-party state and the LDP in a democratic system, under this surface of political continuity, the respective ruling elites fundamentally changed in an endogenous process their view of the nation state and its international role. By taking a constructivist approach,[7] we can show how changes in state identity led to new directions in foreign policy, of which the stance towards the Refugee Convention that had changed into a truly global regime was one aspect.

State identity is a well-established concept in international relations research.[8] In studies on East Asian states, it has been used, for example, to analyse the PRC's interaction with the international human rights regime or Japan's security policy.[9] Following Kuniko Ashizawa, we define state identity in a relational understanding as 'the image of individuality and distinctiveness held and projected by the state within particular international context … [which] is often formed and modified over time through relations and interactions with other states (and possibly other international actors, such as international organizations).'[10] It functions as a source of state foreign policy behaviour by defining values and thus establishing preferences for particular policy. State identity is not a property of a state, but a set of ideas that are shared by the ruling elites.[11]

A comparative analysis allows us to identify the differences and similarities between the PRC and Japan in their interaction with the international refugee regime. Regarding the PRC, the signing of the Refugee Convention happened during the period

[7]For the constructivist approach, see Colin Hay, 'Constructivist institutionalism', in *Oxford handbook of political institutions*, (eds) Sarah A. Binder, R. A. W. Rhodes, and Bert A. Rockman (Oxford: Oxford University Press, 2006), pp. 56–74.; Vivien A. Schmidt, 'Taking ideas and discourse seriously: Explaining change through discursive institutionalism as the fourth "new institutionalism"', *European Political Science Review*, vol. 2, no. 1, 2010, pp. 1–25; Alexander Wendt, *Social theory of international politics* (Cambridge: Cambridge University Press, 1999).

[8]See Peter J. Katzenstein (ed.), *The culture of national security: Norms and identity in world politics* (New York: Columbia University Press, 1996); Paul A. Kowert, 'Foreign policy and the social construction of state identity', in *The international studies encyclopedia*, (ed.) Robert A. Denemark (Oxford: Blackwell, 2010), pp. 2479–2498.

[9]As examples for this body of literature, see Thomas U. Berger, *Cultures of antimilitarism: National security in Germany and Japan* (Baltimore: Johns Hopkins University Press, 1998); Dingding Chen, 'China's participation in the international human rights regime: A state identity perspective', *Chinese Journal of International Politics*, vol. 2, no. 3, 2009, pp. 399–419; Linus Hagström and Karl Gustafsson, 'Japan and identity change: Why it matters in international relations', *The Pacific Review*, vol. 28, no. 1, 2015, pp. 1–22; Rana Siu Inboden and Titus C. Chen, 'China's response to International Normative Pressure: The case of human rights', *The International Spectator*, vol. 47, no. 2, 2012, pp. 45–57; Andrew L. Oros, *Normalizing Japan: Politics, identity and the evolution of security practice* (Stanford: Stanford University Press 2008).

[10]Kuniko Ashizawa, 'When identity matters: State identity, regional institution-building, and Japanese foreign policy', *International Studies Review*, vol. 10, no. 3, 2008, p. 575.

[11]Ashizawa, 'When identity matters', pp. 574 and 576.

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

of formidable changes in China's domestic politics and state identity, and as a result, the Western-centred international refugee regime became useful for Chinese elites. In Japan, an accession of the Refugee Convention was pushed for years by the progressive opposition forces. However, it was only taken up by the LDP as part of its new strategy to make Japan a leading and exemplary member of the international community.

The rest of the article is divided into three sections corresponding to the three main periods in China's and Japan's relations with the international refugee regime up until the early 1980s. The first period in the next section covers the humble, non-universal beginning of the refugee regime until the second half of the 1950s and discusses why the PRC cooperated with the refugee regime in those years, whereas Japan's conservative establishment declined to join the Refugee Convention. The following section covers the period from the second half of the 1950s to the mid-1970s. We analyse the changes in China's identity that led to the complete withdrawal of the PRC from the refugee regime, even though the refugee regime underwent a significant transformation by consolidating and expanding its reach. Regarding Japan, the reasons for the internal quarrel between the progressive opposition in favour of joining the Refugee Convention and the conservative establishment still rejecting it are discussed. The period from the mid-1970s to the early 1980s, when both countries joined the Refugee Convention, is analysed in the last section. We show how transformations in state identity explain why both countries joined but never fully implemented the Refugee Convention. For each period, we first provide relevant information regarding the changes in the refugee regime, discuss China's and Japan's experiences separately and finish with a short comparison.

East Asia and the non-universal beginning of the refugee regime

Nowadays, the Refugee Convention and the United Nations Higher Commissioner for Refugees (UNHCR) are the cornerstones of the international refugee regime. However, this regime had a very humble beginning and was not intended to become global.[12] During the early years of the Cold War, it was opposed by not only the Union of Soviet Socialist Republics (USSR) and its allies but also by the US, which was sceptical and did not put its weight behind it.

Before the UNHCR and the Refugee Convention, the United Nations Relief and Rehabilitation Administration (UNRRA) (1943–1947) and International Refugee Organization (IRO) (1947–1952) were responsible for the unprecedented number of displaced people due to the Second World War. Because the IRO was not able to finish its mandate by 1950 as expected, and the Cold War resulted in new waves of refugees, the UNHCR was established as part of the UN Secretariat in 1951. However, its budget and staff were miniscule. It should not directly take care of refugees and provide them with material assistance; instead, it should only act as a humanitarian guardian

[12]For the historical development of the UNHCR and the Refugee Convention, see the seminal study by Gil Loescher, *The UNHCR and world politics: A perilous path* (Oxford: Oxford University Press, 2001). An insider view is presented in the memoirs of the former UNHCR staff member Alexander Casella, *Breaking the rules* (Geneva: Edition du Tricorne, 2011).

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

of their legal rights when cooperating with governments and non-governmental organizations (NGOs). At the time, its mandate was limited to three years, and it had to solicit voluntary contributions from governments to cover its expenses.[13] Most importantly, the Refugee Convention was not originally intended as the centrepiece of the refugee protection regime, into which it developed. Although approved at a special UN conference in 1951, it was limited in time and scope to persons fleeing events that occurred before 1951 and only within Europe. At the conference, although the problem of refugees in other regions was recognized, it was dismissed, with the US representative calling it 'unrealistic for the Conference to legislate for refugees in the Far East'.[14] Hence, in its origin, the international refugee regime had a clear Eurocentric nature and was not meant to play a significant role in East Asia.

These limitations reflected the interests of the US, which was the main destination for the resettlement of refugees at the time and wanted to limit potential refugee inflows. The US was against an independent and powerful refugee agency, and it tried to control refugee issues by establishing its own refugee organizations and withholding financial support from the UNHCR.[15] Moreover, the US had blocked attempts to grant the UNHCR a broader mission and jurisdiction, as proposed by the United Kingdom (UK), among others.[16] The USSR and its allies did not participate in the negotiation leading to the establishment of the UNHCR or in the drawing of the Refugee Convention. They viewed repatriation as the only solution to the refugee problem and did not recognize the Refugee Convention, claiming that it 'does not create international law at all, but only represents a multilateral treaty, binding only on its signatories'.[17]

Under this Refugee Convention that was focused on Europe, nearly all escapees from Eastern Europe qualified for refugee status in Western countries. However, refugees from the rest of the world, including East Asia, were not covered. For example, the British-administered Hong Kong did not join the Refugee Convention and the UK, despite its preference for a broader mission and jurisdiction of the UNHCR, opposed the provision of assistance by the UNHCR to the refugees from the PRC, fearing that it would be a pull factor for further flight and impede its attempt to build closer relations with the PRC.[18] Moreover, refugee movements in Asia in the early 1950s were generally outside of the framework that was given to the UNHCR and Refugee Convention because the refugees originated from colonial states (e.g. British Malaya or Vietnam controlled by France), which did not fit into the category of sovereign nation-states that were subject to international law. Although the refugees from a colony were viewed as such by the UNHCR for the first time in 1953, it took years for them to be

[13]Mukae, *Japan's refugee policy*, p. 41.

[14]Quoted after Ulrike Krause, 'Colonial roots of the 1951 Refugee Convention and its effects on the global refugee regime', *Journal of International Relations and Development*, vol. 24, no. 3, 2021, p. 612.

[15]Mukae, *Japan's refugee policy*, pp. 42–43.

[16]Loescher, *The UNHCR and world politics*, pp. 51–53.

[17]George Ginsburgs, 'The Soviet Union and the problem of refugees and displaced persons 1917–1956', *American Journal of International Law*, vol. 51, no. 2, 1957, p. 358.

[18]Sara E. Davies, 'Redundant or essential? How politics shaped the outcome of the 1967 Protocol', *International Journal of Refugee Law*, vol. 19, no. 4, 2007, pp. 711–712; Loescher, *The UNHCR and world politics*, pp. 93–94; Laura Madokoro, *Elusive refuge: Chinese migrants in the Cold War* (Cambridge, MA: Harvard University Press, 2016), p. 49.

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

treated equally.[19] Thus, the regime remained marked by a 'colonial worldview'[20] and 'colonial ignorance',[21] which meant that colonized states and people were excluded, and their interests silenced. Although the UNHCR started to gradually extend their protection to new groups of refugees, including those from the communist states in both Europe and Asia, it remained opposed by the USSR and sidelined by the US. For example, during the Korean War (1950–1953), the UN Reconstruction Agency, which was led by the US and established for the post-war development of Korea, was made responsible for refugees arriving from the North. In contrast to European refugees fleeing communism, these Korean war refugees, who were not officially labelled refugees and viewed as a potential threat, were subject to strict control and even violence.[22]

Informal cooperation of the PRC

After its establishment in October 1949, the PRC was outside the UN system for more than 20 years. The Republic of China (ROC) as a founding member of the UN maintained its seat there until 1971, as the US and its allies opposed the transfer of the UN membership to Beijing. The PRC neither participated in the UN Conference in Geneva in 1951, which adopted the Refugee Convention, nor joined it. Overseas Chinese in East and Southeast Asia, who suffered from displacement and discrimination due to the Second World War and nation-building processes in the newly established states, were not covered by the new refugee law either. Nevertheless, immediately following the founding of the PRC, there was a short period of cooperation between Beijing and the international refugee regime. Still, the Eurocentric bias and colonial characteristics of the regime and the PRC's identity and foreign policy of a revolutionary socialist country fighting against oppression by Western colonialism and imperialism made this cooperation informal and short-lived.

When the PRC was established, the IRO was already present in China. In 1944, the ROC had asked UNRRA for help with the repatriation of overseas Chinese to their pre-war home countries in Southeast Asia. They numbered approximately 1.5 million, as counted by the Overseas Affairs Commission of the ROC, and exerted pressure on the weak Chinese economy.[23] There were also several thousands of refugees of European origin in China, which 'were a nuisance who required care, funds, and attention at a time when millions of Chinese citizens needed the same'.[24] The UNRRA did not manage to finish repatriation by 1947, and the mandate was transferred to the IRO. The PRC allowed the procedures that were already in place to continue after 1949 because

[19]Glen Peterson, 'Colonialism, sovereignty and the history of the international refugee regime', in *Refugees in Europe 1919–1959: A forty years' crisis?*, (eds) Matthew Frank and Jessica Reinisch (London: Bloomsbury Academic, 2017), p. 224.

[20]Glen Peterson, 'The uneven development of the International Refugee Regime in postwar Asia: Evidence from China, Hong Kong and Indonesia', *Journal of Refugee Studies*, vol. 25, no. 3, 2012, p. 340.

[21]Krause, 'Colonial roots of the 1951 Refugee Convention and its effects on the global refugee regime', p. 622.

[22]Nora Hui-Jung Kim, 'Cold War refugees: South Korea's entry into the international refugee regime, 1950–1992', *Journal of Refugee Studies*, vol. 35, no. 1, 2022, pp. 439–440.

[23]Katrine R. C. Greene, 'Repatriating China's expatriates', *Far Eastern Survey*, vol. 17, no. 4, 1948, p. 45.

[24]Meredith Oyen, 'The right of return: Chinese displaced persons and the International Refugee Organization, 1947–56', *Modern Asian Studies*, vol. 49, no. 2, 2015, p. 561.

