Internalizing the Norm of Burden Sharing: The UNHCR, Social Movements, and Empathetic Social Activists as a Solution

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This thesis titled
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Empathetic Social Activists as a Solution

by

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ABSTRACT

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Internalizing the Norm of Burden Sharing: The UNHCR, Social Movements, and Empathetic Social Activists as a Solution

Director of Thesis: Andrew Ross

Along with the end of the Cold War, many developed western nations became reluctant to accept refugees because of the absence of the political value of refugees. However, the number of refugees, especially refugees from the Third World, has been continuously growing. Consequently, a serious division between developing and developed nations concerning refugee protection emerged. That is to say, while the South (developing nations) accepts many refugees despite its poverty, the North (developed nations) accepts fewer refugees compared to the South. In my thesis, I argue how the North-South division can be mitigated suggesting the important roles of UNHCR, social activists, NGOs, the dynamics of social movements, and empathy.
This thesis is dedicated to all refugees in distress and, especially, to my Burmese friend,

Aung Pyie, who fled from Burma because of the political instability.
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Furthermore, I would like to express my gratitude to the rest of my committee members, Drs. Myra Waterbury and Debra Thompson, for offering me adequate and insightful comments regarding my thesis.

Lastly, I would like to say that I could complete my thesis largely by great fortune. Through the research for my thesis, I came to realize how fortunate I was, in comparison to many refugees in distress, to attain the chance to keep studying without having fear of political persecution, civil wars, and poverty. The future of refugees is highly restricted because of the horrendous circumstances in which they are born. That is to say, the mere difference between who I am now and refugees in distress is the circumstances in which we are born. Thus, I am grateful not only for the support I received but also to the fortunate environment in which I was raised.
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<td>Abbreviation</td>
<td>Full Form</td>
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<tr>
<td>ACM</td>
<td>Australian Correctional Management</td>
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<td>AJA</td>
<td>A Just Australia</td>
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<td>ASEAN</td>
<td>Association of Southeast Asian Nations</td>
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<td>APL</td>
<td>anti-personnel mine</td>
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<td>AU</td>
<td>African Union</td>
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<tr>
<td>CEDAW</td>
<td>Convention for All Forms of Discrimination Against Women</td>
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<td>ChilOut</td>
<td>Children Out of Detention</td>
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<td>CIREFCA</td>
<td>International Conference on Central American-Refugees</td>
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<td>CPA</td>
<td>Comprehensive Plan of Action</td>
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<td>CRC</td>
<td>Convention on the Rights of the Child</td>
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<td>EC</td>
<td>European Commission</td>
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<td>EMU</td>
<td>Economic and Monetary Union</td>
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<td>FAA</td>
<td>First Administrative Agreement</td>
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<td>GDP</td>
<td>gross domestic product</td>
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<td>GHQ</td>
<td>general headquarters</td>
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<td>IYW</td>
<td>International Women’s Year</td>
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<td>JLNCR</td>
<td>Japan Lawyer’s Network for Refugees</td>
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<td>MOFA</td>
<td>Ministry of Foreign Affairs</td>
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<td>MOJ</td>
<td>Ministry of Justice</td>
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<tr>
<td>MOU</td>
<td>Memorandum of Understanding</td>
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<td>ODA</td>
<td>Official Development Assistance</td>
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<tr>
<td>Acronym</td>
<td>Full Form</td>
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<td>PRS</td>
<td>protracted refugee situation</td>
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<td>PTSD</td>
<td>posttraumatic stress disorder</td>
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<td>RAR</td>
<td>Rural Australian for Refugees</td>
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<td>UNCLOS</td>
<td>United Nations Convention on the Law at the Sea</td>
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<td>UNCTAD</td>
<td>United Nations Conference on Trade and Development</td>
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<td>UNHCR</td>
<td>United Nations High Commissioner for Refugees</td>
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INTRODUCTION

This thesis examines a recent global refugee issue, namely the unbalanced distribution of refugees between the South (developing nations) and North (developed nations). I mainly focus on refugee issues after the end of the Cold War in 1991, a time when many nations became reluctant to accept refugees. With the end of the Cold War, refugees no longer had political value for developed liberal democratic nations. Rather, refugees become severe financial burdens for the North. Yet, the end of the Cold War does not necessarily mean the end of refugee issues. Although the number of refugees who fled from political persecution under communism decreased, the number of refugees from the Third World has been continuously increasing due to political instability, civil wars, and poverty. In general, refugees from the South usually do not have enough money to reach geographically distant nations. Thus, neighboring southern nations are mostly obliged to accept these refugees despite their lack of economic capacity compared to the advanced North. Because of the North’s reluctance, a significant division concerning refugee protection between the North and South emerged.

As illustrated above, the North-South division, which appeared in the late 20th century, is a new field in refugee studies. In other words, it is not mainstream to study the North-South division until recently. Even refugee itself is a new concept which started to be recognized during the Second World War when many politically persecuted people fled from the Nazi fascist regime. Thus, traditional scholars in refugee studies mainly focus on how to define refugee, asking who refugees are. In reality, many of these conventional scholars’ definitions of refugee are mere reflections of the developed
nations’ view. In addition, most conventional scholars insisted that refugee protection activities should be conducted under the Northern nations’ discretion (Miller, 2005) on the basis that every state’s priority is to protect their own people.

In fact, there is not enough data to show how the North-South division causes harsh effects globally because of the short time since this issue appeared. Yet, other fields in international relations also give us serious warnings that the North-South division sometimes leads to a matter of life or death for all human beings. For example, the North-South division is a huge obstacle in global environmental issues. In the context of global warming, the North opposed strict regulations on carbon dioxide emissions, stating that all nations should take equal responsibility for global warming rather than imposing heavier responsibilities on a developed nations’ side. On the other hand, the South nations insisted that environmental pollution was mainly caused by developed nations’ past activities, and therefore, the Northern developed nations should be more responsible for reducing carbon dioxide emissions. Due to this serious fissure between the North and South, North-South cooperation is unlikely to be established. However, in reality, if nations continuously emit a large amount of carbon dioxide, there could be risks, even threatening humanity. Thus, the North-South cooperation plays a crucial role in a life-death struggle.

Similarly, I propose that the North-South division in the refugee issue is also a vital question. Without Northern assistance, the South cannot continue to protect refugees due to its poverty. If the South no longer accepts refugees, many of these refugees automatically become stateless people. These stateless people are more likely to be
involved in global crimes such as human trafficking and guerrilla and terrorist activities. Thus, stateless people are not only closely related to regional instability, but are also connected with global security (Betts, 2009, p. 7). This vicious cycle is clearly represented by the recent data of a protracted refugee situation (PRS). The definition of PRS indicates a situation of asylum seekers whose status is not admitted as refugees and who remained in an unsecured situation without sufficient protection for years (Loescher, Betts, & Milner, 2008, pp. 110-115). For instance, the number of asylum seekers in PRS, who fled from Afghanistan to Pakistan, was around 960,000 in 2004. Surprisingly, this number is about 19 times as many as the number of accepted refugees in the United States in 2004 (Rytina, 2005, p. 3). The actual cost for the tremendous number of refugees in the South is obviously beyond the Southern nations’ capability. As a result, many asylum seekers have no other choice but to remain in an unsecure situation for a long time. Many Northern nations tend to be indifferent about such refugees’ situations in the South. Yet, I suggest that this unfavorable attitude should be adjusted because they are also vital issues for the North in reality. Thus, the main purpose of my thesis is to shed light on a field of study (the North-South division in refugee issues) and to suggest the importance of creating North-South cooperation.

The purpose of this thesis is not only to clarify the current refugee issue, namely, the North-South division concerning refugee protection, but also to reveal how the United Nations High Commissioner for Refugees (UNHCR) influences the North’s refugee strategies and to achieve prospective solutions in order to solve the gap between the North and South. I analyze why UNHCR has difficulties improving refugee protection
and resolving global refugee issues, and I propose that UNHCR’s difficulty solving refugee issues is due to low recognition by Northern nations of the newly created norm of “burden sharing” (Betts, 2009, p. 12). Responding to the unbalanced distribution of refugees between the North and South, the UNHCR has recently promoted the idea of burden sharing via the Convention Plus initiative, which aimed to supplement existing international laws such as the 1951 Refugee Convention and the 1967 Protocol.

Although the concept of “refugee” is relatively well established and ingrained in international communities as defined by the 1951 International Refugee Convention and the 1967 Protocol Relating to the Status of Refugees, the distribution of providing protection for and the responsibility of refugees is not clarified in these instruments, which raises several questions; Should the burden be distributed in accordance with gross domestic product (GDP), territorial size, or an economic growth rate? In what kind of ways should nations bear burdens such as financial assistance, actual refugees’ settlement, and temporal protection? How should each nation’s role in burden sharing be determined? To sum up, facing the North-South division, UNHCR realized the loophole of the Convention’s definition of refugee protection. Therefore, since 2002, UNHCR started to introduce the new concept of burden sharing by the Convention Plus initiative to supplement the 1951 Convention and 1967 Protocol. However, nations have not reached an agreement on how to distribute burdens. In other words, the newly established concept of burden sharing is not fully ingrained in international communities.

A scholar of refugee studies, Alexander Betts (2009), also argues that the weak norm of burden sharing without any binding power, is one of the factors of the North-
South division and proposes prospective solutions to increase refugee protection by mainly focusing on states’ rational nature (p. 12). Yet, I explain refugee issues not only from the perspective of states’ rationality but also from the perspective of non-state actors and non-material power, namely, the symbolic normative power. The goal of my thesis is to ask whether the UNHCR has independent authority vis-a-vis its powerful member states. In my view, although UNHCR seems powerless under the existing norm of state sovereignty, UNHCR has autonomous power from authorized donating nations. I suggest that whether UNHCR has independent authority over donating nations should be analyzed according to broader frameworks, including the dynamics of social movements, domestic activists, and nongovernmental organizations (NGOs). That is to say, a process-oriented theory rather than a state-centric theory is appropriate to analyze the social dynamics affecting the norms and policies of the UNHCR. In other words, social activists become more empathetic toward refugees through visible images about refugees provided by the dynamics of social movements and, eventually, can impose strong collective pressure on rational states. Thus, I will clarify the constraints and necessary preconditions for the process of internalizing the norm of burden sharing. Finally, I conclude that either UNHCR’s role can be seen as a mere puppet of powerful donating nations or the collective power of UNHCR, NGOs, IGOs, and social activists in the dynamics of social movements can go beyond powerful nations’ control. Then, I will use this analysis to suggest the way refugee protection can be improved.