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

it had not developed its own instruments to deal with the refugee issue. The IRO helped with registration and covered the costs of repatriation of overseas Chinese to Southeast Asia.[25] Moreover, the IRO, which was also supported by the USSR, limited its assistance to repatriation. In 1952, the UNHCR became responsible for assisting the remaining European refugees in China and the Shanghai office of the IRO, which worked on a semi-official basis until 1956.[26] Despite the IRO being able to assist refugees in the PRC, the CCP's mouthpiece the *People's Daily* blamed it for being a lackey of the US and serving its evil plans as follows: 'US imperialists train spies in Switzerland and prepare to send [them] under the name of International Refugee Organization to people's democratic countries to cause disturbance.'[27]

The critical attitude towards international refugee institutions was in line with the PRC's identity of a revolutionary country, as Chinese leadership saw the Chinese revolution not only as a part of the world communist movement but also as a major event in decolonization and the struggle against oppression by the Western colonialists.[28] For instance, during his meeting with Prime Minister of India Jawaharlal Nehru in 1954, Mao Zedong stated that '[h]istorically, all of us, people of the East, have been bullied by Western imperialist powers … Therefore, we, people of the East, have instinctive feelings of solidarity and protecting ourselves.'[29] Regarding the world communist movement, after 1949, the CCP adopted a 'lean on one side' foreign policy, which included alliance with the USSR, support of the Communist Bloc and opposition to US imperialism. In 1950, the PRC and USSR signed the Treaty of Friendship, Alliance and Mutual Assistance, and the CCP accepted its subordinate role in the world revolution, with the Communist Party of the USSR being its headquarters.[30] During 1950–1953, the PRC sent so-called volunteers to help socialist North Korea in the war against South Korea supported by the UN troops, most of them from the US. Beijing also attempted to expand its own influence in the non-Western World and tried to promote 'a broad anti-Western-imperialist/colonialist "united front" at the Bandung conference in 1955'.[31]

Another instance of migration in East Asia in the 1950s is worth discussing to understand Beijing's suspicious attitude towards the international refugee regime. In 1952, at the UN General Assembly, the ROC Ambassador requested that the 700,000

[25]Oyen, 'The right of return', p. 565.

[26]Louise W. Holborn, *Refugees: A problem of our time* (Metuchen: Scarecrow Press, 1975), p. 670; Oyen, 'The right of return', pp. 567–568; Peterson, 'The uneven development of the international refugee regime in postwar Asia', p. 329.

[27]*Renmin Ribao* 人民日报 [People's Daily], 'Meidi zai ruishi xunlian jiandie zhunbei jie guoji nanmin zuzhi mingyi paidao renmin minzhu guojia qu daoluan' 美帝在瑞士训练间谍准备借国际难民组织名义派到人民民主国家去捣乱 [US imperialists train spies in Switzerland and prepare to send [them] under the name of International Refugee Organization to people's democratic countries to cause disturbance], 9 January 1950.

[28]Chen Jian, 'Bridging revolution and decolonization: The "Bandung Discourse" in China's early Cold War experience', *The Chinese Historical Review*, vol. 15, no. 2, 2008, p. 238.

[29]People's Republic of China Foreign Ministry Archive, *Minutes of Chairman Mao Zedong's first meeting with Nehru*, History and Public Policy Program Digital Archive, PRC FMA 204-00007-01, 1-10, 19 October 1954, accessed via Wilson Center Digital Archive, available at https://digitalarchive.wilsoncenter.org/document/117825 [accessed 2 August 2022].

[30]Jian, 'Bridging revolution and decolonization' pp. 215–216.

[31]Jian, 'Bridging revolution and decolonization', p. 239.

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

Chinese in Hong Kong, who had fled the Communist regime in mainland China, should be considered refugees and receive assistance from the UNHCR.[32] The Free China Relief Organization, which was established in 1950 in Taipei by Chiang Kai-Shek to gather support for the ROC among Chinese diaspora, lobbied various UN bodies to assist Chinese refugees in Hong Kong and 'inflated statistics' to make their case an international concern.[33] The ROC tried to use the refugee regime as a weapon in the diplomatic war with the PRC. The PRC denied the refugee status of Chinese from the mainland in Hong Kong on the pretext that Hong Kong is part of China and blamed US organizations, which assisted refugees, for training spies to be sent to the mainland.[34]

Around the same time, between 1948 and 1955, the PRC received approximately 30,000 ethnic Chinese refugees from British Malaya, who were deported as part of the British counter-insurgency measures during the Malayan Emergency (1948–1960).[35] Displaced as the result of instability in a colony, they did not fit into the framework of the international refugee regime, which ignored them. As stated by Glen Peterson, 'refugee law was unable to prevail against the alternative identities ascribed to Chinese migrants'.[36] Therefore, due to the bias of the international refugee regime, the Malayan emergency became a missed opportunity for cooperation between the PRC and UNHCR. The PRC had to find solutions to the forced displacement outside of it and develop its own understanding of these processes. These migrants were labelled 'overseas Chinese nationals in distress' (*nanqiao*),[37] which stressed both the persecution and background of the migrants. The PRC government sent ships to evacuate distressed overseas Chinese from British Malaya and provided them with accommodation and food upon arrival.[38] Malayan Chinese were resettled on overseas Chinese farms,[39] which were opened in 1952,[40] and the resettlement was managed by the

[32]Davies, 'Redundant or essential?', p. 711; Holborn, *Refugees: A problem of our time*, p. 687; Loescher, *The UNHCR and world politics*, p. 93.

[33]Laura Madokoro, 'Surveying Hong Kong in the 1950s: Western humanitarians and the "problem" of Chinese refugees', *Modern Asian Studies*, vol. 49, no. 2, 2015, p. 506.

[34]Glen Peterson, 'To be or not to be a refugee: The international politics of the Hong Kong refugee crisis, 1949–55', *The Journal of Imperial and Commonwealth History*, vol. 36, no. 2, 2008, p. 181.

[35]Karl Hack, 'Detention, deportation and resettlement: British counterinsurgency and Malaya's rural Chinese, 1948–60', *The Journal of Imperial and Commonwealth History*, vol. 43, no. 4, 2015, p. 628.

[36]Glen Peterson, 'Sovereignty, international law, and the uneven development of the international refugee regime', *Modern Asian Studies*, vol. 49, no. 2, 2015, p. 463.

[37]*Renmin Ribao* 人民日报 [People's Daily], 'Bei yingguo zhimin dangju wuli quzhu chujing de malaiya huaqiao qibai yu ren fan Guangzhou' 被英国殖民当局无理驱逐出境的马来亚华侨七百余人返广州 [More than 700 Malayan overseas Chinese who were unreasonably expelled by the British colonial authorities returned to Guangzhou], 19 June 1952.

[38]Yongchao Lu 永朝 吕, 'Huaqiao nongchang you yi chun' 华侨农场又一春 [Another spring in overseas Chinese farm], *Huaren Shikan* 华人时刊 [Chinese Times], vol. 8, 2002, pp. 10–11.

[39]The PRC was unable to settle all returnees in the cities and provide them with jobs in the factories and sending them to the countryside was politically incorrect. Therefore, the PRC established state farms, which had better conditions than regular villages and where returnees were given the status of the factory workers. See Enze Han, 'Bifurcated homeland and diaspora politics in China and Taiwan towards the Overseas Chinese in Southeast Asia', *Journal of Ethnic and Migration Studies*, vol. 45, no. 4, 2019, p. 579.

[40]Peterson, 'Sovereignty, international law, and the uneven development of the international refugee regime', p. 443; *Renmin Ribao* 人民日报 [People's Daily], 'Guoying huaqiao nongchang shi anzhi guiqiao de jidi' 国营华侨农场是安置归侨的基地 [The state-run overseas Chinese farm is a base for resettlement of returned overseas Chinese], 15 February 1961.

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

Overseas Chinese Affairs Office.[41] Despite the criticism of the international refugee regime, Beijing assisted refugees of Chinese origin from Malaya, irrespective of their citizenship, because these 'refugee-returnees' 'helped consolidate for the new political regime the identity of the Chinese nation'.[42] So, according to another aspect of China's state identity during that period, the CCP elites positioned the PRC as a sole representative of Chinese nation, which shaped their foreign policy preferences and required Beijing to assist diaspora in trouble and support return migration.

Japan consciously remaining aloof

The defeat in the Second World War resulted in Japan being occupied by allied forces that were dominated by the US until 1952. After regaining independence, it took Japan another four years to overcome the USSR's opposition to join the UN in December 1956. Hence, like the PRC, Japan was neither involved in the establishment of the UNHCR nor in the drafting of the Refugee Convention. In summer 1956, even before becoming a member state of the UN, Japan had been invited to join the UNHCR. However, Japan declined the offer. Sara E. Davies argues that this rejection of Japan, which followed the rejections of other non-communist Asian countries that were approached by the UNHCR, was due to the Eurocentric character of the Refugee Convention, during the drafting of which the voices from Asian countries had been disregarded.[43] Moreover, in addition to this view of the Refugee Convention as a European institution that is not suitable for Japan, we argue that Japan's focus on economic development, its asymmetric relationship with the US as junior partner and internal security issues were additional and more important factors for its deliberate decision to remain aloof of the international refugee regime.

The US occupation policy led to a comprehensive transformation of Japan but was characterized by a turning point in 1948.[44] During the early phase, the main goal had been the demilitarization and democratization of Japan by establishing a check and balance in politics through unleashing progressive forces, including leftist parties and labour unions, and by dictating several fundamental reforms and a new constitution. However, in early 1948, in view of the increasing international tensions and the rise of communism in East Asia, the occupation policy switched into Cold War modus. The strategic objective was now to secure Japan as an ally in the US fight against communism in East Asia. This dual occupation policy set the ground for the continued domination of Japanese politics by the conservative establishment in the form of the LDP (founded 1955) and its predecessors.[45] However, it also

[41]Elaine Lynn-Ee Ho, 'Transnational identities, multiculturalism or assimilation? China's "refugee-returnees" and generational transitions', *Modern Asian Studies*, vol. 49, no. 2, 2015, p. 534.

[42]Elaine Lynn-Ee Ho, *Citizens in motion: Emigration, immigration, and re-migration across China's borders* (Stanford: Stanford University Press, 2018), p. 22.

[43]Sara E. Davies, 'The Asian rejection? International refugee law in Asia', *Australian Journal of Politics and History*, vol. 52, no. 4, 2006, pp. 562–575.

[44]Wiliam R. Nester, *Power across the Pacific: A diplomatic history of American relations with Japan* (London: Palgrave Macmillan, 1996), pp. 224–260; Eiji Takemae, *Inside GHQ: The Allied occupation of Japan and its legacy* (New York: Continuum, 2002).

[45]Yong Wook Lee, 'The origin of one party domination: America's reverse course and the emergence of the Liberal Democratic Party in Japan', *The Journal of East Asian Affairs*, vol. 18, no. 2, 2004, pp. 371–413.

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

resulted in strong progressive opposition forces that were led by the Japan Socialist Party (JSP). This reorganization of the political sphere set the ground for the disputes in the refugee policy between conservatives and progressives during the following decades.

On the ideational level, post-war Japan was marked by an intensive political conflict regarding its future path and state identity.[46] In view of the complete failure of the previous goal to become a leading world power and gain a hegemonic position in East and Southeast Asia, the progressive left aimed to transform Japan into a neutral and unarmed country that was under UN protection pertaining to neither the capitalist nor the Communist Bloc during the Cold War.[47] Moreover, also members of the conservative establishment envisaged a new state identity and direction for Japan. At the end of this long-lasting and complex struggle, the Yoshida doctrine (named after Yoshida Shigeru, Prime Minister 1946–1947 and 1948–1954) was established and became predominant. This new national doctrine of the conservative establishment originated in a conservative faction and was a radical departure from the previous politic-militaristic agenda by prioritizing economic development. While economic growth had merely been an instrument to achieve political and military greatness up to 1945, economic development and general wellbeing became the central goal in Japan's new social contract between conservative establishment and population.[48]

When regaining independence in the early 1950s, in accordance with the Yoshida doctrine, Japan accepted a military alliance with the US by signing the 1951 US-Japan Bilateral Security Treaty that included the continuing stationing of massive US military forces in Japan. This meant that Japan remained a de facto US protectorate beyond the occupation period, which allowed the LDP government to fully concentrate the available resources on economic rebuilding as the central goal to re-establish Japan's international recognition. Hence, in accordance with this completely transformed state identity from a military superpower to a developing country with economic priorities, its foreign policy focused primarily on economics, and most political issues, such as refugees, were for the time being left to its US ally as hegemon. Thanks to its isolated position as an island archipelago, there were only a few cases of political refugees in Japan up to the late 1970s. The US ally took care of those fleeing from the Communist Bloc.[49]

Moreover, the conservative establishment was anxious to keep maximum control over the inflow of immigrants and refugees. In view of the return migration of over six million Japanese nationals from its former territories and battlefields throughout Asia after the Second World War,[50] and the ongoing strong demographic expansion of its

[46]Kenneth B. Pyle, *The Japanese question: Power and purpose in a new era* (Washington: AEI Press, 2002), pp. 31–32.