In Chapter 1, I introduce the historical background of refugee issues, how they emerged, and how nations have responded to them. Then, I provide literature reviews by
introducing two competing theories, namely, liberal institutionalism and constructivism. After the brief explanations about theoretical frameworks of liberal institutionalism and constructivism, I introduce two scholars of refugee studies, Alexander Betts (liberal institutionalist) and Petrice Flowers (constructivist). I evaluate their theoretical views and how they are useful or controversial in order to improve the refugee issue of the North-South inequalities. In Chapter 2, as a response to Chapter 1, I state my theoretical view toward the relationship between refugee protection and the international norm of burden sharing by inventing my own theory which combines constructivism and rationalist theory. Though I agree that states are rational as liberal institutionalists argue, states’ behaviors can be formed not only through material interests but also via the dynamics of social movements and empathy. In chapter 3 and 4, I will conduct case studies of Australia and Japan in order to show nations’ behaviors cannot be fully explained by rationalist theories. For example, sometimes states adopt pro-refugee policies against national material interests. I chose Australia and Japan because both nations are generally known to have strict immigration policies. Australia had taken the racial discriminative immigration policy known as “White Australia Policy” until in the 1960s in order to prevent racial inferior immigrants from attaining Australian citizenship (Kane, 1997, p. 117). Even though the White Australian Policy was abolished, Australia still has legacy of discriminative immigration policies. In other words, xenophobia of Australian people is ingrained in the Australian society and, consequently, Australia continuously takes strict immigration strategies. Similarly, Japan takes extremely conservative immigration policies in order to preserve its social homogeneity, which is the legacy of the national
isolation policy over two centuries (Everest-Phillips, 2007, p. 251). In other words, their anti-immigration attitudes are helpful to analyze whether the power of UNHCR is merely under the influence of sovereign states or the collective power of social movements can go beyond the authorized sovereign states. Though Australia geographically is located in the southern hemisphere, I categorize Australia as a country of the North. I use the term, the South and North, not strictly on the geographical basis but by the economic basis as represented by global North and South in the field of global economy. Through these case studies, I will find the mechanism which forms and restricts nations’ behaviors. In Chapter 5, I will conclude my thesis by summarizing whole sections and evaluate whether UNHCR is helpless under northern states’ authority or it has a positive influence on refugee protection beyond powerful nations’ control. In addition, I propose prospective ways to enhance UNHCR refugee protection activities.
CHAPTER 1: BURDEN SHARING: LIBERAL INSTITUTIONALIST AND CONSTRUCTIVIST APPROACHES

Historically, international relations (IR) scholars analyzed refugee protection mainly from the perspective of the northern states. In other words, most IR scholars place less emphasis on views from the South and refugees themselves. For instance, positivism became a dominant legal theory concerning refugee issues with the end of the Cold War. Positivism is an approach which aims to analyze refugee issues in the framework of international law rather than from the viewpoint of refugees (Chimni, 1998, p. 350). The positivist approach, which focuses on the separation of legitimacy and politics, matches closely with the Western aim to empower the liberal democratic system. In sum, the West’s goal was to separate people from politics, namely, communism. To affirm this separation, the West needed to use the independent, legitimated system beyond politics. For example, non-refoulement, the principle of international refugee law, was established in 1951. Non-refoulement prohibits any nation from repatriating refugees to places where they might have risks of being persecuted. During the Cold-War era, the West did not want refugees from the East to return to countries under the control of communism. The West needed to empower international law and to separate it from communist pressure.

Similarly, a communitarian scholar, David Miller (2005), argues that refugee acceptance should be conducted under the discretion of each nation. From the communitarian perspective, each nation has a right to maintain its social harmonization. Although Miller (2005) admits the necessity to protect refugees, nations can reject anything which distracts the existing social orders, including refugees. In other words,
communitarianism, to some extent, justifies the North’s refusal to accept refugees from the South. As illustrated by refugee studies as positivism and communitarianism, while the northern views are largely reflected in the academic field of refugee studies, the southern views were neglected.

Yet recently, refugee scholars who analyze refugee protection within a broader framework have emerged using, namely, liberal institutionalism and constructivism. In this chapter, I introduce the basic concept of liberal institutionalism. Then, I explain how Betts argues the North-South division of refugee protection activities in the framework of liberal institutionalism. I also present the theoretical view of constructivism. After the brief explanation of constructivism, I introduce how Flowers explains refugee issues by applying the constructivist view. In the end of this chapter, I introduce my own evaluation of theories of Betts and Flowers. However, before introducing both liberal institutionalist and constructivist theories, I provide the historical background, which explains why the North-South division of refugee protection emerged and how the North-South division gives UNHCR difficulties in refugee protection activities.

**Historical Background concerning the North-South Division**

In order to understand why the number of refugees from the South tremendously increased and IR scholars needed to enhance the existing theories regarding refugee protection as a response to the increase, the examination of the historical backgrounds is indispensable. During the Cold War era, liberal democratic developed nations actively accepted refugees, who fled from the Communist regime. B. S. Chimni (2000) argues that this voluntary-refugee acceptance derived from these refugees’ political value.
Mainly, the developed member states’ behaviors are conducted on the basis of maximization of self-interests. During the Cold-War era, a power struggle between the liberal democratic West and the communist East occurred. The West, with its core of liberal democracy, did not want refugees from the East to return to countries under the control of communism. The prosperity of a liberal democratic system was directly connected to the power of the West. The success of the liberal democratic regime did not only assure the West of its political stability, but it could also accelerate a liberal capitalist economy, one that was ideal for the West because this system would increase its material benefit via the free economy. In other words, the West wanted to separate people from the communist regime and to increase the number of people who support their liberal democratic regime.

UNHCR was established in 1951 for the purpose of helping powerful nations’ political goals and had little discretionary power (Barnett & Finnemore, 2004, pp. 80-81). The limited power of UNHCR reflected the United States’ intention. The United States wanted UNHCR to solely focus on dealing with refugees from the East (Barnett & Finnemore, 2004, pp. 83-84). In other words, the U.S. recognized refugees as politically persecuted persons under the Cold War; therefore, refugee issues were only temporary matters for the U.S. Strategies taken by UNHCR concerning refugees needed to be consistent with the United States’ benefit, namely enhancement of its power over the Soviet communist regime. Thus, support activities for refugee protection, which diverged from or threatened the interests of powerful nations, were highly restricted. In other words, strategies taken by UNHCR concerning refugees needed to be consistent with the
donating nations’ benefit. Although the initial role of UNHCR as a humanitarian organization was quite limited due to the great power’s intention, UNHCR gradually enhanced its independent authority by stating the necessity to provide aid not only for refugees from the East but also for refugees from the Third World. UNHCR focused on its “moral authority” and disseminated perceptions of a humanitarian norm as its obligation. Via its activities to diffuse norms and promote international law, many nations started to recognize UNHCR as an independent authorized organization (Barnett & Finnemore, 2004, p. 84).

However, even after attaining independent authority, UNHCR struggled with pressure from powerful developed nations. After the end of the Cold War in 1991, namely, the collapse of the communist regime, the number of refugees from the South, mostly the developing nations, has been increasing dramatically due to instability of political structures. Moreover, along with the African and Asian nations’ independence from Western colonizers, refugees from the Third World have significantly risen because of economic failure, conflicts derived from new power struggles, and disorganized political structures.

Responding to the rapid increase of refugees from the South, the West became reluctant to accept these refugees. While the West voluntarily accepted the refugees from the East, the West did not want to accept refugees from the South (Chimni, 1998, p. 356). Acceptance of refugees from the South does not expand the developed nations’ self-interests. Rather, refugees from the South were only a severe burden for the West because these refugees not only lack political value for the West but also unilaterally impose on
the West a large amount of financial expenditure for refugee protection. From the perspective of the affluent West, the influx of refugees from the South are only heavy financial burdens and security threats. Many developed nations started to support repatriation as a highly recommended solution of refugee issues after the end of the Cold War. The developed nations concluded that refugees were finally released from risks of being persecuted under communism; therefore, the best solution is repatriation. Even though refugees still have risks of being persecuted, many refugees were forced to repatriate (Barnett & Finnemore, 2004, p. 100). This increasing tendency of repatriation was used as a strategy by developed nations to avoid accepting asylum seekers. In reality, the UNHCR’s support activities for refugees are largely sustained by financial aid from donating nations, namely, affluent developed nations. As a response to the developed nations’ authority, UNHCR’s support activities sometimes places priority on these nations’ benefits rather than on refugees’ status.

In addition, refugees usually do not have enough money to escape to geographically distant northern nations and, therefore, most refugees from the Third World flow into developing neighboring nations. Actually, these refugees are closely related to regional instability for these neighboring nations. If neighboring countries do not grant asylum to these refugees, refugees automatically become stateless people. Stateless people are more likely to be involved in horrendous actions including terrorist activities, guerrilla operations, and human trafficking, which would destabilize regional security. Thus, these neighboring nations have no other choice but to accept refugees (Betts, 2009, p. 12). As a result, while the number of acceptance of refugees dramatically
has been decreasing in the North, the number of acceptance of refugees has rapidly increased in the South. For example, the number of accepted refugees by Sudan was greater than the number of asylum applications that the United States and Western Europe received in total. The proportion of the accepted refugees from the South consisted of only 0.005 percent of the total population in Western Europe (Chimni, 1998, p. 359). In other words, an unbalanced distribution of refugees between the developed and developing nations emerged.

Liberal Institutionalist Approaches

In order to interpret how nations respond to international refugee protection, some IR scholars started to utilize elements of both rational choice theory and institutionalism. Alexander Betts (2009) explains the unbalanced distribution of refugees between the North and South from the perspective of liberal institutionalism. Thus, I introduce in this section the basic theoretical perspective of liberal institutionalism and then explain how Betts applies liberal institutionalism to refugee protection. In the liberal institutionalist view, all nations are rational actors. Even though states seem to engage in actions for the public good simply for altruistic reasons, liberal institutionalism presupposes that there are some hidden aims in order to attain benefits under such altruistic behaviors (Betts, 2003, p. 275).

Jennifer Sterling-Folker (2000) argues that nations become members of a specific institution not only based on shared beliefs and to attain collective interests but also for the purpose of maximizing their individual benefits. In other words, even though states seem to work for a collective interest, including the public good within a framework of
an institution, states place more importance on private benefits rather than the public good. States merely recognize an institution as a means to effectively maximize their private benefits. For instance, from the liberal institutionalist perspective, nations gain a membership in the European Union (EU) because they recognize that the EU is a prospective entity to increase their private benefits such as trading opportunities due to its strong negotiating power. However, at the same time, interests of rational states can be transformed within an institutional framework (Sterling-Folker, 2000, p. 103). Within an institutional framework, nations’ rational behaviors to seek individual benefits are largely restricted and, rational nations eventually work collectively rather than for merely individualistic motives.

A public good differs from a private good in two meanings. Firstly, while a private good confers benefits on limited actors, a public good can provide benefits for all actors. In addition, although actors compete with each other in order to maximize their exclusive benefits in the framework of a private good, no competitor exists in the sphere of a public good. A problematic aspect of a public good is that actors have an option to be a free rider. That is to say, due to the all-inclusive nature of a public good, actors still can attain benefits without doing anything and, instead, make others engage in tasks to achieve a public good (Thielemann & Dewan, 2006, p. 352).

In order to prevent actors from becoming a free rider, liberal institutionalism proposes that benefits from a public good need to exceed the cost to attain public good. In other words, if the benefits to engage in tasks to attain a public good are less than the cost, actors are unlikely to be a free rider. Even though benefits, which are significant enough
to exceed the cost, do not exist, it is possible to prevent actors from being a free rider by strategically creating benefits so that actors can change their mind to be a free rider. All different actors have diverse interests. Thus, it is important to link these different interests with a public good structurally (Betts, 2003, p. 278).

Betts (2009) attempts to apply a public good theory on the basis of liberal institutionalism to refugee protection activities. As a response to the emergent North-South division, some scholars in refugee studies started to analyze the unbalanced distribution of refugees between the North and South and to suggest how to resolve this paradox. Betts is one of the most innovative scholars who analyzes not only the North-South issues but also proposes prospective solutions to alleviate the North-South fissure and to achieve North-South cooperation from the liberal institutionalist perspective. Betts (2009) adds focus to the unbalanced power between actors, namely, the North and South, in refugee protection issues to the public good theory. Betts (2011) analyzes the North-South division based on the premise that all nations are rational actors. In other words, not only the North but also the South behaves in order to maximize their own benefits. However, the factor which creates the North-South division is the unbalanced power distribution between them. While burdens tend to be distributed fairly among equally authorized nations, burdens are likely to be allocated unfairly because the weaker nations have less bargaining power.

Betts (2009) criticizes Suhrke Astri’s approach, in which she applies the prisoner’s dilemma to burden sharing. The prisoner’s dilemma assumes that each actor, the so-called suspect, has the same goal and equal power; the goal is to minimize their
prison term. If both suspects “A” and “B,” who are under investigation in separate interrogation rooms, cooperatively admit commission, their prison term would be minimized. On the other hand, if suspect “A” confesses to a crime and suspect “B” denies the accusations, suspect prison term of suspect “A” would be less but prison term of suspect “B” would be much more than that of “A.” Suhrke (1998) states that burdens can be automatically well distributed when suspect A (strong states such as the U.S.) underestimate the cost of the burden. However, Betts (2009) argues that Suhrke’s approach is fundamentally false because each nation’s interests are various and unlike the prisoners’ shared interest to minimize their prison term. In order to unify nations’ different interests altogether and relate them to the goal of refugee protection, a third party such as UNHCR should play a role of mediation. In addition, while each suspect’s status is equal, the power balance between states is completely different. In such a situation, weaker nations have no other choice but to obey whatever strong nations decide. That is to say, refugee strategies that benefit powerful nations would always be adopted (Betts, 2011, p. 58).

Responding to the problematic approach of the prisoner’s dilemma, Betts (2009) proposes the importance of burden sharing as an alternative solution for the South to change the North’s mind and convince the North to provide assistance for refugees from the South. Betts (2009) argues that refugee protection is closely related to the global public good such as the increase of the global security level (p. 25). Although all nations can attain benefits due to the nature of global good, these benefits are not necessarily distributed equally. For example, compared to the North, the South can attain direct and
visible benefits from the successful refugee protection including improvement of regional security. On the other hand, benefits which the North can attain are more indirect. Hence, in reality, being a free rider is much more beneficial for the North. In other words, gaining benefits without doing anything but by utilizing the others’ effort is the best way.

In order to prevent the North from being a free rider, Betts (2009) proposes that the UNHCR’s proactive involvement, namely, strategic “issue-linkage” under the UNHCR’s leadership, is indispensable for the purpose of mediating the North’s strong authority and establishing Northern cooperation (p. 40). For instance, if UNHCR can tactfully connect refugee issues with other issue fields which contain obvious Northern interests, including the increase of trading opportunities, the decrease of sudden arrival of asylum seekers, and the increase of labor force, the rational North is more likely to share burdens. In short, Betts (2009) discusses refugee issues and international relations from the proposition that all nations are rational actors. Thus, rational nations are more likely to take pro-refugee policies when actual benefits are offered.

A series of UNHCR’s failures concerning refugee protection activities, namely, the North-South division, were caused because UNHCR did not fully understand nations’ interests, and it did not work strategically in order to create effective linkages between states’ interests and participation of refugee protection activities. UNHCR is the only prospective venue, with the potential to persuade the powerful developed states because it not only has legal authority to create and enforce international rules, but it also has close ties with both member states, refugees, and experts in different issue fields. That is to say, UNHCR can easily get enough information to know a nations’ interest more than other
international organizations. Even though these interests are not directly connected with refugee issues, UNHCR can strategically relate them to refugee issues via its bonds with other fields’ experts. Therefore, if UNHCR strategically relates effective refugee policies to the rational nations’ interest by utilizing plenty of information and its broad connections, the North-South division is more likely to improve.

In order to figure out conditions on which UNHCR can successfully or unsuccessfully relate refugee issues to other issue fields and conduct burden sharing, Betts (2009) analyzes several cases of refugee protection activities in order to figure out what the necessary conditions are for successful burden sharing by comparing failed and succeeded cases. For example, Betts (2009) asserts that while the Convention Plus initiative is a perfect failure of UNHCR, the International Conference on Central American-Refugees (CIREFCA) is a historical success of “burden-sharing.” According to Betts (2009), the success of refugee protection largely depends on “issue-linkage” and “cross-issue persuasion” (pp. 37-42). In other words, the key to conducting successful burden sharing is how UNHCR tactfully connects refugee issues with different fields, which contain the North’s material interests, the so-called “issue-linkage” (Betts, 2009, pp. 37-40). More significant is whether UNHCR can smoothly cooperate with other agents, which work in different issue areas where not only the North’s but also South’s interests exist, namely, “cross-issue persuasion” (Betts, 2009, pp. 40-52).

As mentioned earlier, the UNHCR has recently promoted the idea of burden sharing via Convention Plus to introduce the new concept of burden sharing to supplement the 1951 Convention and 1967 Protocol. Although UNHCR took a leadership
role from 2000 to 2002 with convened states, NGOs, and scholars to determine the framework of Convention Plus and to create an internationally binding agreement concerning burden sharing, the UNHCR’s attempt was not completely successful (Betts & Durieux, 2007, pp. 511-515). According to Betts (2009), UNHCR’s failures were numerous, but most significant was that UNHCR could not fill the gap between the North and South. For example, the North insisted that burdens should be covered only for the purpose of protecting political and civil rights but not for economic and social rights. The South, which actually accepted many refugees engendered from economic and social reasons, became skeptical toward the North, and, consequently, they could not reach a consensus in order to create a universal concept of burden sharing.

On the other hand, the CIREFCA was a great success. Contrary to the Convention Plus initiative, the Northern nations, mainly European nations, contributed to share the significant burden in the form of ample funds for Central American refugee protection activities. Between the 1970s and 1980s, civil wars were continuously caused in the Central America exposing many innocent civilians to serious danger (Betts, 2009, p. 78). As a result, around 180,000 people were displaced within the Central America, and its increasing number of refugees was a serious concern for UNHCR. As a response, UNHCR decided to have the CIREFCA from 1987 to 1995 in order to create a basis to provide protection with these refugees. From 1989 to 1993, the main donor for CIREFCA, the so-called European Community (EC) donated around 110 million dollars (Betts, 2009, p. 91). In short, UNHCR succeeded not only to bridge the gap between the donating North and refugee-hosting South but also to establish sufficient structural basis for cross-
issue persuasion. Most significant was that UNHCR strategically linked refugee issues in the Central America to broader interests of the Northern nations.

For instance, UNHCR strategically established the linkage between economic benefits and refugee protection (Betts, 2009, pp. 92-93). In the 1980s when the European Communities started to participate in CIREFCA, around 20% of the Central American regional trade was with the European Communities. The Central America was a prospective trading partner for the European nations. In other words, if the regional security level increases, European countries can expect not only to have more smooth trading activities there but also to increase economic benefits via enhancement of trading opportunities. Furthermore, UNHCR successfully created cooperative institutional structures, which related refugee issues to other issue fields, namely, the cooperative structure between UNHCR and UNDP. UNDP specializes in the developmental field, which is necessary to establish regional stability in the Central America. Thus, by using well established structures of cross-issue persuasion, namely, the successful cooperation between UNHCR and UNDP, UNHCR succeeded to persuade the North to provide a large amount of financial aid.

As such, Betts (2009) explains the prospective solution to remove the North-South division in refugee protection activities and to conduct successful burden sharing by applying the liberal institutionalist view of a public good theory to refugee protection. In sum, Betts (2009) argues that the new norm of burden sharing lacks binding power and, therefore, the problematic North South division cannot be improved (p. 12) unless UNHCR strategically works to make an obvious linkage between states’ material
interests with refugee protection in order to prevent rational nations from being a free rider.

Constructivist Approaches

Constructivism is a theoretical approach which takes the middle position between positivism and interpretivism (Adler, 2013). Positivism is the social scientific approach that mainly focuses on theories and predictions that are already tested (Little, 1991, p. 15). In addition, the positivist approach recognizes that there is a definite truth in the world (Susser, 1942, p. 119). On the contrary, interpretivism is an approach that mainly focuses on the uniqueness of human actions in different contexts presupposing there is no definite truth in the world. Interpretivists try to understand human behaviors and customs by using a variety of causes and correlations in a broad framework of influences such as culture, language, and social structure (Little, 1991, p. 68). The foundation of interpretivist approach is that social phenomenon is produced by people and their individual understanding of world realities. Hence, social phenomenon is a kind of intersubjective outcome because it is created by people’s interaction in society (Little, 1991, p. 69). In addition, there is no definite truth in the world because individual people interpret social realities differently from the interpretivist view. While constructivists do not fully deny the positivist view that there is materialistic reality under general covering laws (Little, 1991, p. 15), constructivists insist that social phenomenon is also influenced by social collective beliefs such as norms (Adler, 2013, p. 324). In sum, constructivism proposes that interests, identities and behaviors of political actors are created on the basis of collective beliefs and interpretations about the world (Adler, 2013, p. 324).
While many IR scholars utilize the constructivist approach in order to analyze conflicts among nations from normative perspectives, some IR scholars, such as Ian Hurd, apply constructivist theory to analyze international organizations. In particular, some IR scholars, such as Petrice Flowers, argue international refugee protection activities via constructivism. I introduce a constructivist approach to why non-material power, such as international reputations and state identities matters, in international relations through the approach of Ian Hurd. Then, I explain how, specifically, Flowers argues international refugee protection from the constructivist view.

Hurd (2007) argues that international relations established only for the purpose of maximizing self-interest easily collapse and therefore, a framework which can help individual nations to create their self-interest from the perspective of “symbolic power” on the basis of norms is beneficial (pp. 37-40). Hurd (2007) insists that many scholars have not focused on the importance of symbolic power in international relations (pp. 49-50). That is, states’ behaviors can be restricted, not only by material interests but also by symbolic power. For example, even though the United Nations (UN) peacekeeper’s blue helmet itself does not have actual material benefits, most nations and individuals see it with respect as a symbol of the peace.