[47]J. A. A. Stockwin, '"Positive neutrality": The foreign policy of the Japanese Socialist Party', *Asian Survey*, vol. 2, no. 9, 1962, pp. 33–41.

[48]David Chiavacci, 'Social inequality in Japan', in *Oxford handbook of Japanese politics*, (eds) Robert Pekkanen and Saadia M. Pekkanen (Oxford: Oxford University Press, 2022), pp. 454–455.

[49]Honma, *Nanmin mondai to ha nani ka*, pp. 142–145.

[50]Lori Watt, *When empires come home: Repatriation and reintegration in postwar Japan* (Cambridge, MA: Harvard University Press, 2010).

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

population from approximately 72 million in 1945 to over 94 million in 1960 and nearly 112 million in 1975, the conservative establishment regarded Japan as overpopulated. Importantly, foreign residents and new immigrants (including refugees) were seen as a threat for public order and national stability due to the dominant security perspective on the intensive conflicts between the conservative government and Korean minority, which had moved to Japan's main territory during Japan's colonial control of Korea.[51] Up to the late 1960s, most of the Korean minority in Japan sympathized openly with communist ideas and were supported by communist forces of the Korean peninsula. They were identified as a political security threat and possible fifth column. In particular, the question of ethnic Korean schools led to violent clashes between the Korean minority and Japanese police forces. Then Prime Minister Yoshida Shigeru himself made clear this perception of the Korean minority as security threat by the conservative establishment in parliament in October 1951: 'There are not a few [Korean residents in Japan] who, whenever there is a protest, are involved and participate in local disturbances and so on'.[52]

In the end, to maintain public order, the Korean minority had to be granted the right to run its own schools. However, they were refused Japanese nationality and came under strict state control. While originally the Ministry of Foreign Affairs (MOFA) had overseen the migration policy in post-war Japan, the migration office was in August 1952 transferred to the Ministry of Justice (MOJ) to maintain a stricter oversight of the Korean minority and of irregular inflows of new immigrants, especially from Korea and China.[53] Moreover, at the time, the control of Korean residents was additionally strengthened by the new Foreign Residents Registration Law (Gaikokujin tōrokuhō), which obliged foreign residents to always carry their foreigner identity card with them and to have their fingerprints taken every few years.[54] A few years earlier, the ruling conservatives had still rejected such a fingerprinting obligation because it constituted an unequal treatment of Korean residents and an infringement of their human rights, but now the priorities had moved to the security needs of the Japanese state, which had greatly increased in view of the founding of the PRC and the Korean War. The conservative government was well aware that joining and implementing the Refugee Convention would have forced it to grant the Korean minority more rights and lose some of the strict state control like decades later in 1981 when joining the international refugee regime. Thus, from a security perspective, acceding to the Refugee Convention was out of the question.

[51]David Chiavacci, *Japans neue Immigrationspolitik: Ostasiatisches Umfeld, ideelle Diversität und institutionelle Fragmentierung* [Japan's new immigration policy: East Asian context, ideational diversity, and institutional fragmentation] (Wiesbaden: VS Verlag für Sozialwissenschaften, 2011), pp. 71–73.

[52]Sangiin 参議院 [House of Councillors], *Dai-12-kai kokkai: Heiwa jōyaku oyobi Nichibei anzenhoshō jōyaku tokubetsu iinkai* 第12回国会: 平和条約及び日米安全保障条約特別委員会 [12th Diet Session: Special Committee on Peace Treaty and US-Japan Security Treaty], no. 5, 29 October 1951, available at https://kokkai.ndl.go.jp/#/detail?minId=101215185X00519511029&current=12 [accessed 27 July 2022].

[53]Tadahide Ikuta 忠秀 生田, *Nippon kanryō yo: Doko he iku* ニッポン官僚よ: どこへ行く [Japan's bureaucrats: Where are they going] (Tōkyō: Nippon Hōsō Shuppan Kyōkai, 1992), p. 24.

[54]Hiroshi Tanaka 宏 田中, *Zainichi gaikokujin: Hō no kabe, kokoro no mizo* 在日外国人: 法の壁、心の溝 [Foreigners in Japan: The wall of the law, the trench of the heart] (Tōkyō: Iwanami Shoten, 1995), pp. 81–87.

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

Commonalities despite opposing state identities

During the period under investigation, China and Japan had the following very different and even completely opposing state identities in the Cold War setting: the PRC presented itself as a revolutionary socialist state and a little brother of the USSR, while Japan focused on internal economic development and accepted the role of a junior partner of the US in international politics. Such a difference did not produce a significant variation in their approach towards the international refugee regime, as the identities of both states made them suspicious of the international refugee law and institutions. Both the PRC and Japan did not join the Refugee Convention and were excluded from the development of the international refugee regime. This was due to the focus of the regime on Europe and its pro-Western bias and isolation of the two states, namely China's exclusion from the UN and Japan's occupation by the US and its aftermath. Unexpectedly, out of the two states, the PRC was the one that briefly cooperated with the international refugee institutions, which might be explained by the path dependence and need for external help in dealing with post-Second World War refugees. Although Japan was approached by the UNHCR, it politely declined to join because it regarded itself at the time as an overpopulated and impoverished country. Joining the Refugee Convention would have limited its ability to control the security threat of the Korean minority. Moreover, the US did not support the UNHCR at the time and would have hardly welcomed Japan's accession. Most importantly, the expansion of the international refugee regime to Asia was influenced by colonial legacies, and colonized and non-Western states were not seen as fully fledged members of the international system. Additionally, different colonial legacies of China and Japan affected their experience with refugee issues and attitude towards international cooperation. Japan viewed refugees as a security threat based on its experience with its Korean minority that had moved to Japan's main territory during its colonial control of Korea. The PRC had to develop its own approach to forced migrants, which arrived in its territory from British-controlled Malaya and were ignored by the UNHCR.

East Asia remaining out of reach of a consolidated and expanded refugee regime

In the 1950s, the UNHCR's proactive role in Cold War refugee crises, such as in Western Berlin (1953) and Hungary (1956), led to its emergence as the major international refugee organization. It demonstrated its ability to overcome restrictions and the convergence of its approach with the US's foreign policy interests. Although the USSR continued to oppose any assistance to the refugees other than repatriation, in 1955, the US made its first contribution to the UNHCR, finally seeing it as a useful tool in the Cold War ideological rivalry.[55] From the late 1950s onwards, the UNHCR struggled to expand the geography of its operations to the developing world, which experienced displacements due to decolonization and Cold War conflicts. Because the UNHCR had at that time no communist states as donors, the US and its Western allies supported this expansion and used the UNHCR as a tool to channel aid to their allies in the

[55]Loescher, *The UNHCR and world politics*, pp. 72–75 and 82–87.

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

developing world and stabilize them.[56] The UNHCR assistance programmes in developing countries, particularly in Africa, expanded significantly. However, due to the geographic and temporal limitations of the Refugee Convention, the UNHCR could not recognize the status of African and Asian refugees and offer durable solutions. Instead, it had to focus on material assistance.[57]

Finally, in 1967, the Refugee Protocol removed both the temporal and geographic restrictions of the Refugee Convention. The UNHCR lobbied the adoption of the Refugee Protocol to universalize the international refugee law and its own mandate and attract more developing states to join the international refugee regime.[58] The adoption of the Refugee Protocol instead of the thorough revision of the Refugee Convention demonstrated the bias of the international refugee regime. Five years after its adoption, the Refugee Protocol had been signed by over 50 countries, including the US and all its major Western allies. However, no East Asian country had joined the Refugee Protocol.

Apart from the adoption of the Protocol, in the 1960s there were attempts to introduce regional refugee instruments. In 1966 the Asian African Legal Consultative Committee developed the Bangkok Principles on the Status and Treatment of Refugees,[59] but due to its non-binding and declaratory nature this document has had little impact. Japan was a member of this committee at the time, while South Korea, the DPRK, and the PRC joined in 1970, 1974, and 1983 respectively. Apart from that, there were no refugee cooperation regional initiatives in East Asia that was divided by the Cold War. Still, the development of the Bangkok Principles and other refugee-related regional initiatives pushed the UNHCR to promote the 1967 Protocol in order to impede the proliferation of regional refugee instruments, which would have undermined its international relevance.[60]

The PRC's unilateral approach to refugee problems

In 1956, China did what was expected, given its identity as a revolutionary socialist state and current development of the international refugee regime. It closed the Shanghai office of the IRO, which was at that point controlled by the UNHCR,[61] which stopped informal cooperation with the international refugee regime. China's resentment towards the UN's refugee organization reached a tipping point in the mid-1950s, as it became a weapon in the Cold War rivalry. As China's state identity, radicalization, and self-imposed isolation were all against PRC's cooperation with the international refugee institutions, the expansion of the refugee regime in the late 1950s and 1960s did not include the PRC. Regarding its own refugee encounters, the PRC continued to experience an outflow of refugees, which it unsuccessfully tried to stop. At the

[56]Gil Loescher, 'UNHCR's origins and early history: Agency, influence, and power in global refugee policy', *Refuge: Canada's Journal on Refugees*, vol. 33, no. 1, 2017, p. 81.

[57]Davies, 'Redundant or essential?', p. 716–717.

[58]Davies, 'Redundant or essential?', p. 718; Loescher, *The UNHCR and world politics*, pp. 124–126.

[59]Egbert Jahn,'The work of the Asian-African Legal Consultative Committee on the Legal Status of Refugees', *Heidelberg Journal of International Law*, vol. 27, 1967, pp. 122–138.

[60]Davies, 'Redundant or essential?', pp. 715–716.

[61]Holborn, *Refugees: A problem of our time*, p. 670.

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

same time, it had to rely on a unilateral approach to deal with overseas Chinese refugees, now from Indonesia, who were not protected by the international refugee regime.

In the late 1950s, Sino–Soviet relations started to deteriorate and reached their lowest point with a border conflict over Zhenbao (also known as Damansky) Island in 1969. Additionally, the confrontation with the US continued, now in Vietnam. Chinese elites continued to position China as a member of a socialist camp and a revolutionary state, but due to Sino-Soviet disagreements they started to draw a distinction between the PRC and the USSR. For instance, in 1964 Mao Zedong argued that although the USSR was a socialist country, it aimed for world hegemony just like the US.[62] In 1966, Prime Minister Zhou Enlai stressed that China would continue to support anti-imperialist struggle and national revolutions in Asia and Africa but questioned the intentions and promises of the revisionist USSR.[63] So, although the state identity of China did not change significantly, Beijing tried to prove that the PRC is a true revolutionary socialist state and distance itself from the USSR.

At home, China initiated a series of radical campaigns, such as the Anti-Rightist Campaign (1957–1959), the Great Leap Forward (1958–1962), and the Cultural Revolution (1966–1976), which had a devastating effect on China's economy and society. Sino–Soviet disagreements and failures in China's domestic politics had led to self-imposed isolation, militancy, and the radicalization of foreign policy, which manifested in calls for a worldwide communist revolution, the Sino–Indian war in 1962, and renewed support of the pro-communist forces in Southeast Asia in the 1960s. China's revolutionary foreign policy was used by Mao Zedong to boost legitimacy at home, deepen the control of Chinese society and improve China's status in the international communist movement.[64] Against such a background, it is unlikely that cooperation with Western-biased UNHCR was even considered by the PRC.

The PRC continued to be the refugees' country of origin. First, the flight of refugees from the PRC to Hong Kong continued after the 1950s.[65] According to different estimations, between 700,000 and two million people illegally moved from mainland China to Hong Kong between the 1950s and 1970s. The PRC tried to stop this movement by strengthening border controls and using the People's Liberation Army.[66] Second, refugees from mainland China had also been fleeing to Portugal-controlled Macao. The PRC demanded Macao to return immigrants from mainland China to no avail.[67]

[62]Ministry of Foreign Affairs of the People's Republic of China and the Party Literature Research Center (eds), *Mao Zedong on Diplomacy* (Beijing: Foreign Languages Press, 1998), pp. 387–389.