The use of symbols has actual power to convey important messages, which can appeal to international communities and to create its user’s identities. According to Hurd (2007), international organizations play a key role as “gatekeepers” concerning the use of symbols. For example, even though powerful nations such as the U.S. have enough authority to do whatever they want, including military actions, these nations try to attain
approval for the use of its armed force from the United Nations Security Council. Behind this behavior exists states’ desires to establish a good international reputation in international communities, namely, symbolic interest.

Even though there seems to be no material interest in symbolic power, states recognize the importance. While states seek actual material interests, including states’ survival, economic prosperity, and military strength, states also realize the importance of symbolic interest, such as the attainment of a good international reputation. Apart from material interest, symbolic power relies on shared norms among international societies (Hurd, 2007, p. 53). Although it is true that states behave to maximize their own interests in any situation, norms play a significant role in determining states’ behaviors in the framework of symbolic power. For example, even though no specific international law exists to prohibit the use of chemical weapons, many nations hesitate to use these devices from the moral perspective for the fear that a violation of a shared norm decreases states’ symbolic interest, namely, their international reputation (Price & Tannenwald, 1996, p. 114).

From the perspective of material interest, powerful nations do not need to care about an international reputation because they have enough authority to do whatever they want. However, in reality, many states, including powerful nations, form their behavior in the normative framework. That is to say, not only material interest, but also international shared norms influence nations’ behaviors. Furthermore, symbolic interest is closely related to state identities, namely, how states want to be recognized by other audiences in international communities (Flowers, 2009, p. 25). Each nation has a different desired
state identity such as a peaceful, developed, and liberal nation. In order to attain ideal
state identities, states often place emphasis on symbolic power rather than material power.
The examples of Rwanda and Germany clearly illustrate how states’ behaviors are
restricted by the symbolic interest, namely, their desire for ideal state identities in various
fields.

Research by Thomas Risse and Daniela Engelmann-Martin (2002) illustrates how
the desire for ideal state identity as a cooperative nation influenced German behaviors.
After the Second World War, Germany voluntarily joined a series of European
supranational movements including becoming a member state of the European Union, the
Economic and Monetary Union (EMU), and the acceptance of the Euro (Risse &
attitude was because of the German political elite’s aim to establish a new state identity.
In short, Germany needed to mitigate its aggressive and horrendous past under the Nazi
regime and to replace it with a peaceful and cooperative identity for the purpose of
improving its international reputation.

From the economic perspective, Germany did not have any material interest by
accepting the European single currency and applying for EMU. Compared to other
neighboring European nations, the German economy and currency, the Deutsche Mark,
were so strong that giving up its strong currency and having a heavy duty to provide
financial aid with other economically weaker nations through EMC were
disadvantageous for Germany (Risse & Engelmann-Martin, 2002, pp. 306-313). Despite
actual monetary loss, Germany chose to adopt the Euro and become a member of EMU.
Risse and Engelmann-Martin (2002) argue that symbolic power exists behind these German behaviors.

Institutions such as European nations represent collective beliefs and goals including peace and cooperation. Referring to the German case, German political elites feared being excluded by other European neighboring nations, losing its international influence, and continuously being labeled as a horrendous, aggressive nation due to its wartime actions. By becoming a member of the European Union, Germany was enabled to have a new state identity with high international influence and reputation as a part of Europe through institutional symbolic power. In sum, German behaviors were restricted by the symbolic power on the basis of shared norms, namely, a desire for an ideal state identity as a peaceful nation, rather than a desire for simple material interests.

Danielle Beswick (2010), from the constructivist view, also argues that the desire for an ideal state identity as a peaceful nation influenced Rwandan decisions to participate in peacekeeping activities. In the early 1990s, the concept of an African Solution, which insisted upon the necessity to solve African issues by African nations themselves, was proposed from the West (Beswick, 2010, p. 740). As a response to the perception of the African Solution, African nations had to engage in the African Union (AU)’s peacekeeping activities to abate conflicts and to maintain peace in Africa.

Even though Rwanda is a relatively small nation, the number of Rwandan troops who contributed to the UN-AU peacekeeping activities in Darfur was ranked second among 115 nations in 2010: 3,327 troops (Beswick, 2010, p. 743). For a small country, the drain of enormous human resources was a serious blow, namely, the loss of material
benefits. However, instead of material benefits, Rwanda could attain a good state identity under the symbolic power of AU’s peacekeeping activities. Like Germany, Rwanda also suffered from a bad image and decreased its international reputation due to their horrendous past: the genocide caused by the Hutu toward Tutsi in 1994 (Beswick, 2010, p. 745). In other words, Rwandan affirmative involvement in peacekeeping activities not only increased Rwandan international reputation but also helped Rwanda to establish a new peaceful and cooperative state identity. Thus, Rwandan behaviors were also highly influenced by symbolic power under shared norms. In sum, the examples of Germany and Rwanda clearly illustrate the significant role of normative power in international relations from the constructivist view.

Similarly, by emphasizing normative power, Flowers (2009) argues about the significant role of international pressure, domestic activists, and top political decision makers to improve refugee status. Flowers (2009) insists that in order to accomplish concrete improvement of refugee protection, nations should be transformed both internationally and domestically. According to Flowers (2009), whether domestic activists can attain the access to the top political decision makers is a crucial factor to determine the extent of success regarding refugee protection activities. In her work, Flowers (2009) analyzes three different international issues, namely, women’s rights, the status of refugees, and the total ban on antipersonnel landmine (APL) in Japan. Even though Japan had no material interest to improve these three issues, Japan decided to ratify the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1980, the International Refugee Convention in 1981, and the Convention
on the Prohibition of the Use, Stockpiling, Production, and Transfer of Anti-Personnel Mines (the Ottawa Convention or Landmine Treaty) in 1997. Interestingly, the extent of actual law enforcement and permeation in Japan regarding these three issues were quite different in each problem: complete success of banning landmine use, some extent of success in improving women’s status, and the least success in improving refugee status. In addition to explaining the normative power, Flowers attempts to figure out what made such differences to the extent of success in solving these three problems. I explain how Flowers argues normative power and, then, I introduce Flowers’ explanation of what the conditions are to determine the extent of success.

Unlike Betts, Flowers (2009) argues the importance of non-material power, namely, the symbolic power of state identity. Although Japan’s decision to ratify these three conventions was completely against its material interest, Japan’s behavior was largely explained by the invisible benefit, the so-called attainment of an ideal state identity (p. 54). In other words, Japan wanted international communities to approve it as a developed nation. As mentioned earlier, Japan ratified the International Refugee Convention in 1981 (Flowers, 2009, p. 32). Again, no material interests existed for Japan through the adoption of the Convention because the ratification of the Refugee Convention had risks of threatening important social structures in Japan.

Similarly, the improvement of women’s status in Japan has no obvious material benefit for Japan. For instance, traditionally, Japan has a clear division of social roles between men and women. Most Japanese people had a shared perception that Japan’s successful economic development was due to the efficiency of the social division
between men and women. Therefore, Japan did not feel any necessity to change this 
flawless social structure. The ratification of CEDAW meant that Japan should give up the 
existing successful social structure and bear the cost of introducing new systems 
including amendment of domestic law. Thus, the ratification was clearly against material 
benefit for Japan.

In terms of material benefits, the ratification of the Ottawa Convention’s cost also 
exceeded Japan’s material benefits. Flowers (2009) argues that Japan recognized the 
United States as a most important ally since the end of the Second World War. Japan was 
demilitarized after the defeat of the Second World War and Japan heavily depends on the 
U.S. military power for its national security (Flowers, 2009, p. 113). While international 
communities imposed pressure on Japan to adopt the Ottawa Convention, the United 
States strongly opposed Japan’s ratification. From the realist perspective, international 
relations are always determined by power. In short, Japan was supposed to accept the U.S. 
attitude against the prohibition of the landmine usage rather than ratifying the Ottawa 
Convention. Just as refugee and women’s issues, the ratification of the Ottawa 
Convention had no clear material benefits for Japan.

As mentioned earlier, symbolic interest rather than material interest is closely 
connected to Japan’s decision in these matters. Referring to the cases of refugees’ and 
women’s status, Japan wanted to attain a state identity as a developed nation. In the case 
of the total ban on APLs in Japan, Japan aimed to attain an ideal state identity as a peace 
Protocol, CEDAW, and the Ottawa Convention in order to gain symbolic interests of an
ideal state identity rather than material interests. However, Flowers (2009) takes a further step stating that symbolic power, namely, states’ desire for ideal state identity is not sufficient to successfully introduce and ingrain new norms.

States’ behaviors are determined not only by material interest but also via symbolic power as illustrated by these three issues including refugee protection, gender discrimination, and the total ban on APLs in Japan. However, this symbolic power is not enough to fundamentally solve and improve international problems. That is to say, the existence of activists in the domestic sphere and the access to political top-decision makers are also indispensable to achieve a concrete change. Although Betts mainly focuses on connections between states and UNHCR in a broad international sphere, Flowers places emphasis on both international and domestic spheres equally.

Firstly, Flowers (2009) compares refugee issues with gender discrimination in Japan in order to clarify the importance of domestic actors’ affirmative participation to solve these problems. Even though the Japanese government adopted international treaties and amended domestic laws to meet requirements of these treaties concerning refugees’ and women’s status, the extent of actual law enforcement and permeation in Japan differed significantly. Referring to refugee issues, Japan recognized them as solely temporal and exceptional problems, which should have been dealt with via a case-by-case basis.

In comparison with refugee issues, protection of women’s rights was more widely accepted and improved in Japan. Both cases of refugee protection and women’s status had difficulty due to their incompatibility with the ingrained culture in Japan. Yet, while
Japan’s actual enforcement of the International Refugee Convention was hardly recognized, Japan took a significant step forward concerning women’s status. For instance, in the late 1990s, a group of Japanese female employees sued their employer, Sumitomo Electric and Sumitomo Chemical, for wage and promotion discrimination against women. Finally, the Osaka High Court admitted the Sumitomo Electric and Sumitomo Chemical’s system was unlawful and these plaintiffs won compensation from the company in 2003. Their victory, namely, the successful law enforcement of CEDAW in Japan, shed light on the way to improve women’s status in Japan. Behind this achievement, domestic activists’ contribution existed.

Although women are continuously discriminated against in Japan, the fact that international law actually exceeded domestic norms and laws was a great historical step. On the other hand, this kind of concrete change has not been caused in refugee issues in Japan. Flowers (2009) argues that this difference derives from the existence of domestic activists. While there were no domestic activists who protested to improve refugee protection, Japanese women strategically caused social movements against gender discrimination. Even though it was a limited number of women, some women successfully attained higher economic status in Japan as illustrated above (Flowers, 2009, pp. 81-82). They worked strategically to achieve their goal; they worked with NGOs and international organizations cooperatively; they used international events such as International Women’s Year in 1975 (IWY); they actively participated in international conferences such as the 1974 meeting of the board of the National Women’s Committee of the United Nations in order to allow restricted Japanese women’s voices to be heard
internationally and domestically (Flowers, 2009, pp. 78-79). As a result, they could reach more fundamental reform as illustrated by the lawsuit victory in 2003. Thus, for states’ fundamental change, both international pressure and also the existence of domestic activists are essential.