[63]People's Republic of China Foreign Ministry Archive, *Cable from the Chinese Foreign Ministry, 'Premier Zhou talked about the relationship between China-Soviet difference and the National Liberation Movement'*, History and Public Policy Program Digital Archive, PRC FMA 109-02372-02, 9-12, 29 June 1964, available at Wilson Center Digital Archive, https://digitalarchive.wilsoncenter.org/document/121188 [accessed 2 August 2022].

[64]Chen Jian, *Mao's China and the Cold War* (Chapel Hill: University of North Carolina Press, 2001), pp. 11–13.

[65]Holborn, *Refugees: A problem of our time*, p. 694.

[66]Huifeng He, 'Forgotten Stories of the Great Escape to Hong Kong across the Shenzhen Border', *South China Morning Post*, 13 January 2013, available at https://www.scmp.com/news/china/article/1126786/forgotten-stories-huge-escape-hong-kong [accessed 18 January 2021].

[67]Holborn, *Refugees: A problem of our time*, p. 708.

The exodus stopped only in the early 1980s, when the economic situation in China started to improve. The third case is the flight of Tibetan refugees from the PRC to India, Nepal, and Bhutan since the late 1950s, which was the subject of deliberations in the UN three times between 1959 and 1965.[68] CCP's newspaper *Guangming Daily* claimed that reports in Western and Indian press about Tibetan refugees were fabricated to distort news about Tibetan rebellion and interfere in the internal affairs of the PRC.[69]

However, the persecution of Chinese diaspora in Southeast Asia made Beijing continue to practise its own unilateral approach to refugees. In the second half of the 1960s, terror and public hostility towards overseas Chinese escalated in Indonesia during the Indonesian Communist Purge (1966–1967) and led to the outflow of overseas Chinese to the PRC. In April 1966, the Chinese Ministry of Foreign Affairs asked the Indonesian government to arrange ships for the persecuted overseas Chinese who wanted to return to China.[70] As the request was turned down by Indonesia, in 1966 and 1967, the PRC itself organized the repatriation of over 3,000 ethnic Chinese from Indonesia by sea.[71] Apart from the better-educated youth, these returnees were settled by the PRC government on overseas Chinese farms in the countryside.[72]

The PRC explained the special treatment of these migrants by their nationality by calling them Chinese citizens residing abroad (*huaqiao*) and expatriates (*qiaomin*).[73] As argued by Elaine Lynn-Ee Ho,[74] labelling them Chinese nationals was problematic, as most of these overseas Chinese had never been to China before and did not possess citizenship of the PRC. According to the Agreement on the Issue of Dual Nationality between the Republic of Indonesia and the PRC (1955), ethnic Chinese in Indonesia could not hold two citizenships and had to choose between the nationality of the PRC or that of Indonesia.

[68]Holborn, *Refugees: A problem of our time*, p. 717.

[69]*Guangming Ribao* 光明日报 [Guangming Daily], 'Yindu yixie baokan he xifang tongxunshe jie xizang "nanmin" sanbu yaoyan feibang woguo' 印度一些报刊和西方通讯社借西藏'难民'散布谣言诽谤我国 [Some Indian newspapers and Western news agencies use Tibetan 'refugees' to spread rumours to slander my country], 22 May 1959.

[70]*Renmin Ribao* 人民日报 [People's Daily], 'Yinni youpai qin mei liansu fanhua de fandong mianmu wanquan baolu: Malike zeihanzhuozei wei youpai fanhua baoxing jiaobian bing fanwu zhongguo "ganshe" neizheng' 印尼右派亲美联苏反华的反动面目完全暴露: 马利克贼喊捉贼为右派反华暴行狡辩并反诬中国'干涉'内政 [The pro-US, pro-Soviet Union, and anti-China reactionary character of Indonesia's rightists is completely exposed: Malik plays the trick of thief crying 'stop thief' to justify the right-wing anti-China atrocities and falsely accuse China of 'interfering' in its internal affairs], 11 May 1966.

[71]Fuhong Zheng 甫弘 郑, 'Wenge shiqi zhongguo de haiwai huaqiao zhengce' 文革时期中国的海外华侨政策 [China's overseas Chinese policy during the Cultural Revolution], *Nanyang wenti yanjiu* 南洋问题研究 [Southeast Asia Affairs], vol. 2, 1996, p. 54.

[72]Taomo Zhou, *Migration in the time of revolution: China, Indonesia, and the Cold War* (Ithaca: Cornell University Press, 2019), p. 191.

[73]*Renmin Ribao* 人民日报 [People's Daily], 'Woguo zhengfu dui huaqiao canzao pohai jue bu hui zhizhi bugu: Nimen ruguo bu tingzhi faxisi baoxing bi jiang zi shi eguo' 我国政府对华侨惨遭迫害决不会置之不顾: 你们如果不停止法西斯暴行必将自食恶果 [The Chinese government will never turn a blind eye to the horrific persecution of overseas Chinese: If you do not stop the fascist atrocities, you will suffer the consequences], 19 May 1966.

[74]Ho, *Citizens in motion*, p. 22.

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

The refugee regime and inverse Cold War in Japan

As the international refugee regime was increasingly instrumentalized by the US and its allies during the Cold War, one might have expected that Japan's pro-American conservative establishment would push for an accession of the Refugee Convention against the resistance of the progressive opposition. However, during the 1960s and early 1970s, the opposite was the case. In an inverse Cold War conflict, the progressive opposition proposed joining the Refugee Convention. However, they failed with this advance in the face of conservative resistance. Despite Japan's fast economic growth, a majority of the conservative establishment still kept the same state identity and regarded Japan as an overpopulated country under industrialization and as politically unstable due to strong progressive social movements and political opposition parties as well as a Korean minority predominantly allying with North Korea. The last thing that the conservative establishment wanted was uncontrolled inflows of migrants claiming to be refugees who might further destabilize the Japanese state. An open refugee policy was not a symbol of the superiority of one's own system against communism, such as in the case of the US and Western Europe; instead, it was a security risk. In lieu of accepting refugees from communism, Japan tried to get rid of its pro-communist minority. From 1959 onward, under the supervision of the International Red Cross, over 90,000 people (most of Korean ethnicity) migrated from Japan to North Korea. This migration movement was welcomed and supported by the Japanese conservative government and reached its peak in 1960/1961, with approximately 70,000 people from Japan entering North Korea.[75]

A *coup d'état* and its consequences in South Korea led the progressive opposition to take up the issue of refugee policy and demand the signing of the Refugee Convention. In 1961, Park Chung-hee pushed the democratic government of South Korea aside with a military coup and established himself in power. At the time, South Korea was plagued with one political crisis after another. Not only was it one of the poorest countries in the world but it was also becoming a failed state. North Korea used this weakness to run a campaign for reunification that resembled an unfriendly takeover bid by the communist north.[76] Hence, the new, anti-communist regime under a strong man, such as General Park, was highly welcomed by the US and Japan's conservative establishment. Still, the new dictatorship started a wave of repression that resulted in an influx of South Korean political refugees in Japan.

According to existing national law and practice, it was completely up to the MOJ, from whom these officially irregular immigrants from South Korea would be granted a special residence permission. In view of this insecure situation for the refugees, progressive Japanese lawyers and politicians of the JSP formed the Study Group on the South Korean Refugee Problem (Kankoku Nanmin Mondai Kenyūkai [KNMK]). They raised the issue in the Japanese parliament and inquired why Japan was not joining

[75]For a fuller discussion of this migration flow from Japan to North Korea and its historical context, see Tessa Morris-Suzuki, *Exodus to North Korea: Shadows from Japan's Cold War* (Lanham: Rowman & Littlefield, 2007); Sōji Takasaki 宗司 高崎 and Junjin Park 正鎮 朴, *Kikoku undō to ha nani datta no ka: Fūin sareta Nichō kankeishi* 帰国運動とは何だったのか: 封印された日朝関係史 [What was the return movement? The sealed history of Japan-North Korea relations] (Tōkyō: Heibonsha, 2005).

[76]Richard L. Mitchell, *The Korean minority in Japan* (Berkeley: University of California Press, 1967), pp. 145–149.

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

the Refugee Convention. In June 1963, KNMK published the following appeal to the Japanese: 'Whatever nation, even if it has not signed the 1951 Refugee Convention, has to comply with the international standards in treating refugees residing in its territory, and Japan is not an exception.'[77] Moreover, they demanded Japan's accession to the Refugee Convention and described joining the convention as a duty of the Japanese people.[78] The progressive opposition's enthusiasm for the refugee regime was part of their vision of Japan's state identity as a neutral country under UN protection that upholds human rights. Moreover, the South Korean refugees showed that both communist countries and authoritarian allies of the US trampled on human rights, which reinforced the argument for a bloc-free Japan.

In parallel to the KNMK, Koreans in Japan established the Committee for Republic of Korea Political Refugees in Japan (CRKPRJ), which also demanded that the 'Japanese government shall offer proper treatment to all South Korean Refugees in Japan based on the international convention'.[79] However, not all members of the Korean minority in Japan welcomed these activities. The vice-president of Mindan, an organization of the Korean residents in Japan who were associated with South Korea, sharply criticized the formation of these support groups for the refugees. There was, in his view, 'no need to organize any group to help illegally-entered South Koreans because Mindan was providing that help. Persons that the other groups were trying to help were purged from Mindan or are suspected of being "spies" by the [South Korean] government.'[80]

In an interpellation by a member of the KNMK in parliament in August 1962, the representative of MOFA clearly declared that the Japanese government agreed with the purpose of the Refugee Convention. However, they stressed uncertainties regarding the definition of a refugee as the reason why Japan had not yet joined the treaty.[81] In reply to a renewed inquiry by a member of the KNMK in the other chamber of the parliament in May 1963, a representative of the MOJ formulated Japan's position differently and stressed the risks of joining the Refugee Convention as follows: 'For Japan, it is not easy to join the Refugee Convention and actively accept a large number of refugees due to its population size, its labour market conditions and various other problems.'[82] In April 1968, when the issue of joining the Refugee Convention was

[77]Kankoku nanmin mondai kenkyūkai 韓国難民問題研究会 [Study group for problem of Korean refugees], 'Kankoku nanmin to Nihonjin' 韓国難民と日本人 [South Korean refugees and the Japanese people], *Sekai* 世界 [World], no. 210, 1963, p. 235.

[78]Yuichi Takano 雄一 高野 and Shigeki Miyazaki 繁樹 宮崎, 'Nanmin mondai no hōteki shogū to Nihonjin no sekinin' 難民問題の法的処遇と日本人の責任 [Legal treatment of the refugee problem and responsibility of the Japanese people], *Sekai* 世界 [World], no. 210, 1963, p. 274.

[79]Quoted after Tessa Morris-Suzuki, *Borderline Japan: Foreigners and frontier controls in the postwar era* (Cambridge: Cambridge University Press, 2010), pp. 187–188.

[80]Quoted after Gyo Hani, 'Group formed to help flying South Koreans', *The Japan Times*, 2 December 1962.

[81]Shūgiin 衆議院 [House of Representatives], *Dai-41-kai kokkai: Shūgiin hōmu iinkai* 第41回国会: 衆議院法務委員会 [41st Diet Session: Justice Committee of the House of Representatives], no. 3, 24 August 1962, available at https://kokkai.ndl.go.jp/#/detail?minId=104105206X00319620824&current=13 [accessed 18 January 2022].

[82]Sangiin 参議院 [House of Councillors], *Dai-43-kai kokkai: Sangiin hōmu iinkai* 第43回国会: 参議院法務委員会 [43rd Diet Session: Justice Committee of the House of Councillors], no. 15, 28

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

raised in parliament by a KNMK member again after its geographic and timely extension through the Refugee Protocol, the representative of MOFA replied evasively and mentioned the unchanged European limitations of the Refugee Protocol.[83]

According to internal information that was provided by a high-ranked official,[84] the reason behind Japan's abstentions from joining the international refugee regime was internal disagreement in the conservative elite. While some, including MOFA, were in favour of joining, others were afraid that joining the Refugee Convention would lead to many refugees entering Japan whose integration would be very difficult and lead to more problems and new instability. Up to the early 1970s, Japan continued to be marked by a protest cycle of strong social movements and mass protests.[85] Despite high economic growth, the conservative establishment did not consider its own position of power to be stable. Most in the conservative establishment and the MOJ preferred a unilateral approach in the immigration and refugee policy, which, as a responsible ministry, would give it full freedom of action. On the contrary, in the 1960s and early 1970s, the MOJ put forward four reform proposals in immigration law that tried to further strengthen its control over immigration and foreign residents.[86] These proposals were based on a perspective of immigrants and minorities as potential troublemakers and a threat to public and national security and clearly had an anti-communist character. These reform proposals had to be abandoned because of progressive opposition and protest movements against them. However, the attitude of the conservative establishment majority and the MOJ in the immigration and refugee policy at the time is well documented in a book from the mid-1960s, in which a former MOJ bureaucrat writes that the 'treatment of foreigners is entirely at the discretion of the Japanese government', which has the 'freedom, to eat them boiled or fried'.[87]

May 1963, available at https://kokkai.ndl.go.jp/#/detail?minId=104315206X01519630528&current=1 [accessed 18 January 2022].