Secondly, Flowers (2009) compares three different cases in Japan: the case of the total ban on APLs which was the most successful; the case of women’s status which was partially successful; the case of refugee status which was the least successful. While refugee issues were treated as merely temporal issues and Japanese women continuously suffered from the culturally ingrained gender discriminative perception in Japan even after the historical step of the Osaka High Court’s decision in 2003, the total international ban on APLs led to a perfect success. For instance, soon after the ratification of the Ottawa Convention in 1998, Japan determined the actual time limit and declared that Japan would remove all anti-landmines in Japan by February 28, 2008.

Unlike the open-ended women’s and refugees’ cases in Japan, Japan carried out their words completely. Finally, Japan achieved its goal to remove all landmines in Japan at the end of March of 2003 (Flowers, 2009, pp. 137-138). Flowers (2009) argues that the existence of the access between top political decision makers and domestic activists played a key role in achieving its perfect commitment. In comparison to how they treated the women’s and refugees’ cases, Japan actively followed what the Ottawa Convention stipulates, and Japan’s previous favorable attitude toward the use of landmines was fundamentally changed and replaced with the total ban on APLs.
In addition to domestic activists, Flower (2009) insists upon the importance of access to top-political decision makers. According to her, the former Foreign Minister and Prime Minister, Keizo Obuchi (1937-2000), significantly contributed to Japan’s signing the Ottawa Convention. Japanese political elites realized that the only field in which Japan could effectively take a leadership role was to establish world peace after its horrendous experiences during the Second World War. Thus, Japanese political elites tried to enhance Japan’s authority in international communities by attaining state identity as a pacifist nation. Flowers (2009) explains that not only symbolic interest, the so-called ideal state identity as a pacifist nation, but also the existence of the access between top political decision-makers and domestic activists are important factors for the perfect enforcement of Japan’s total ban of APLs.

In sum, Flowers (2009) argues that symbolic power, such as states’ desire for ideal state identity, restricts behaviors of rational states. In the recent globalized world, each state is highly interdependent as illustrated by the global economy. Thus, states try to maintain their international reputation in international communities in order to establish a good international relations with other nations. For the purpose of attaining healthy international reputation, states attempt to create a good image concerning themselves, namely, an ideal state identities. Ideal state identities are on the basis of collective beliefs in international communities. For instance, international communities collectively recognize the importance of world peace. Thus, attainment of a state identity as a peaceful nation, as Japan did in the case of APLs, is beneficial for a state to have a good international reputation and to establish healthy relationships with other nations.
However, Flowers (2009) insists that states’ acceptance of international norms as a response to international pressure does not necessarily mean that states also successfully apply such international norms in the domestic sphere. In order to apply international norms to the domestic sphere, the power of domestic activists is indispensable. Furthermore, if domestic activists have access to top political decision makers, the extent to which the application of international norms in the domestic sphere would be dramatically increased.

As such, Betts’ and Flowers’ arguments provide quite different explanations for the improvement of refugee protection activities. In other words, for the concrete improvement of refugee protection activities, the role of domestic activists and the power of norms are significantly important. In other words, Betts overlooks the power of domestic activists and symbolic power focusing merely on a materialistic and state-centric argument. Although “issue-linkage” between states’ material interests and refugee protection looks like a simple and effective way to make states obey the concept of burden sharing (Betts, 2009, pp. 37-40), practices conducted on the basis of instant material interests cannot last for a long time and, eventually, fail to establish shared norms. In other words, such concepts created on the foundation of material interests are not only unstable but also can be replaced before becoming ingrained norms as the states’ power balance and their interests change (Hurd, 2007, pp. 36-37). Thus, the theory of Betts should be expanded to include symbolic power. Also, it should be taken into consideration that not only states but also domestic activists are essential actors to cause concrete improvement of refugee protection activities.
Although I mostly agree with her perspectives, Flowers (2009) does not fully provide explanations about the dynamics of “transnational advocacy networks” (Keck & Sikkink, 1998, p. 1). For example, though Flowers states the importance of the role of NGOs, she argues that the role of NGOs was highly restricted and could not successfully contribute to refugee protection activities in Japan. However, I suggest this Flowers’ view is so narrowly focused that her theory fails to take into consideration the dynamics of transnational advocacy networks. In other words, even though protests by NGOs are blocked by their government, it does not necessarily mean that these NGOs are powerless. NGOs try to find different routes so that they can impose pressure on states. NGOs usually make alliances with other NGOs, both domestically and internationally, because the power of an individual NGO is weak. In other words, social movements caused by NGOs have enough potential to expand through advocacy networks and, finally, can impose increased pressure on nations. Hence, I will enhance her views considering the dynamics of social movements and provide my own theoretical perspectives toward refugee protection in the following chapter.
CHAPTER 2: THE ROLE OF SOCIAL MOVEMENTS AND EMPATHY IN
DISSEMINATING THE NORM OF BURDEN SHARING

In this chapter, I evaluate the liberal institutionalist theory and I suggest why his theory needs enhancement in order to achieve what I consider to be burden sharing. Secondly, I expand both Betts’ and Flowers’ theories by adding the explanation of the dynamics of social movements and the importance of empathy in order to provide my own process-oriented theory, which I believe to be indispensable for successful burden sharing. I will clarify what are necessary preconditions and constraints to internalize the norm of burden sharing. Furthermore, I will analyze how the process of the norm internalization takes place.

I propose that burdens are sometimes distributed in an inappropriate way because of northern nations’ indifference toward refugees. The North recognizes refugees from the South as mere outsiders. In other words, the North cannot feel the suffering of these refugees as if it were their own suffering. That is why the North can mercilessly conduct the deportation of refugees to places where they have the risks of being persecuted or can impound refugees in prison-like detention centers for years. Unless Northern indifference is replaced with more empathetic attitudes, burden sharing cannot be fulfilled.

Removing the northern indifference and making the North recognize the suffering of refugees from the South are necessary to achieve burden sharing. However, in the current situation, states and people do not fully recognize the norm of burden sharing. The norm of the burden sharing is weak because it was relatively new concept created after the end of the Cold War. Thus, as an initial step, the newly created concept of
burden sharing should be disseminated and recognized in international communities. However, this process is not easy to execute. That is to say, three significant obstacles stand in the way of disseminating the norm of burden sharing: an intentional ambiguity over accountability for refugees along with the North’s manipulation of refugee’s definitions and the existing strong norm of state sovereignty. I propose that Betts’ theory offers a convincing argument on how to overcome these obstacles and take a successful initial step toward burden sharing. However, in order to accomplish what, in my view, constitutes true burden sharing, his state-centric theory is insufficient.

The first obstacle for disseminating the new norm of burden sharing is the lack of northern recognition that refugees from the South are also northern responsibility. The Northern nations historically transformed the definition of refugee in order to avoid liability. During the decolonization of many African and Asian nations, newly independent African and Asian nations experienced domestic confusions. After the withdrawal of colonizers, the domestic political structures of these newly independent nations became unstable because of power struggles among local authorities. Domestic political instability led to civil wars, economic stagnation, and severe human rights abuses. Consequently, the number of refugees from the developing countries rapidly increased. In addition, refugees from the South plagued the developed countries due to vast expenditures for refugee protection. In order to avoid responsibility, the developed nations insisted that the nature of refugees from the East and the Third World is completely different. Based on the argument of developed nations, refugees from the third world should be dealt with distinctively (Chimni, 1998, p. 356). In short, the
developed nations insist that refugees caused by governmental collapses, mainly economic failure, should not be the responsibility of developed nations, but the responsibility of the government itself from where these refugees originally came. As a result, the North’s widely shared perception is firmly established: refugees from the South originate somewhere far from the North and the Northern countries have no direct responsibility for them.

However, the recent global economy is highly interconnected and under the control of the Western standard of a liberal capitalist economy. Under the name of liberal capitalist economy, the West freely exploits the Third World nations’ resources and dominates their markets. As a result, the Third World nations, which are at the bottom of the international social scale, suffer from severe economic inequality. Refugees from the Third World are also engendered from dynamic political changes, which largely depend on Western influence.

Although many western nations insist that refugees from the South derive from the Third World nations’ economic and political failure, this perception is not necessarily true. Some refugees from the South are engendered because of the West. For example, in Rwanda, in order to deflect direct criticism and hatred from indigenous people, Belgian colonizers did not only remove the existing balanced Rwandan political structure completely, but Belgian people also introduced a new political structure by creating the myth of Tutsi supremacy. Belgian colonizers placed the Tutsi tribe on the top of the social hierarchy in Rwanda and put the Hutu under the control of the Tutsi. As a result, a rift opened up between the Tutsi and Hutu (Straus, 2006, pp. 20-21). Hutu’s sense of
unfairness led to genocidal action against the Tutsi in 1994 and, consequently, engendered many Tutsi refugees. The West intentionally diverts its eyes from these realities. By emphasizing different natures of refugees from the Third World, the West aims to lessen the sense of guilt and obscure where the responsibility toward the Southern refugees lies. Thus, as illustrated by Betts (2009), UNHCR is required to take tactful strategies for refugee protection beyond rational Northern states’ approaches to avoid the responsibility of refugees from the South.

Secondly, the existing norm of state sovereignty seriously hinders dissemination of burden sharing. John Ruggie (1993) argues that the concept of “mutually exclusive sovereign states” appeared after the Peace of Westphalia in 1648 (p. 151). Since then, the West came to recognize states from the view of a fixed territory. In the current situation, this long-lasting norm of state sovereignty is far stronger than this newly created concept of burden sharing. From the perspective of the shared norm of state sovereignty, every state’s first priority is to protect their own people. In other words, if refugees bring negative effects toward a nation’s own people, a nation has no reason to accept refugees. Moreover, no one has a right to compel sovereign nations to engage in refugee protection activities. These refugee activities should be conducted within each nation’s discretion because a nation’s priority is to protect their own people rather than to help outsiders.

In his work, Jens Steffek (2006) explains how the norm of state sovereignty prevents a successful establishment of North-South cooperation via trading and global warming cases. As a response to global economic inequality, the United Nations Conference on Trade and Development (UNCTAD) attempted to give developing nations
beneficial treatment including introduction of a preferential tariff. Yet, this UNCTAD’s attempt was failed due to strong opposition from developed nations. Behind developed nations’ resistance, a belief of “embedded liberalism” on the basis of individual state sovereignty existed (Steffek, 2006, p. 151). For instance, the U.S. has a unique “embedded liberalism” in the context of the global trade. In the American view, “embedded liberalism” is a perception that the market under liberal capitalism always yields the best and most fair results for all nations. Every nation competes with each other in the free market. In the context of the free market, each nation should work hard in order to make their own countries flourish more and to provide their own people with better lives. Nations which work harder deserve to attain more benefits. On the other hand, nations which devote less effort to win this competition, solely gain less money. Thus, economic disparity is quite in the natural order of things. Economic failure is largely due to the shortage of nations’ effort (Steffek, 2006, pp. 150-159). In other words, there is no reason for developed countries to be forced by third parties such as UNCTAD to distribute their benefits to developing nations. Economic poverty is not only outside of a developed nation’s responsibility, but also beyond a sovereign state’s priority to distribute wealth to their own people rather than outsiders.

Similarly, responding to dramatic climate change due to the effects of global warming, nations face the necessity to reduce carbon dioxide emissions. The most significant dispute among nations was whether developed nations should be excluded from the obligation to decrease carbon dioxide emissions. Developing nations have a greater need to develop industry so that they can extricate themselves from poverty and
starvation. In other words, developing countries feel that they need to be exempt from strict regulation of carbon dioxide emissions. Otherwise, their economy would never be improved and have to remain poor. However, the developed nations’ side also resisted the preferential treatment to developing nations. From developed nations’ view, each nation should equally take responsibility for global warming rather than imposing heavier duty on developed nations lopsidedly. Developed nations, especially the United States, consider that states’ sovereign power always should go beyond any other authority and be allowed to act liberally with their discretion. As this example clearly illustrates, any situation which weakens a state’s sovereignty by outsiders is unacceptable. In addition, there is no reason for developed nations to be forced to redistribute their wealth they earned through fair competition in a free market economy. In short, these redistributive actions should be taken voluntarily by each nation rather than compulsorily in order to respect state sovereignty and the ideal of a free market economy.

Faced with powerful norm of state sovereignty and ambiguity of the North’s responsibilities for refugees from the South, UNHCR’s attempt to disseminate the concept of burden sharing seems to be helpless. As such, the norm of state sovereignty is a significant obstacle to disseminate the new concept of burden sharing. Burden sharing also expects sovereign states to take redistributive actions. As long as this strong norm of states’ sovereignty exists, “multilateral redistribution” needs to be conducted under nations’ free will. Therefore, pro-refugee policies are less likely to be taken. Considering the natures of these three obstacles, Betts’ approach, which mainly focuses on states as rational actors and states’ material interest in the sphere of refugee protection,
is quite persuasive as an initial approach to improve refugee protection. Newly established norms are usually ignored or rejected under powerful nations’ pressure and influence of the existing norm, state sovereignty, at the beginning. Hence, Betts’ suggestion, that UNHCR should take strategic actions to convince the North, is reasonable in order to avoid the initial norm-rejection of burden sharing. In other words, effective interventions by UNHCR to get powerful states’ attention and to successfully convince them to share burdens, are indispensable. Moreover, Betts’ suggestion that the success of international organizations depends on how well UNHCR can make international appeal, which is effective enough to attract distant nations, is convincing for the purpose of gaining the North’s attention. The North, located geographically far away from the South, is more likely to be indifferent with the Southern refugees and has difficulties perceiving them as a reality; Northern states lack the actual opportunities to see what happens in the South, including civil wars, poverty, and political oppression. Thus, UNHCR should play a key role in creating effective marketing strategies, namely, efficient advertisement for refugees from the South, in order for the indifferent North to consider refugee issues as real.

The Dynamics of Social Movements

Even though Betts’ theory is effective as an initial step of burden sharing, the process suggested by Betts (2009) is not sufficient to achieve burden sharing in the way that I understand. In other words, further steps should be taken by involving the power of domestic activists and access of domestic activists to top political decision makers as Flowers (2009) illustrates. Although Flowers (2009) places less emphasis on the
dynamics of social movements and merely concludes that the power of NGOs is restricted and weak through the refugee case in Japan, it does not necessarily mean that NGOs are impotent to attain enough power in the long-term view. Even though the power of each NGOs is limited, it can be largely grown via the dynamics of transnational advocacy networks and with the legitimate power of UNHCR as a gatekeeper and, ultimately, imposing significantly enhanced pressure on rational nations. In the end, the norm of burden sharing can be a solid norm and obeyed willingly by rational nations through repeated practices and interactions among actors within transnational advocacy networks. Furthermore, both domestic activists and top political decision makers need to be empathetic toward refugees in order to achieve the burden sharing. Thus, I enhance Betts’ and Flowers’ theories further by adding explanations of the dynamics of social movements and the role of empathy.

In the long-term view, the power of domestic activists is indispensable. Politicians in power sometimes prioritize the domestic public opinion over international pressure because the support of the public is directly connected with their political future. In other words, domestic activists are constituency. Without domestic peoples’ support, their government cannot survive under the liberal democratic system. Therefore, domestic activists have enough potential to influence nations’ political decisions. Even though no domestic activists exist in a nation, NGOs can become a substitution. As mentioned earlier, Flowers (2009) argues that NGOs, which actually witnessed victims of APLs, significantly contributed in the total ban of the APL movement. These members of NGOs saw the suffering of APL-victims and fully recognized the horrendous nature of APLs,
which can take the lives of innocent civilians. Although, initially, the power of domestic
activists and NGOs is quite weak, their power has enough potential to expand and
become strong enough to gain access to top political decision makers through
transnational advocacy networks.

Referring to the dynamics of social movements, Margaret Keck and Kathryn
Sikkink (1998) argue the importance of transnational advocacy networks focusing the
power of NGOs. Advocacy networks, which are established for the purpose of
disseminating and strengthening new ideas, principles, and norms, grow via the power of
NGOs, media, local activists, and international organizations and, eventually, lead to
transnational advocacy networks. According to Keck and Sikkink (1998), the role of
NGOs is crucial in transnational advocacy networks (pp. 8-9). Advocacy networks are
usually created by NGOs. Again, though initial power of advocacy networks is quite
weak and restricted, these networks have enough potential to expand and attain strong
influence. That is to say, when NGOs in country “A” do not have access to the top
political decision makers, these activists usually try to find alternative routes. In short,
these NGOs try to make alliances with NGOs who work in the same field but in different
nations. If NGOs in different countries have the access to their own top governmental
decision makers, they can convince their own top decision makers and get them to
impose international criticism toward country “A.” Sometimes NGOs in different
countries cooperate with international organizations, such as the United Nations, and
impose pressure on country “A” collectively, which is what Keck and Sikkink (1998) call
the “boomerang effect” (p. 13).
Moreover, in transnational advocacy networks, the role of gatekeeper is indispensable to unite dispersed social activists and give the advocacy networks more legitimate power. In other words, UNHCR needs to take a role as a gatekeeper in the advocacy networks for refugee protection. R. Charli Carpenter (2010) argues that a gatekeeper has the authorized right to decide which issues should be addressed internationally. Once being selected by a gatekeeper such as UNHCR, that selected issue is automatically recognized as a significant problem by NGOs, nations, and individuals. Thus, in order to become a gatekeeper, one should have good reputation, high name recognition, broad networks, and resources (Carpenter, 2010, p. 205). In addition, a gatekeeper always needs to take a central role in a field (Carpenter, 2010, p. 210). Given that, UNHCR is the only prospective venue which qualifies as a gatekeeper of burden sharing.

Keck and Sikkink (1998) also argue that activists need to strategically work in order to expand the initial weak power of advocacy networks so that the networks can attain significant influence in international communities (p. 11). For example, information is a necessary component in transnational advocacy networks. In order to attain information about distant oppressed people and make them widely heard, the power of social media, information technology and tactful use of language, are essential. In other words, the aim of activists is to convince other actors for the purpose of strengthening and expanding the influence of advocacy network rather than merely to collect information (Keck & Sikkink, 1998, p. 18). Furthermore, in order to enhance advocacy networks, activists also should persuade powerful agents, including strong
northern nations as Betts (2009) argues. In order to attain the support from strong agents, activists need to flexibly work to attract them by making linkage between social movements and nations’ interests (Keck & Sikkink, 1998, p. 22). Even after successfully persuading powerful nations, activists need to observe these powerful participants whether they actually fulfill what they promise because sometimes nations lie (Keck & Sikkink, 1998, pp. 24-25).

Although Keck and Sikkink (1998) also admit the powerful norm of state sovereignty is a significant obstacle to create transnational advocacy networks, repeated actions enable transnational advocacy networks to go beyond the powerful norm of state sovereignty (p. 35). Through repeated advocacy activities by international organizations such as the UN, norms are gradually recognized and taken for granted in international communities (Byers, 1999, p. 158). Eventually, people automatically obey these norms without questioning. For instance, in the 1950s, women were supposed to do solely household tasks and held no economic importance (Tickner, 2005, p. 8). Yet, many states experienced feminist movements via international organizations and now allow women to have equal opportunities to select jobs and work outside the domestic sphere (Flowers, 2009). In other words, the norm of state sovereignty is firmly ingrained in international communities through repeated practices and, therefore, the norm of state sovereignty can be weakened or replaced with new norms through continuous practices of new concepts via transnational advocacy networks (Keck & Sikkink, 1998, p. 35).

Considering the theory of Keck and Sikkink, Betts (2009) obviously provides a narrow explanation, focusing only on a part of transnational advocacy networks.
Furthermore, Betts (2009) argues that the new norm of burden sharing lacks binding power and, therefore, the problematic North-South division cannot be improved (p. 12). However, laws in general do not necessarily need to be binding for the purpose of being compelling. As Keck and Sikkink (1998) argue, repeated practices enable a norm to be ingrained in international communities and, finally, people come to automatically follow this norm (p. 35). In other words, Betts (2009) overlooks not only the dynamics of transnational advocacy networks but also the power of soft law, which is a necessary element for the norm of burden sharing to grow within the framework of transnational advocacy networks.

Stephen Toope (2003) argues that international customary law has a significant influence on states’ behaviors. While powerful nations, including the United States, have enough authority to violate non-binding rules and to do whatever they want, these nations hesitate to take such hegemonic actions. Toope (2003) insists that when powerful states hesitate to violate soft laws, it clearly shows that normative power goes beyond states’ material power. According to Toope (2003), neither the lack of nations’ consensus nor the existence of overwhelming pressure from powerful nations can weaken the normative power of soft law. Toope (2003) introduces several examples of the United States’ failure to challenge soft laws. For instance, the United States tried to hinder an attempt to amend the existing customary law concerning Arctic waters (p. 309). The Canadian government, which was seriously concerned about environmental pollution in Arctic waters and its effect on neighboring nations, adopted the Arctic Waters Pollution Act in 1970. The Arctic Waters Pollution Act stipulates that states can enhance their sovereignty up to 100
miles into the open sea for the purpose of protecting the natural environment. In other words, Canada insisted upon the necessity to enhance its sovereignty over the Arctic Waters for public good rather than individualistic purposes.

On the other hand, the United States alone strongly opposed the Canadian proposition stating that the existing customary law’s violation cannot be approved. Even though the United States had overwhelming material power compared to other nations, the United States could not succeed to attain support from any of them. Eventually, Canada’s suggestion to change the existing customary law became effective. Most nations widely recognized the imminent necessity to take actions in order to protect the environment and prevent their lands and people from potentially harmful effects. Thus, the Canadian proposal was convincing enough to attain other nations’ support on the basis of common belief, which played a crucial role in the U.S. failure. In other words, sometimes soft laws under shared norms go beyond states’ actual material power.