[83]Shūgiin 衆議院 [House of Representatives], *Dai-58-kai kokkai: Shūgiin hōmu iinkai* 第58回国会: 衆議院法務委員会 [58th Diet Session: Justice Committee of the House of Representatives], no. 23, 19 April 1968, available at https://kokkai.ndl.go.jp/#/detail?minId=105805206X02319680419&current=15 [accessed 18 January 2022].

[84]See Honma, *Nanmin mondai to ha nani ka*, pp. 146–147.

[85]For a fuller discussion of Japan's postwar protest cycle, see David Chiavacci and Julia Obinger, 'Towards a new protest cycle in contemporary Japan? The resurgence of social movements and confrontational political activism in historical perspective', in *Social movements and political activism in contemporary Japan: Re-emerging from invisibility*, (eds) David Chiavacci and Julia Obinger (London: Routledge, 2018), pp. 1–23; Takamichi Kajita 孝道 梶田, 'Sengo Nihon no shakai undō: "Kaihatsu kokka" to "Nihon tokushitsu" ni chakugan shite' 戦後日本の社会運動: 「開発国家」と「日本特質」に着眼して [Social movements in postwar Japan: Focusing on the 'developmental state' and 'Japanese characteristics'], in *Shakai undōron no tōgō o mezashite: Riron to bunseki* 社会運動論の統合をめやして: 理論と分析 [Toward a synthesis of Social Movement Theory: Theory and analysis], (ed.) Shakai Undōron Kenkyūkai 社会運動論研究会 [Society for the Study of Social Movements], Tōkyō: Seibundō, pp. 179–201; Makoto Nishikido, 'The dynamics of protest activities in Japan: Analysis using protest event data', *Ningen Kankyō Ronshū* 人間環境論集 [Human environment proceedings], vol. 12, no. 2, 2012, pp. 103–147.

[86]Junichi Akashi 純一 明石, *Nyūkoku kanri seisaku: '1990-nen taisei' no seiritsu to tenkai* 入国管理政策: 「1990年体制」の成立と展開 [Japan's immigration control policy: Establishment and turning point of the '1990 system'] (Kyōto: Nakanishiya Shuppan, 2010), pp. 69–72.

[87]Tsutomu Ikegami 務 池上, *Hōteki chii 200 no shitsumon* 法的地位200の質問 [200 questions on legal status] (Tōkyō: Kyōbunsha, 1965), p. 167.

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

Continuing East Asian refusal of the refugee regime

The expansion of the refugee regime from the late 1950s until the 1960s did not result in its diffusion to East Asia, as the regime failed to match the identities and deduced foreign policy goals of both states. Having split from the USSR, although the PRC positioned itself as a true revolutionary and socialist country, it grew more isolated and autarkic, and its domestic and foreign policies became radicalized and militant. Joining the Convention was inconceivable for Beijing, and it finally closed the semi-official UNHCR office in 1956. The PRC ignored the concept of refugees and viewed the refugee regime as a Western instrument. Therefore, when faced with another case of forced migrants of Chinese origin, this time from Indonesia, it had to deal with it unilaterally. The patterns of refugee movements in East Asia were different from those in Europe. Rather than only leaving communist states for the capitalist ones, East Asian refugees were leaving the South Korean dictatorship or escaping to the PRC from Indonesia following the violent anti-communist purge. Because of that and given Japan's state identity according to the conservative establishment of an overpopulated, still emerging economic power, receiving refugees lacked the symbolic value for Tokyo that it had for the Western states, and accepting refugees from capitalist South Korea through the refugee regime ran counter to the foreign policy of the conservative establishment as an ally of the US. Moreover, in Japan, foreign residents and refugees continued to be viewed as a security threat, while in Europe, such a view on forced migration became widespread decades later in the 1980s. Instead of joining the refugee regime and being forced to grant Korean residents more rights, the conservative establishment preferred to not accede to the treaty in order to keep upmost control over them.

East Asia joining the global refugee regime

In the 1970s, the UNHCR grew into a truly global organization, as refugee movements in the developing world necessitated further geographic expansion of UNHCR missions. From 1978 to 1980, the annual budget of the UNHCR doubled each year.[88] The UNHCR handled the refugee status determination procedures in most Western countries, which respected its authority. In the West, refugees usually originated from Eastern Europe, were permanently resettled and received generous assistance. In the third-world countries, the UNHCR usually tried to return refugees to their country of origin.[89] By the late 1970s, the UNCHR expanded its role beyond repatriation and resettlement by undertaking programmes to facilitate the rehabilitation and reintegration of refugees. Moreover, the intensification of Cold War proxy wars in the late 1970s resulted in several massive and protracted refugee crises in developing countries, when long-term fighting and a diplomatic deadlock did not allow for repatriation, and refugees spent years living in camps and were often supported by the UNCHR.[90]

[88]Loescher, *The UNHCR and world politics*, p. 12.

[89]Charles B. Keely, 'The international refugee regime(s): The end of the Cold War matters', *International Migration Review*, vol. 35, no. 1, 2001, pp. 303–314.

[90]Loescher, *The UNHCR and world politics*, pp. 214–215.

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

The largest hotspot was the Indochina refugee crisis. Due to the series of internal and external conflicts and changes of political regimes in Cambodia, Laos, and Vietnam, approximately one million Indochinese refugees arrived at other Southeast Asian states between 1975 and 1979.[91] These Southeast Asian countries were against providing permanent or long-term asylum to Indochinese refugees on their territory. The influx of refugees caused social, economic, and political instability.[92] In addition, they argued that amongst these flows of refugees were many communist agitators and espionage agents that infiltrated their own country.[93] Despite being US allies, they did not join the Refugee Convention and Protocol and agreed only to accept refugees temporarily until their resettlement in other places.[94] The Indochinese refugee movements received high attention in the West and became the subject of several international conferences. Under the leadership of the US, which began under the Carter administration (1977–1981) to focus more on human rights issues and nurtured a sense of guilt and obligation towards the refugees after its long-term involvement in the region, Western states agreed to launch an expensive and long-term resettlement programme and take in a large proportion of the refugees. The US and its allies regarded refugees from the communist countries as an indicator of the popular rejection of their political regimes, which justified the earlier involvement of the US, and hoped that the large outflow of refugees might destabilize the communist regimes in Southeast Asia. Through these resettlement measures, a total of almost two million Indochinese refugees came to the West. In addition to the US, with nearly 1.3 million refugees, Australia (approximately 186,000), France (approximately 119,000), and Canada (approximately 202,000) were the main receiving countries.[95] However, Indochinese refugees also reached East Asia, which triggered new developments and a turning point in the UNHCR's relations with the PRC and Japan.

PRC's identity transformations

Indochinese refugees started to arrive in China in the second half of the 1970s, and by February 1979, they numbered more than 230,000.[96] Although at first, the PRC used its unilateral approach to deal with these arrivals, in 1979, it requested the UNCHR's assistance. In 1982, it joined the Refugee Convention and the Protocol. Although the Indochina refugee crisis created socio-economic pressures for the PRC, we argue that

[91]Sara E. Davies, 'Saving refugees or saving borders? Southeast Asian states and the Indochinese refugee crisis', *Global Change, Peace & Security*, vol. 18, no. 1, 2006, p. 23.

[92]Frost, 'Vietnam, ASEAN and the Indochina Refugee Crisis', p. 355.

[93]Michael S. Teitelbaum, 'International relations and Asian migrations', *Pacific bridges: The new immigration from Asia and the Pacific Islands*, (eds) James T. Fawcett and Benjamin V. Cariño (New York: Center for Migration Studies, 1987), pp. 74–85 and 79.

[94]Davies, 'Saving refugees or saving borders?', p. 9.

[95]Robinson, *Terms of refuge*, p. 295.

[96]*Renmin Ribao* 人民日报 [People's Daily], 'Wo daibiao zai rineiwa nanmin jigou huiyi shang huyu guoji shang youxiao zhizhi yuenan shuchu nanmin: Meiguo yaoqiu ge fang duanjue huo jianshao dui yue yuanzhu' 我代表在日内瓦难民机找会议上呼吁国际上有效制止越南输出难民: 美国要求各方断绝或减少对越援助 [At the refugee agency meeting in Geneva, our representative called for international cooperation to effectively stop the expulsion of refugees from Vietnam: The United States asked all parties to cut off or reduce aid to Vietnam], 30 June 1979.

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

such a major change in Beijing's attitude towards the international refugee regime and its decision to join the Refugee Convention are the result of the state identity transformations, which happened in the 1970s. First, the Sino–Soviet split made the PRC rethink its identity as a member of the Communist bloc and normalize Sino–US relations. Second, Deng Xiaoping coming to power and the beginning of the reform and opening-up policy in the late 1970s led to another identity transformation. China started to position itself as a normal rather than a revolutionary country to establish a favourable international environment for economic development. Against the background of the Indochina refugee crisis, cooperation with the international refugee regime served the PRC's new identities as an opponent of the hegemonic USSR and its ally Vietnam, a new partner of the US and a responsible member of the international system. According to Jing Zhang and Bin Du,[97] before 1978, China was unaware of the international refugee protections norms. Although it is unlikely that Beijing did not know about the international refugee regime, it finally addressed the concerns of the PRC. Not only did China's identity shift but the international refugee regime also evolved since its establishment in the mid-twentieth century. For the first time, the UNHCR was truly interested in the PRC joining the international refugee institutions. Nevertheless, the adoption of the Refugee Convention did not result in its full implementation in the PRC.

Although the PRC was admitted to the UN in 1971, in the 1970s, China joined only several UN agencies and avoided organizations with politically sensitive agenda, including the UNHCR.[98] In 1971, the Chinese representative at the UN General Assembly argued against international involvement in the case of refugees from East Pakistan, claiming that it was used to interfere in Pakistan's internal affairs and carry out subversive activities against it.[99] In line with earlier practices, refugees from Indochina were settled on overseas Chinese farms, and in June 1978, China sent ships to Vietnam to evacuate overseas Chinese.[100] Although the right for political asylum was present in the 1978 Constitution of the PRC (Art. 59) and the earlier version from 1954 (but not in 1975), it was not aimed at aiding ordinary large-scale refugee groups.

[97]Jing Zhang 静 张 and Bin Du 斌 杜, 'Zhongguo weisheme bu she nanmin ying?' 中国为什么不设难民营? [Why does China not set up refugee camps?], *Zhongguo shehui daokan* 中国社会导刊 [China society periodical], vol. 5, 2002, pp. 62.

[98]Jiancheng Zheng 建成 郑, *Cong nanqiao dao nanmin: Zhongguo yinzhi nanmin zhengce de xingcheng (1978-1979)* 从难侨到难民: 中国印支民政策的形(1978–1979) [From Nanqiao to refugee: The formation of China's policy toward Indochinese refugees (1978–1979)] (PhD dissertation, Jinan University, 2015), p. 88.

[99]*Guangming Ribao* 光明日报 [Guangming Daily], 'Woguo daibiaotuan daibiao Fuhao zai lianda di san waiyuanhui shang fayan chanshu woguo zhengfu dui suowei 'dongba nanmin wenti' de lichang' 我国代表团代表符浩在联大第三委员会上发言阐述我国政府对所谓'东巴难民问题'的立场 [The representative of our country's delegation Fu Hao made a speech at the Third Committee of the UN General Assembly to elaborate the position of the Chinese government on the so-called 'East Pakistan refugee issue'], 21 November 1971.

[100]*Renmin Ribao* 人民日报 [People's Daily], 'Zai longzhong huansong woguo fu yuenan jie yun nanqiao kelun qi hang qunzhong dahui shang Liao Chengzhi fu weiyuan zhang fabiao zhongyao jianghua' 在隆重欢送我国赴越南接运难侨客轮启航群众大会上廖承志副委员长发表重要讲话客轮 [Vice Chairman Liao Chengzhi delivered an important speech at the grand gathering to welcome the departure of the passenger ship from our country to Vietnam to pick up and transport overseas Chinese nationals in distress], 16 June 1978.