Similarly, the newly created norm of burden sharing has enough potential to be disseminated and attain legitimate power via the dynamics of transnational advocacy networks as many soft laws do. Firstly, nations’ and people’s repeated practices lead to shared beliefs. At the same time, shared recognitions start to be ingrained in societies through interactions with people, nations, and domestic and international institutions within the framework of transnational advocacy network. People’s own interpretations toward newly introduced norms play a key role in this process. In other words, people’s own interpretations empower newly introduced norms. Through this process, a newly introduced concept has potential to attain binding power and ultimately go beyond
powerful nations’ material power. Finally, nations and their people become willing to obey soft law, even though soft law has no binding power.

Thomas U. Berger (1996) explains the process of how norms attain significant power through repeated normative interactions using cases in Germany and Japan. According to Berger (1996), norms can be ingrained in nations and obtain power when domestic people are fully convinced by these norms and become willing to observe them. Berger (1996) analyzes both Germany and Japan’s transition in national security policies after the Second World War. Both Germany and Japan were defeated and totally disarmed by the winning side. This demilitarization process was conducted solely under the intentions of powerful winning nations in order to prevent Germany and Japan from returning to militarism and destabilizing global security. In other words, neither Germany’s nor Japan’s opinions were considered when they were demilitarized. Germany and Japan were mere puppets under the general headquarters (GHQ). However, the forced demilitarization was gradually transformed into both nations’ voluntary acceptance and finally became a shared strong norm with symbolic power beyond the control of GHQ.

This transition became salient with the beginning of the Cold War. Facing imminent risks of armed conflicts, the United States tried to rearm both Germany and Japan. Even though these two nations were close allies with the United States, both of them refused to conduct rearmament (Berger, 1996, pp. 318-319). Berger (1996) insists that Germany’s and Japan’s reluctance of rearmament cannot be fully explained by conventional realist views. From the realist perspective, international relations are
determined solely by material power. Thus, weak nations such as Germany and Japan needed to obey what powerful nations order them to do. However, these two nations rejected their powerful ally’s request for rearmament. Actually, the opening of the Cold War was a good occasion for both Germany and Japan to recover their military strength. Realists argue that all nations continuously seek to attain material power such as military power. Yet Germany and Japan, in fact, did not decide to gain military strength. Rather, they reduced their military capacity (Berger, 1996, p. 322) and, therefore, their behaviors completely contradict such realist perspectives. Berger (1996) argues that their rejection can be explained by the power of norms.

Although both Germany and Japan were forced to reduce their military power in the beginning, this action permeated among their people. In the end, people came to have their own interpretation toward demilitarization. For instance, Japan was compelled to revise the Imperial Constitution after its defeat in the Second World War and to replace it with a peace constitution as illustrated by Article 9, which stipulates the renunciation of the war. Initially, Japanese people hesitated to make such an extreme Constitutional change because it required Japan to be defenseless. However, as time passes, this constitutional principle became an essential part of Japan’s state identity.

Surprisingly, such transformation was caused neither from powerful nations’ pressure nor the desire for material interest. That is to say, demilitarization in Germany and Japan are no longer forcefully conducted in the end. Rather, they are voluntarily observed by their people. Firmly established shared norms are rarely undermined and shaken by powerful nations’ pressure or material benefits, which is clearly demonstrated
by Japan’s rejection of the United States’ request for remilitarization. As the German and
Japanese examples regarding the norm of peace nations indicate, the norm of burden
sharing needs to be willingly observed by agents rather than observed by force.

Such public awareness also plays a significant role in transnational advocacy
networks. Even though social movements caused by civil society groups including NGOs
are blocked by nations, it does not mean a mere failure of civil society groups. Within the
framework of transnational advocacy networks, public awareness can be increased and
empower civil society groups so that they can impose pressure on states in the long-term.
Harold Koh (1994) analyzes the power of public awareness and civil society through the
case of “extraterritorial return of Haitian and Cuban refugees.” Responding to the
increasing number of boat people’s arrival from Haiti, the United States adopted “the
direct return policy” in the spring of 1992, which allowed the U.S. to push back Haitian
boat people directly to the high seas via the naval force. Human rights lawyers sued the
U.S. government insisting that “the direct return policy” was a violation of international
law: the principle of non-refoulement, which the U.S. has ratified but not implemented
(Koh, 1994, pp. 196-198).

The U.S. Supreme Court did not admit the illegality of “the direct return policy”
and, therefore, these human rights lawyers lost. Nevertheless, Koh (1996) states that it
does not mean the failure of civil society groups under the state authority. The decision of
the U.S. Supreme Court was so shocking that the public awareness toward “the direct
return policy” increased dramatically. Along with the increase public awareness, social
movements were also enhanced. For instance, human rights groups such as the Inter-
American Commission on Human Rights started to protest against the governmental policy. As a response to the pressure from civil society groups, the Clinton administration withdrew “the direct return policy” and, instead, adopted “the safe haven policy” (Koh, 1994, pp. 196-198). Although “the safe haven policy” is also problematic because it impounds asylum seekers in a prison-like detention center, at least Haitian refugees no longer face risks of being mercilessly pushed back to the high sea without any protection. Thus, Koh (1996) states that civil society groups took an important step to mediate the problematic “direct return policy” of the U.S. in the broader context.

As such, even though a state takes an extreme anti-immigration policy and rejected a protest from a civil society group, it does not mean that the efforts of social movements to change the policies of states have completely failed. When civil society groups find behaviors of states problematic with their own interpretations, they begin to work collectively and gradually increase their power. In the end, they have the potential to impose pressure on states, which is strong enough to achieve political and social reforms. With such voluntary participation by actors, the concept of burden sharing would become a solid norm and, consequently, nations would be more likely to conduct refugee protection activities in accordance with true burden sharing. In sum, refugee protection should be analyzed within broader social and political frameworks. Even though current refugee protection activities reach a deadlock in the face of state authority, there would be a different scenario in the future as illustrated by the dynamics of transnational advocacy networks.
The Role of Empathy

Fair burden sharing is more likely to occur when both domestic activists and top political decision makers are empathetic toward refugees. As mentioned earlier, I enhance Betts’ and Flowers’ theory further by adding explanations of the role of empathy. In other words, the success of refugee protection activities is contingent on whether domestic activists and top political decision makers can share refugees’ suffering as if it were their own suffering. For instance, women’s status in Japan is more successful compared to refugee status because some domestic activists were Japanese women. They were not only domestic activists but also victims in the male-dominating Japanese society. Thus, they knew the difficulties of improving women’s status through their own experiences, and, therefore, discrimination against women was their own suffering rather than outsider’s suffering. While refugee protection was perceived as an outsider’s problem, gender discrimination was an issue for Japanese women themselves. Hence, empathetic domestic activists, namely, Japanese women, worked actively to improve their own status and, consequently, the status of women in Japan was more improved than the status of refugees in Japan.

Moreover, in the total ban of APL movement in Japan, an empathetic political decision maker played a key role. Flowers (2009) insists that the access of NGOs to top-political decision maker, Obuchi (1937-2000) led to the perfect success in the total ban of APL movement in Japan. Obuchi was actually born during the Second World War and he well understood Japanese people’s strong aversion to war. For Japanese people, APLs are one of the means to cause or exacerbate wars. Thus, Obuchi was empathetic toward
victims of APLs and supported NGOs which participated in the total ban of anti-
personnel land mine movement. Although some Japanese women with high political
status also actively allied with domestic NGOs for the improvement of women’s status,
women with high social status were still minor in Japan and had less power compared to
dominant male politicians. Thus, it is obvious that both empathetic domestic activists and
top political decision makers are indispensable elements in the dynamics of transnational
advocacy networks. In other words, if top political decision makers recognize refugees as
mere outsiders without becoming empathetic toward refugees, domestic activists would
not only have difficulties gaining access to top political decision makers, but oppressed
voices of refugees would also be ignored politically.

Claudia Aradau (2004) argues that politics itself has a problematic aspect because it only recognizes people in their own political communities (Aradau, 2004, p. 405). Behind political communities, there are always “others” who cannot be recognized. Interestingly, Aradau (2004) states how “politics of pity” play significant roles in securitizing victims of human trafficking and how “politics of risk” makes them unsecured (Aradau, 2004, p. 254-255). In short, while “politics of pity” describes trafficked women’s situations emotionally and tries to build sufficient environment to save them from human rights abuses, “politics of risk” easily labels them as illegal immigrants who threaten the security of nations (Aradau, 2004, p. 255). In fact, it is problematic and difficult to draw a line of demarcation between unsecured victims of human trafficking and illegal immigrants who threaten national security.
According to Aradau (2004), the role of “emotion” is often disregarded in the field of international relations. Although theories which mainly focus on “emotion” as a unit of analysis, are rare, many political elites agitate people’s emotions such as blood ties and historical hatred in order to protect their status and to get more power in reality. Thus, “emotion” has a significant influence on politics and is an effective way to break existing political strategies and to replace them with new policies (Aradau, 2004, p. 255).

Aradau (2004) proposes two strategies which will help prevent innocent trafficked women from being illegal criminals. Firstly, emotional descriptions, i.e., how they were exploited and physically violated, are indispensable in order to get more attention from people and to change governmental policies. Secondly, clarifying the actual chief culprit who exploited them is also necessary to show the clear distinction between evil and innocence (Aradau, 2004, p. 259). With emotional and clear explanation, it is more likely to clarify the real victims and offenders. In addition, intellectual knowledge can be a strong tool to support these facts and convince audiences (Aradau, 2004, p. 263).

Similarly, refugees are usually recognized as “others” in the framework of politics. Many developed nations conduct “politics of risks” to deal with refugee issues rather than “politics of pity.” In order for refugees to be recognized as people in distress who need protection rather than illegal immigrants, the role of “politics of pity” is indispensable. In other words, without making emotional description of refugees, audiences including domestic activists and top political decision makers, remain indifferent toward refugees and cannot feel the suffering of refugees as if it were their own. As illustrated by female domestic activists and the top political decision maker, Obuchi, transnational advocacy
networks are more likely to achieve concrete success with empathetic social activists, which is the necessary second step in refugee protection activities.

Neta Crawford (2002) also argues that emotion plays a key role in determining how people behave. According to Crawford (2002), behaviors of people cannot be fully explained by the cost-benefit analysis. That is to say, people behave not only for the purpose of attaining material benefits but also in order to feel they are doing something just or good (p. 118). In order to know what is good for others, one needs to be empathetic toward others. In addition, Crawford (2002) argues the existing system can be delegitimized successfully when people are fully persuaded that it is necessary to abolish the system and become empathetic toward victims under the existing rule. For instance, the abolition of slavery in the United States was fully accomplished because abolitionist became empathetic toward slaves and their emotion drove them into strong antislavery movements (Crawford, 2002, p. 198). Thus, refugee protection is more likely to be improved when people become empathetic toward refugees and fully understand what is the best for refugees.