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

Instead, it was reserved for foreign policy purposes.[101] Vice Chairman of Standing Committee of the National People's Congress Liao Chengzhi explained China's acceptance of the refugees by the responsibility of the PRC to protect its diaspora and blamed Vietnam for the forced naturalization of overseas Chinese.[102] Vietnamese forced migrants were not officially called refugees—they were described as border residents (*bianmin*).[103]

In March 1979, UNHCR High Commissioner Poul Hartling visited China in his capacity as former Prime Minister of Denmark.[104] Shortly afterwards in May 1979, a UNHCR mission came to China to officially suggest international assistance to China.[105] In August 1979, China transferred responsibility for the resettlement of refugees from the former State Council Office of Overseas Chinese Affairs to the newly established State Council Leading Group for Reception and Settlement of Indochinese Refugees.[106] Beijing started to use the refugee label and de-emphasized the ethnic identity of forced migrants. For example, in July 1979, the *People's Daily* reported on Vietnamese refugees (*yuenan nanmin*) and Indochinese refugees (*yinzhi nanmin*) and blamed the crisis on Vietnam's military dictatorship and genocide policies.[107] In late 1979, the UNHCR approved the refugee assistance programme for the PRC, which was requested by Beijing.[108]

In July 1979, the PRC participated in the Meeting on Refugees and Displaced Persons in Southeast Asia that was held in Geneva, where it condemned Vietnam for the Indochina refugee crisis and blamed the USSR for supporting Hanoi and causing the refugee problem.[109] Beijing pledged to provide 1.5 million yuan to the UNHCR to assist refugees in Southeast Asia and Hong Kong.[110] Moreover, the PRC joined the resettlement programme, and in 1980, it accepted Laotian refugees who had been resettled from Thailand.[111]

[101]Zheng, *Cong nanqiao dao nanmin*, pp. 55–63.

[102]*Renmin Ribao*, 'Zai longzhong huansong woguo fu yuenan jie yun nanqiao kelun qi hang qunzhong dahui shang Liao Chengzhi fu weiyuan zhang fabiao zhongyao jianghua'.

[103]*Renmin Ribao* 人民日报 [People's Daily], 'Yuenan jixu qugan huaqiao canku zhenya yuenan bianmin: Jin bannian lai bei qugan huiguo huaqiao he tao ru wo jingnei yuenan bianmín you you si wan duo ren' 越南继续驱赶华侨残酷镇压越南边民: 近半年来被驱赶回国华侨和逃入我境内越南边民又有四万多人 [Vietnam continues to drive out the overseas Chinese and brutally suppress the Vietnamese border residents. In the past six months: Overseas Chinese expelled back to China and Vietnamese border residents which fled to our territory amount to more than 40,000], 6 April 1979.

[104]Alexander Casella, *Breaking the rules*, p. 179.

[105]Song, 'China and the International Refugee Protection Regime', p. 144.

[106]Zhang and Du, 'Zhongguo weisheme bu she nanmin ying?', p. 62.

[107]*Renmin Ribao* 人民日报 [People's Daily], 'Wo daibiaotuan zhang tichu jiejue yuenan nanmin wenti wu dian jianyi: Jiuji anzhi nanmin tongshi bixu zhizhi yuenan shuchu nanmin' 我代表团长提出解决越南难民问题五点建议: 救济安置难民同时必须制止越南输出难民 [The head of my delegation put forward five suggestions to solve the refugee problem in Vietnam: We must provide relief and resettlement to refugees and stop expulsion of refugees by Vietnam], 22 July 1979.

[108]Song, 'China and the International Refugee Protection Regime', p. 144.

[109]*Renmin Ribao*, 'Wo daibiaotuan zhang tichu jiejue yuenan nanmin wenti wu dian jianyi'.

[110]Zheng, *Cong nanqiao dao nanmin*, p. 95.

[111]*Renmin Ribao* 人民日报 [People's Daily], 'Bei po taoli laowo shenqing lai hua dingju: Woguo cong taiguo jieshou de shou pi yin zhi nanmin di Guangzhou' 被迫逃离老挝申请来华定居: 我国从泰国接受的首批印支难民抵广州 [Forced to flee Laos and apply to settle in my country: The first batch of Indochinese refugees accepted by China from Thailand arrives in Guangzhou], 17 January 1980.

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

Regarding the legal framework of the refugee protection, in September 1979, the Foreign Minister of the PRC Huang Hua replied to the UNHCR's invitation to join the Refugee Convention and Protocol and agreed to carefully consider this decision.[112] The UNHCR had been negotiating the accession to the Refugee Convention and Protocol with the PRC since 1980,[113] and to the surprise of the UNHCR staff, it finally joined in 1982. This is shown in the memoirs of the former UNHCR staff member Alexander Casella:

> I did not expect anything to come from these exchanges and was therefore totally caught by surprise when, that very afternoon [31 August 1981], as if it was a matter of no great importance, one of the Chinese in our group turned to [UN Higher Commissioner for Refugees Poul] Hartling and mentioned off-hand that China had decided to adhere to the 1951 Refugee Conventions.[114]

Accession to the Refugee Convention did not create any extra obligations regarding Indochinese refugees, as the PRC had already decided to provide them with asylum.[115] The Indochinese refugees had already been treated as earlier 'returnees' and settled on 196 state-owned farms in Yunnan, Guangxi, Guangdong, Fujian, and Jiangxi provinces.[116] On the contrary, China's cooperation with the UNHCR was partly motivated by the increasing pressures from the refugees' arrival and need for external assistance. For instance, Lili Song suggests that the decision to join the international refugee law could be partly explained by the fact that it 'allowed China to avail itself to the international assistance for refugees'.[117] However, experience of Southeast Asian states demonstrates that joining the Convention or taking part in resettlement programmes was not a requirement to receive aid from the UNHCR. Moreover, the Executive Committee of the UNHCR approved the aid programme in China in 1979, three years before the PRC signed the Refugee Convention and the Protocol.[118]

PRC's decision to join the regime was the result of the state identity transformations in the 1970s, which led to changes in its foreign policy preferences. In the early 1970s, Mao Zedong started to position China as a third world country. According to his three-worlds theory, the world was not divided between Communist and Capitalist blocs, but rather between 'exploiters and imperialists' (the first world), 'revisionists' (the second

[112]Zhonghua renmin gongheguo guowuyuan 中华人民共和国国务院 [State Council of the People's Republic of China], *Zhonghua renmin gongheguo guowuyuan gongbao* 中华人民共和国国务院公报 [Public announcement of the State Council of the People's Republic of China], vol. 14, no. 388, 1984, p. 621, available at http://www.gov.cn/gongbao/shuju/1982/gwyb198214.pdf [accessed 18 January 2021].

[113]Zheng, *Cong nanqiao dao nanmin*, p. 208.

[114]Casella, *Breaking the rules*, p. 223.

[115]Song, 'China and the international refugee protection regime', p. 145.

[116]*Renmin Ribao* 人民日报 [People's Daily], 'Lianheguo nanmin shiwu gaoji zhuanyuan shuo zhongguo zhengfu yi wei anzhi yin zhi nanmin zuole hen da nuli: Zhongguo he lianheguo nanmin shu qianshu yi xiang yixiangshu' 联合国难民事务高级专员说中国政府已为安置印支难民作了很大努力: 中国和联合国难民署签署一项意向书 [UN High Commissioner for Refugees says Chinese Government has made great efforts to settle Indochinese refugees: China and UNHCR sign a letter of intent], 9 May 1985.

[117]Song, 'China and the International Refugee Protection Regime', p. 145.

[118]Zheng, *Cong nanqiao dao nanmin*, p. 107.

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

world), and developing countries of Asia, Africa, and Latin America (the third world). Thus, the US and USSR belonged to the so-called first world, other developed countries to the second, while China was one of the third-world countries struggling against imperialist oppression.[119] For instance, in the report of the Standing Committee of the National People's Congress, China's decision to join the Refugee Convention and the Protocol was explained by the fact that they reflect the legitimate aspirations and demands of the third-world countries and help China and other third-world countries in their struggle against hegemony and the maintenance of world peace.[120]

Amongst the two hegemons, the USSR was considered more dangerous for China, while the US was seen as a useful ally.[121] Fearing the intervention of the USSR, in 1968, Beijing renewed negotiations with the US. The Sino–American rapprochement took place in 1972, and full diplomatic relations were established in March 1979. The normalization of US–China relations, including Deng Xiaoping's state visit to the US in January–February 1979, was parallel in timing to the start of China's negotiations with the UNHCR. At the same time, Vietnam became a battleground for Sino–Soviet competition in 1970s, which intensified after the US withdrew its troops and Hanoi moved closer to Moscow by signing a mutual defence treaty in 1978. In early 1979, Beijing fought a brief border war with Vietnam. The Indochina refugee crisis gave China an opportunity to shame Vietnam and the USSR,[122] 'demonstrate how far they [China] were from the Soviet system',[123] and please its new partners.

As put by Dingding Chen,[124] in the late 1970s the PRC leadership started to identify China as a 'modern socialist state' instead of a revolutionary socialist state, which led to further transformations of foreign policy preferences and interests. With the launch of the reform and opening-up policy in 1978, the foreign policy aims of the PRC shifted from the struggle against imperialism and hegemonism to supporting China's modernization reforms. In 1978, China changed its approach to receiving foreign aid from UN agencies, which used to be taboo but was now considered normal given China's new state identity as a developing country.[125] To integrate into the world economy, China had to demonstrate that it was ready to adhere to the international norms and rules. Accession to the Refugee Convention was used to increase the international standing of the PRC and reflected the revival of China's interest in international law. In addition, it helped to improve relations with member states of the Association of Southeast

[119]Ministry of Foreign Affairs of the People's Republic of China and the Party Literature Research Center, *Mao Zedong on diplomacy*, p. 454.

[120]Quanguo renmin daibiao dahui changwu weiyuanhui 全国人民代表大会常务委员会 [Standing Committee of the National People's Congress], *Quanguo renmin daibiao dahui changwu weiyuanhui gongzuo baogao (1982 nian)* 全国人民代表大会常务委员会工作报告(1982年) [Work report of the Standing Committee of the National People's Congress (1982)], available at http://www.gov.cn/test/2008-03/11/content_916795.htm [accessed 18 January 2021].

[121]Jiang An, 'Mao Zedong's "Three worlds" theory: Political considerations and value for the times', *Social Sciences in China*, vol. 34, no. 1, 2013, p. 41.

[122]Frost, 'Vietnam, ASEAN and the Indochina refugee crisis', p. 362.

[123]Casella, *Breaking the rules*, p. 223.

[124]Chen, 'China's participation in the international human rights regime', p. 408.

[125]Haiqun Yang 海群 杨, 'Woguo jieshou lianheguo duobian yuanzhu de qingkuang' 我国接受联合国多边援助的情况 [China's acceptance of multilateral assistance from the United Nations], *Jihua jingji yanjiu* 计划经济研究 [Planned economy research], vol. 13, 1984, p. 7.

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

Asian Nations (ASEAN), which had been troubled by the issues of Chinese diaspora and dual nationality for a long time. Lili Song explains that '[g]iving up its claim over the 280,000 displaced persons from Vietnam as Chinese nationals allowed China to send a clear, positive message to Southeast Asian countries that the Chinese Government now was effectively implementing its policies to solve the dual nationality issue'.[126] In 1980, China adopted the Nationality Law, which affirmed that the PRC does not recognize dual nationality.

Almost 40 years since the accession, China has neither introduced relevant national refugee legislation nor established mechanisms for refugee status determination. Until the arrival of the North Korean refugees in 1990s, it was not seen as a problem by the UNHCR and international community, which was surprised by China's decision to join the Refugee Convention in 1982. Although China has outsourced the responsibility to determine the status of refugees and find durable solutions to the UNHCR, it has controlled their numbers by limiting the UNHCR's access to the border regions and forced migrants from neighbouring states, namely North Korea and Myanmar. As of April 2022, China mainland hosted 343 urban refugees and 303,106 'Indo-Chinese refugees de facto integrated pending Government regularization'.[127] The international community has tried to pressure China into implementing the Refugee Convention to no avail. China joined the Refugee Convention due to its symbolic value—as a poor developing country, it did not expect to become a destination for refugees. Although formally, the practice of 'self-reliance' in the refugee issues stopped with China joining the UNHCR and signing the Refugee Convention, we can still observe China's unilateral approach to refugees from Myanmar. Although they were not treated as stipulated by the Refugee Convention, the PRC provided them with some assistance without any involvement of the UNHCR.[128]

Japan as a good but ethnonationalist member of the international community

When the Indochinese refugees started to arrive in Japan from 1975 onwards, they were entering a country with a transformed, contradictory state identity that was striving to become an international model citizen and remain an ethnically homogeneous nation. Although foreign and national pressure on the conservative establishment led to Japan's joining of the Refugee Convention in 1982, it also retained full control over refugee inflows to protect Japan's ethnic homogeneity. In the 1970s, Japan had become an economic superpower and a member of the G7, which transformed Japan's post-war state identity through two, contradictory redirections. First, Japan's conservative establishment started to envision a much more active role in the international community for Japan.[129] To achieve such a redemption from a political outsider to a leading actor in world affairs, Japan had to prove that it had changed

[126]Song, *Chinese refugee law and policy*, p. 78.

[127]UNHCR (United Nations High Commissioner for Refugees), *Fact Sheet: People's Republic of China*, April 2022, available at https://reporting.unhcr.org/document/2293 [accessed 2 August 2022].

[128]Lili Song, 'Refugees or border residents from Myanmar? The status of displaced ethnic Kachins and Kokangs in Yunnan Province, China', *International Journal of Refugee Law*, vol. 29, no. 3, 2017, pp. 466–487.

[129]Amy Gurowitz, 'Mobilizing international norms: Domestic actors, immigrants and the Japanese State', *World Politics*, vol. 51, no. 3, 1999, pp. 413–445.

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

from an aggressive militaristic power to a model citizen of the global community. Second, in view of Japan's exceptional economic growth and success story, its national identity became increasingly self-congratulatory. According to the new and dominant narrative in the conservative establishment, Japan had not simply been following and copying the US. Its success story was based on distinct cultural characteristics. The arguably most important characteristic was ethnic homogeneity, which became a pillar of conservative Japanese nationalism.[130]

In reaction to the Indochina refugee crisis and the self-view of Japan as an economic superpower that should play a leading role in world affairs, the conservative government strongly increased its contributions and became the second most important donor of the UNHCR after the US. The huge budget expansion of the UNHCR in the late 1970s was possible thanks to the new and large contributions from Japan. The importance of Japan as a donor is shown by the fact that it was not handled by the newly established East Asian section in the UNHCR but by the director in charge of fundraising.[131] However, the acceptance of refugees in Japan was a different question, as it would undermine Japan's ethnic homogeneity, which in the conservative establishment's view was a pillar of its economic success story. Although most Indochinese refugees that arrived in Japan resettled in other countries, mostly the US, some remained in Japan. The MOJ refused to grant them permanent residence. Their insecure legal status received increasing media coverage both in Japan and abroad. While Japan's financial contribution was welcomed by the international community, the US and other Western nations criticized its non-acceptance policy of refugees. By the late 1970s, the Indochina refugee crisis reached its climax, and Western pressure on Japan increased further. This foreign and primarily US pressure is often regarded as the main reason for Japan's accession to the Refugee Convention.[132] However, Michael Strausz shows the limitations of this explanation.[133] The international pressure on Japan's refugee policy was, in contrast to other policy fields, such as trade and whaling, never connected to a threat of sanctions and was normally expressed by foreign representatives in private internal meetings and only very rarely and politely in public. However, the international pressure had an impact on Japan's conservative establishment, which was fully aware that it was internationally isolated as the only high-income country that had not joined the Refugee Convention.[134] It is conspicuous that the Japanese government introduced more welcoming measures towards Indochinese refugees shortly before international meetings to mitigate Western criticism. For example, Foreign Minister Sonoda Sunao said in parliament that Japan is

[130]John Lie, *Multiethnic Japan* (Cambridge: Harvard University Press, 2001), pp. 130–136.

[131]Casella, *Breaking the rules*, p. 212.

[132]See, among others, Akashi, *Nyūkoku kanri seisaku*; Flowers, *Refugees, women, and weapons*; Morris-Suzuki, *Borderline Japan*.

[133]Michael Strausz, 'International pressure and domestic precedent: Japan's resettlement of Indochinese refugees', *Asian Journal of Political Science*, vol. 20, no. 3, 2012, pp. 252–253.

[134]*Asahi Shinbun* 朝日新聞 [Asahi Newspaper], 'Nanmin mondai ni taisho: "Taisaku-shitsu" ga hossoku' 難民問題に対処: 「対策室」が発足 [Addressing refugee issues: 'Countermeasure office' established], 8 February 1979; *Yomiuri Shinbun* 読売新聞 [Yomiuri Newspaper], 'Okurebase no nanmin jōyaku kamei: Ukeire jōken kanwa kokusai sekinin hatasu toki' 遅ればせの難民条約加盟: 受け入れ条件緩和国際責任果たす時 [Delayed accession to the Refugee Convention: Time to ease conditions for acceptance and fulfil international responsibility], 15 October 1978.

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

'very blamed by other countries: "Does Japan really think that it is okay to only grant money?"".[135] After the Japan visit of US President Jimmy Carter in 1979, he did not hide his relief in parliament as follows:[136]

> I think that the Japan–US talks went well. And to be honest, one reason why they went well was Japan's comprehensive quota of accepting 500 refugees. To say it clearly, the measure was not highly appreciated, but it was acknowledged that Japan has begun to move forward … I was directly asked by the [US] President [Jimmy Carter]: 'Had Japan not just accepted three [refugees] so far?'

However, foreign pressure alone cannot fully explain Japan's signing of the Refugee Convention and its timing. Japan decided to join the Refugee Convention in 1981, two years after the peak of international criticism, which had strongly diminished. The decision to join was not simply a direct reaction to international pressure; it was primarily the result of domestic controversies. The new goal of the conservative establishment to increase Japan's international role and international criticisms granted progressive opposition politicians and civil society actors a window of opportunity.[137] They argued that Japan needed to adopt international norms and human rights to gain an international reputation and prestige.[138] This push from progressive activists gained crucial momentum by their cooperation with members of the Korean minority. In the early post-war era, Korean residents remaining in Japan had not only lost their Japanese nationality but were also submitted to blatant discrimination by the Japanese state. Organizations of Korean residents in Japan, such as Mindan (associated with South Korea) and Sōren (associated with North Korea), had not been strongly active against this discrimination, as they envisioned a return to Korea as their homeland in the long term. However, in the 1970s, a new generation of Korean activists viewed Japan as their primary and future place of residence and started to claim equal treatment and respect for their fundamental rights.[139] They started to cooperate with

[135]Shūgiin 衆議院 [House of Representatives], *Dai-87-kai kokkai: Gaimugiin hōmu iinkai* 第87回国会: 衆議院法務委員会 [87th Diet Session: Foreign Affairs Committee of the House of Representatives], no. 4, 16 March 1979, available at https://kokkai.ndl.go.jp/#/detail?minId=108703968X00419790316&current=4 [accessed 18 January 2022].

[136]Shūgiin 衆議院 [House of Representatives], *Dai-87-kai kokkai: Gaimugiin hōmu iinkai* 第87回国会: 衆議院法務委員会 [87th Diet Session: Foreign Affairs Committee of the House of Representatives], no. 10, 8 May 1979, available at https://kokkai.ndl.go.jp/#/detail?minId=108703968X01019790508&current=4 [accessed 18 January 2022].

[137]A similar interaction between foreign and US pressure and civil society activisms resulted in the reform and expansion of the policy measures against human trafficking in Japan's immigration policy 20 years later in the early 2000s. See David Chiavacci, 'New immigration, civic activism and identity in Japan: Influencing the "strong" state', in *Civil society and the state in democratic East Asia: Between entanglement and contention in post high growth*, (eds) David Chiavacci, Simona Grano, and Julia Obinger (Amsterdam: Amsterdam University Press, 2020), pp. 202–208.

[138]Shigeki Miyazaki 繁樹 宮崎, *Shutsunyūkoku kanri: Gendai no 'sakoku'* 出入国管理: 現代の「鎖国」 [Immigration control: Modern 'isolationism'] (Tōkyō: Sanshōdō, 1970); Keisuke Okada and Toshiya Kawahara, 'Gov't policy on refugees criticized here, abroad', *The Japan Times*, 29 June 1979; Yasuhiko Saito, 'Japan and human rights covenants', *Human Rights Law Journal*, vol. 2, nos. 1–2, 1981, pp. 89–91.

[139]Kiyoteru Tsutsui, *Rights make might: Global human rights and minority social movements in Japan* (New York: Oxford University Press, 2018).

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

progressive Japanese activists and demanded Japan's accession to the international human rights conventions, including the Refugee Convention, whose detailed rules would force the conservative government to abandon many discriminatory policies against foreign minorities.

Thus, the conservative establishment was under pressure internationally by its own allies and nationally by the progressive opposition in cooperation with Korean activists. Importantly, the progressive opposition had changed its argument: Japan should access the Refugee Convention not as a step of becoming a neutral and human rights abiding country, but to be recognized as a good member of the international community. This adapted argument not only picked up the international criticism on Japan, but had also many similarities with the new state identity as seen by the conservative elite. They also envisioned Japan as a leading nation in global politics in accordance with its economic might. Thus, the proposition of the progressive opposition had this time much more positive resonance among the ruling conservatives. Concurrently, the conservative establishment, including the MOJ, began to alter their position regarding the treatment of foreign residents. The new reasoning was that by trying to control the Korean residents, the Japanese state contributed to their legal and cultural alienation, which turned them into a national security risk. If the Japanese state instead stabilized their legal status, this would lead to their assimilation into the Japanese nation.[140] The MOJ began to acknowledge the settlement of the Korean minority in Japan and the need to address their legal position.[141] The conservative establishment no longer regarded the Korean minority as a threat for Japan's stability that had to be controlled at all costs. It had gained a new level of self-confidence and was increasingly convinced that the Korean residents could be politically integrated and even socially fully assimilated by incorporating them into Japan's achievements of mass consumerism and wellbeing, like the Japanese labour movement had been successfully pacified and integrated into Japan's economic success story.

Still, even with a more positive approach of the MOJ regarding joining the Refugee Convention as part of this switch, two inter-ministerial conflicts remained. The most important conflict was between MOFA and the Ministry of Health and Welfare (MHW) regarding the question of whether the Refugee Convention should be signed with or without reservations on the handling of social welfare benefits for refugees.[142] This dispute continued for years, and the resulting stalemate between the two ministries was only overcome when Sonoda Sunao became the health and welfare minister in September 1980.[143] As the former foreign minister of the late 1970s, Sonoda had played

[140]Eika Tai, 'Korean Japanese', *Critical Asian Studies*, vol. 36, no. 3, 2004, pp. 360–363.

[141]Keizō Yamawaki 啓造 山脇, 'Sengo Nihon no gaikokujin seisaku to Zainichi Korian no shakai undō: 1970 nendai o chūshin ni' 戦後日本の外国人政策と在日コリアンの社会運動: 1970年代を中心に [Postwar Japanese foreigner policy and social movements of the Korean minority: Focusing on the 1970s], in *Kokusaika to aidentiti* 国際化とアイデンティティ [Internationalization and identity], (ed.) Takamichi Kajita 孝道 梶田 (Kyōto: Mineruva Shobō, 2001), pp. 295–296.

[142]*The Japan Times*, 'Welfare benefits for refugees under discussion in ministries', 4 November 1980.

[143]Harumi Suefuji 春美 末藤, '1951-nen Junēbu nanmin jōyaku no seisaku kettei katei: 1975–1981 nendo no Nihon seifu no Indoshina nanmin teijū seisaku' 1951 年ジュネーブ難民条約の政策決定過程: 1975–1981年度の日本政府のインドシナ難民定住政策 [Decision making process to join the 1951 Geneva Refugee Convention: Japan's Indochina refugee settlement policy from 1975 to 1981], *Jōchi Ajiagaku* 上智アジア学 [Sophia University Asian Studies], vol. 2, 1984, pp. 136–156.

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

a crucial role in moving Japan's refugee policy towards a more welcoming stance for the Indochinese refugees and was personally convinced of the high importance for Japan to join the Refugee Convention without reservations. Unlike maybe any other member of the ruling conservatives, he advocated the new state identity of Japan as an economic superpower, which should take a bigger international role in politics. Sonoda used his new ministerial post at the top of the MHW to dissipate internal resistance and opposition. Thanks to his efforts, an inter-ministerial agreement could be reached for joining the Refugee Convention without reservations.[144]

However, the following open question remained: who should oversee the refugee recognition? MOFA pressed for an independent, third-party organization, whereas the MOJ wanted to keep the whole immigration policy, including refugee recognition, under its roof. Finally, the MOJ retained the task of implementing and overseeing the revised immigration law, in which refugee recognition was incorporated. Lawyers and opposition parliamentarians expressed strong misgivings regarding this decision.[145] During the deliberations in parliament, all invited external specialists strongly criticized the proposal of making the MOJ alone responsible for the refugee recognition without any external monitoring. They stressed that this arrangement was exceptional in international comparison and demanded an independent agency for this task.[146] Despite these criticisms, the MOJ kept its all-dominant role in refugee recognition.

When in June 1981, the parliament passed the Refugee Convention and accompanying legal revisions, the conservative government pointed out that Japan had reached a turning point in its development. This assessment is accurate, as the signature of the Refugee Convention meant the end of many discriminatory treatments of foreign residents.[147] However, the signature had an astonishingly limited impact on Japan's refugee acceptance policy. As feared by the progressive critics, the MOJ implemented a significantly restricted refugee recognition. Japan's refugee recognition rate is one of the lowest worldwide. Well under one per cent of those applying are granted asylum status by the MOJ.[148] It is still the case that refugees have a much bigger chance of being accepted for humanitarian reasons than to receive official asylum through an application. Although over 10,000 Indochinese refugees received permanent residency in Japan, the MOJ has only recognized 194 of them as refugees under the Refugee Convention.[149] Michael Strausz has stressed in his analysis that the conservative establishment admitted Indochinese refugees because it believed that it would not make Japan into a major refugee destination.[150] Hence, Japan could continue to have full

[144]*Mainichi Shinbun* 毎日新聞 [Mainichi Newspaper], 'Zainichi gaikokujin ni mo tekiyō: Nanmin jōyaku hijun gai - kōshō itchi' 在日外国人にも適用: 難民条約批准外・厚相一致 [Applicable for foreign residents in Japan: Foreign and Social Minister agree on ratification of Refugee Convention], 23 January 1981; *The Japan Times*, 'Cabinet decides to seek diet approval of Refugee Convention', 14 March 1981.

[145]*The Japan Times*, 'Citizens' group start drive on refugees' status', 6 April 1981.

[146]Shūgiin 衆議院 [House of Representatives], *Dai-94-kai kokkai: Gaimugiin hōmu iinkai* 第94回国会: 衆議院法務委員会 [94th Diet Session: Foreign Affairs Committee of the House of Representatives], no. 14, 14 May 1981, available at https://kokkai.ndl.go.jp/#/detail?minId=109403968X01419810514&current=1 [accessed 18 January 2022].

[147]Tanaka, *Zainichi gaikokujin*, pp. 151–174.

[148]Mukae, *Japan's refugee policy*, p. 71.

[149]Honma, *Nanmin mondai to ha nani ka*, pp. 151–152.

[150]Strausz, 'International pressure and domestic precedent', pp. 258–260.

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

control over immigration and refugee inflows. Based on our analysis, we can push that argument even further. The conservative establishment not only believed but also ensured that Japan maintained control over immigration and refugee inflows by putting the MOJ in charge of the recognition process. This way of implementing the Refugee Convention allowed Japan to fulfil its obligation to the international community and protect its ethnic homogeneity. Thus, ruling conservatives were able to satisfy both sides of their transformed, contradictory state identity: being an international model citizen and retaining a mono-ethnic nation.

New state identities and foreign policy aims

Although Japan and China signed the Refugee Convention and the Protocol in 1981 and 1982, respectively, their paths to cooperation with the international refugee regime were different. China started by accepting refugees using the unilateral approach that it had already practiced several times before, while Japan tried to limit its engagement to financial contributions and only joined the resettlement programme after international and national criticism. Although the Indochina refugee crisis served as a trigger for these developments, we argue that the major reasons include the changes in the international refugee regime and the transformation of identities of the two states. The international refugee regime had expanded its geography, while the magnitude and location of the Indochina refugee crisis made the participation of Japan and China in the international refugee cooperation more important than before, which activated UNHCR negotiators.

However, these new pressures worked out due to the shifts in the state identities of China and Japan, as both strived to improve their international image and reach other foreign policy goals, and joining the Convention served these purposes. As the result of the economic boom, Japan started to envision itself as a responsible global power, while before the conservative establishment was more focused on internal development and maintaining stability. The PRC aimed to play a revolutionary role in international relations in the 1950s and 1960s. However, in the 1970s, China first resumed relations with the US, and when Deng Xiaoping came to power, shifted to a significantly less radical foreign policy that focused on a domestic economy and peaceful neighbourhood relations. Additionally, neither state expected to receive many refugees because China was a poor developing country, and refugees arriving in Japan usually preferred to move to the US and other countries.

Although the change in identities motivated Tokyo and Beijing to join the regime, it did not require them to implement the Refugee Convention properly. During and after joining, the pressure on Japan decreased, while China was not really pressured until the arrival of the North Korean refugees in the 1990s.[151] China and Japan made sure to control the number of refugees and strictly control the implementation of the Refugee Convention. Just like Western states in the 1970s, China outsourced the responsibility to determine the status of refugees to the UNHCR. However, it continued to control the number of refugees by limiting the access of the UNHCR to some of its regions. Although Japan signed the Refugee Convention, refugee acceptance remained

[151]Soboleva, 'China and the refugee dilemma'.

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

in the hands of its MOJ. Hence, the conservative establishment retained full control of refugee inflows, just like before it signed the Refugee Convention. Ryuji Mukae even argues that Japan had increased its control by joining the Refugee Convention because it diminished international scrutiny on its refugee policy.[152]

Conclusion

Our article contributes to the discussion about the international refugee regime expansion in East Asia.[153] We demonstrate that the Cold War alone could not account for the dynamics of the regime acceptance in the region. Until the late 1970s, the regime failed to match the state identities and foreign policy goals of China and Japan. Refugee movements in East Asia were different from those in Europe, as forced migrants rather than those fleeing communist countries often originated from colonial states and Capitalist bloc members, such as South Korea. Due to Eurocentrism, colonial thinking, and the Cold War bias, for a long time, the international refugee regime ignored certain types of forced migration in the region, which resulted in missed opportunities for the UNHCR's cooperation in East Asia. In the late 1970s, the following equilibrium was reached: China and Japan changed their positioning in world politics, and the international refugee regime evolved to become useful for the new identities of the two states.

Despite positioning itself as a revolutionary socialist state, the PRC had a brief period of informal cooperation with the international refugee regime in the early 1950s, while the latter was not hijacked by the Capitalist bloc and helped with the repatriation of Second World War refugees from mainland China. However, in 1956, the politicization of the UNHCR resulted in the complete withdrawal of the PRC from the refugee regime and practice of self-reliance in refugee issues. Despite the global expansion of the regime and introduction of the Refugee Protocol in 1967, joining the Convention was out of the question for China until the late 1970s given its revolutionary identity and radicalization of its foreign policy. Moreover, the regime failed to recognize and suggest assistance to overseas Chinese who were forced to leave Malaysia and Indonesia. The economic burden that was created by the Indochina refugee crisis impacted the PRC's attitude towards the UNHCR, when the High Commissioner came to Beijing with an attractive assistance offer in 1979. However, although the exogenous shock of the Indochina refugee crisis indeed played a role, cooperation with the UNHCR and joining the Convention in 1982 was also the result of endogenous process. It would not have been possible without several major changes to China's state identity in the 1970s, such as the split from and confrontation with the USSR, as well as the shift in positioning from a revolutionary socialist state to a modern socialist state and a developing country that is willing to cooperate with the international community.

Regarding Japan, the question of state identity was a conflict between the conservative right and the progressive left. While the conservative government established the Yoshida doctrine with Japan as the junior partner of the US because it was poor and overpopulated and needed to concentrate all its resources on economic rebuilding, the progressive opposition wanted a neutral Japan that would not be drawn into the

[152]Mukae, *Japan's refugee policy*, pp. 78–79.

[153]On South Korea as another case in East Asia, see Kim, 'Cold War refugees'.

https://doi.org/10.1017/S0026749X22000439 Published online by Cambridge University Press

regional wars during the Cold War. When joining the refugee policy became an issue in view of the inflow of South Korean refugees fleeing the newly established authoritarian regime in the 1960s, the progressive opposition pushed for joining the Refugee Convention by stressing the importance of human rights and the advantages of a bloc-free policy. In the late 1960s, after the introduction of the Refugee Protocol, much of the conservative establishment continued to hold a state identity of Japan as politically unstable, despite its successful industrialization, in view of ongoing mass protest movements and did not want to further complicate the situation by opening the door for refugees even one inch. Finally, in the 1970s, the conservative establishment saw Japan as an economic superpower and envisaged a corresponding role in the international community. This new state identity combined with the foreign pressure on Japan to join the Refugee Convention gave the progressive opposition in cooperation with new minority activists a window of opportunity. However, when Japan finally joined the refugee regime, the conservative establishment made sure that the MOJ would remain de facto in complete control of refugee recognition. In this way, the second side of the new conservative state identity as an ethnic homogeneous nation could be maintained.

On the surface, both the PRC and Japan have been marked by a surprising degree of political continuity through the dominance of the CCP and LDP over decades. However, under this surface of tranquillity, the self-perception and state identities in the eyes of their respective elites and the resulting foreign policy goals fundamentally changed, which led to the accession to the Refugee Convention and Refugee Protocol. However, having simultaneously joined the Refugee Convention, neither the PRC nor Japan have fully implemented it. Despite changes in the international refugee regime, the refugee definition was not adjusted to better fit the realities of the non-Western world, and the Refugee Convention remained overloaded to be implemented both in East Asia and globally. In view of the large potential refugee movements, both states maintained a priority of keeping full and unilateral control over refugee acceptance. China and Japan have developed different mechanisms to maintain their control over refugee issues and limit the number of recognized asylum seekers. Similarly, restrictive approaches in the refugee policy could be observed in Western states from the 1980s. While the state identity changes accompanied by geopolitics and the relationship with the US led to the accession to the Refugee Convention, Washington and its Western allies could not motivate Japan and China to properly implement them.

Surprisingly, Japan's democratic system and active pressure from civil society, which was absent in China, did not contribute to a greater willingness to admit more refugees. The activists were more concerned with the status of Koreans in Japan rather than refugees, and the Refugee Convention had an important impact on the treatment of foreign residents in Japan. In this respect, we can note a significant difference between the authoritarian and democratic regimes. Although both retained similar refugee acceptance policies, in democratic Japan, the accession to the Refugee Convention and other human rights conventions resulted in fundamental reforms in the treatment of foreign residents and the abolishment of their blatant discrimination by state institutions.

Finally, it should be noted that Japan and China are not unique cases, as they are representative of a pattern in East Asia. East Asian accessions to the Refugee Convention (including South Korea in 1992) have not resulted in a willingness to take the relevant

obligations as signatory states. Nowadays, Japan, the PRC, and South Korea primarily recognize refugees based on humanitarian reasons, rather than through the Refugee Convention.[154] In other words, although the Refugee Convention has reached East Asia, it has not really set down roots. The international refugee regime only has a limited influence on refugee acceptance in the region, which remains up to the full discretion of the regional nation states. This reflects the main objective of immigration policies in East Asia (including Taiwan) to maintain full and unilateral control over immigration flows.[155]

[154]Andrew Wolman, 'Humanitarian protection advocacy in East Asia: Charting a path forward', *Refugee Survey Quarterly*, vol. 37, no. 1, 2018, pp. 25–43.

[155]For a fuller discussion of the historical development and commonalities in immigration policies in East Asia, see David Chiavacci, 'Keeping immigration under control: Development and characteristics of the East Asian migration region', in *Immigration governance in East Asia: Norm diffusion, politics of identity, citizenship*, (eds) Gunter Schubert, Franziska Plümmer, and Anastasiya Bayok (London: Routledge, 2021), pp. 16–39.

Cite this article: Chiavacci, David and Elena Soboleva. 2023. 'China's and Japan's winding path to the Refugee Convention: State identity transformations and the evolving international refugee regime'. *Modern Asian Studies* 57(4), pp. 1415–1447. https://doi.org/10.1017/S0026749X22000439