The absence of empathy is quite problematic because it has risks of accelerating inhumane actions including merciless deportation of refugees and impoundment of asylum seekers in detention centers. Though it is an extreme example, many Japanese military mistreated captured prisoners during the Second World War. According to Ang (2005), the tremendous number of prisoners were killed due to torture, violence, and starvation. Under such brutal actions, the shared belief to see prisoners as less than human existed among the Japanese soldiers (p. 101). In other words, cruel and brutal
behaviors can be taken and tolerated because of the problematic categorization as “others” and the absence of empathy. As such, it can be said that empathy plays a key role in preventing refugee from being treated badly and in improving refugee protection.

Burden sharing should not be conducted under the control of the powerful North. Even though the North provides sufficient financial assistance with the South for refugee protection, it does not necessarily mean burdens are shared equally. Obviously, the North has stronger bargaining power over burden sharing compared to the South. Under such an asymmetric power balance, the North might solely pay money for refugee protection activities so that they can lopsidedly avoid accepting refugees. In my understanding, burdens are more likely to be shared fairly when participant nations become empathetic toward refugees and recognize the suffering of refugees as if it were their own suffering.

Though Betts’ theory of “cross-issue persuasion” is convincing as an initial step to improve refugee protection, it offers so state-centric and narrow-focused analysis that his explanations are insufficient to accomplish burden sharing according to my understanding. As Flowers (2009) argues, not only state but also domestic activists and their access to top political decision makers are necessary to be taken into considerations. Furthermore, the process of improving refugee protection should be analyzed in a broader framework, namely, transnational advocacy networks. These networks are usually established by social activists as NGOs in order to make voices of oppressed refugees heard. Even though their initial influence is quite weak and unstable, they can enhance their power with the help of the legitimate authority of UNHCR, other NGOs, IGOs, individuals, and nations and, eventually, have enough potential to make voices of
refugees widely recognized. In addition, in the dynamics of transnational advocacy networks, emotion plays a key role. That is to say, empathetic domestic activists and top political decision makers are indispensable to accomplish fair burden sharing.

Although symbolic power, domestic activists, the access to top political decision makers, and empathy are important preconditions to successfully internalize the norm of burden sharing, three constraints of refugee protection activities also exist: ambiguity over accountability for refugees, the northern manipulation concerning how to define refugee, and the norm of state sovereignty. As Flowers (2009) argues, both international and domestic dimensions must be taken into consideration in order to analyze refugee protection. That is to say, these constraints and necessary preconditions for refugee protection work differently in the international and domestic spheres and, therefore, should be analyzed in both domestic and international dimensions.

The symbolic power or the so-called states’ desire for ideal state identities plays a significant role in the international sphere. For instance, many nations adopted the international refugee conventions in order to attain symbolic status and to be recognized as an advanced nation internationally. Thus, symbolic power is necessary to transform anti-refugee states into pro-refugee states in the international sphere. On the other hand, domestic activists usually emerge and their social movements grow inspired by the empathy toward refugees in the domestic sphere. The success of internalizing the norm of burden sharing is largely contingent on whether such empathetic social activists reach top political decision makers and convince them to establish a pro-refugee domestic system. Finally, fused with the symbolic power in the international sphere and
international pressure from transnational advocacy networks, internalizing burden sharing as a norm is more likely to occur when domestic activists can attain access to top political decision makers.

In the process of internalizing the norm of burden sharing, I propose that empathy plays the most important role. In the international sphere, the North and its people are more likely to reach an agreement that more or less the North should do something to help refugees from the South, which is because the North and its people can still keep distance with actual refugees and the horrendous situations on which these refugees are placed. On the other hand, in the domestic sphere, once the North decides to accept actual refugees from the South and resettle them within northern territory, the North faces the necessity to recognize refugees from the South as real. That is to say, the North and its people feel insecure because unknown people, namely, refugees from the South, would not only come to northern territory but they would also become a member of the North. Consequently, many northern people show a strong reaction against the acceptance of refugees. In other words, through the actual acceptance of refugees from the South, the North and its people no longer can see refugees as imaginary objects and can no longer ignore the horrendous situations in the Third World. Rather, the actual acceptance of refugees would become a threat which might directly influence the northerners’ everyday life. I propose that empathy plays a dominant role in removing northern fear to accept refugees from the South domestically. As long as the North and its people recognize refugees as unknown objects without becoming empathetic toward them, the norm of
burden sharing cannot be ingrained in the domestic sphere despite the North’s concession internationally.

In the following chapters, I conduct two case studies regarding refugee protection activities in Australia and Japan for the purpose of analyzing how the process of norm internalization takes place. I propose that most nations reach agreement to accept refugees in the international sphere as represented by the fact that more than 140 nations have already adopted the 1951 Refugee Convention and the 1967 Protocol (UNHCR, 2012). However, in the domestic sphere, refugee protection activities are hindered due to the fear of damaging each nation’s cultural identity as I mentioned above. Again, domestically, refugees are recognized as a risk to destabilize nations’ cultural and social harmonization because the actual acceptance of refugees directly influences everyday life of people in the North. As a result, social activists including NGOs face severe difficulty reaching their top political decision makers. Consequently, refugee protection activities are blocked under the norm of state sovereignty without being successfully fused with international pressure, namely, the absence of boomerang effect in an efficient way. Thus, in the following chapters, I examine both Australia and Japan by mainly focusing on their domestic sphere including their policies and cultures.
CHAPTER 3: AUSTRALIA’S “PACIFIC SOLUTION” AND THE CAMPAIGN TO
RELEASE THE VOICES OF REFUGEES

In this chapter, I discuss an Australian case, the Tampa Affair, in order to evaluate whether this incident can be judged as a successful burden sharing. I chose Australia because it is known as a country which enacts strict immigration policies. Although I will provide more precise explanations about Australian immigration policies later in this chapter, its immigration policies are powerful enough to prevent asylum seekers from entering within Australian territory without giving any legal process for asylum. Some realist IR scholars might argue that Australian extreme immigration strategies exactly illustrate that a powerful nation can do whatever they want and, therefore, UNHCR is a mere puppet beneath the strong norm of state sovereignty. However, I propose that it is necessary to analyze Australian anti-immigration behaviors in the broader context including international pressure, domestic activists, NGOs, and transnational advocacy networks.

As mentioned in Chapter 2, the dissemination of burden sharing is largely hindered by three obstacles: the ambiguous definition of refugee; powerful states’ manipulation over refugee’s definition; and the strong norm of state sovereignty. Because of the weak norm of burden sharing, UNHCR seems helpless against authorized power of nations. Yet I suggest that social movements are caused by activists and are growing through transnational advocacy networks. Even though the initial influence of social movements is quite restricted, they have enough potential to expand and to impose significant pressure on states in the end. In addition, empathetic social activists who have
direct contact with refugees in distress can work strategically to share this emotion with other audiences through transnational advocacy networks. Increased empathy toward refugees strengthens advocacy networks. Thus, through the Australian case studies, I explore the power of social activists, empathy, and transnational advocacy networks behind Australian extreme anti-immigration strategies. In the following sections, I analyze the Tampa Affair, which drove Australia to take extreme anti-immigration policies, and the dynamics of social movements caused after the Tampa Affair by discussing the case of the detained refugee child, Shayan Badraie.

The Tampa Affair

The Tampa Affair is named after a Norwegian cargo vessel, *MV Tampa*. On August 26, 2001, *MV Tampa*, discovered a worn-out fishing boat which was ready to sink at any minute. The crew of *MV Tampa* rescued 433 people who departed from Indonesia in order to ask for asylum in Australia. The majority of them were Afghan refugees who fled in confusion during their civil wars. Although *MV Tampa’s* Captain, Arne Rinnan, asked the closest coastal state, Australia, for permission to enter Australian water, he was refused by the Australian government. As a response to Australian rejection of disembarkation, *MV Tampa* tried to go back to the departure state, Indonesia. However, some asylum seekers insisted that they would commit suicide if they were forced to return to Indonesia (Kirtley, 2002, p. 270). In spite of claiming that there were several people who needed emergency health care because some of them were unconscious and had risks of committing suicide, *MV Tampa* was not allowed to disembark at Australia and was compelled by force to float in the open sea for a week (Bailliet, 2003, p. 757).
After a week passed, the Australian government decided to begin offshore processing of these asylum seekers. The Australian navy transferred MV Tampa to outside of Australia, namely, Papua New Guinea and Nauru (Barnes, 2004, p. 48). Australia negotiated with other nations, and consequently, New Zealand, Papua New Guinea, and Nauru accepted the majority of the asylum-seekers in MV Tampa (Bailliet, 2003, p. 743).

Three main actors existed in the Tampa Affair: Australia, Norway, and Indonesia. Firstly, Australia was the closest coastal state. The Norwegian motor vessel, Tampa, had rescued a boat with 433 asylum seekers at 140 kilometers offshore the Christmas Island (Barnes, 2004, p. 47). As mentioned earlier, Australia was the closest coastal state. Secondly, Norway was the flag state since the motor vessel, Tampa was from Norway. Thirdly, Indonesia was the departure state from which this boat with asylum-seekers departed. In the Norwegian view, MV Tampa conducted rescue in accordance with the 1982 Law of the Sea Convention and United Nations Convention on the Law at the Sea (UNCLOS). The 1982 Law of the Sea Convention stipulates that every state needs to rescue people in distress (Bailliet, 2003, p. 749). UNCLOS also addresses that a master of a ship is required to rescue people in distress at sea with all possible speed (Goodwin-Gill & McAdam, 2007, p. 278). Furthermore, imposing direct responsibility for the refugees upon the flag state could increase the risk for people in distress at sea to be more likely ignored.

During the Indochinese refugee crisis, many boat people were forcefully pushed back to the high sea without adequate help and, consequently, many asylum seekers died. From the past lesson, it is generally recognized that responsibility for asylum seekers
should not be imposed on a flag state so that rescue operations at sea can be immediately and adequately conducted (Kirtley, 2002, p. 263). Hence, *MV Tampa*’s attempt to disembark at the closest Australian port was appropriate from the perspective of international law, because it would enable people in distress to receive relief in the form of medical treatment and suicide prevention in the fastest way possible.

Indonesia was the departure state in accordance with records. These 433 asylum seekers first arrived at Indonesia mainly from Afghanistan. They paid money for Indonesian travel brokers, and Indonesian brokers arranged a secret passage for Australia. Hence, the Australian government suggested that *MV Tampa* needed to return these asylum seekers to Indonesia, the place of embarkation (Fox, 2010, p. 357). However, Indonesia was not a country that ratified the 1951 Refugee Convention at that time (Barnes, 2004, p. 49). Thus, it was questionable whether Indonesia was an appropriate country to provide refugees with enough protection. Due to various actors and interpretations of international law, there was no definite answer to what extent and which state should be responsible for accepting these 433 asylum seekers.

Between 1999 and 2001, around 8,316 unauthorized boats with a tremendous number of asylum seekers arrived at Australia under the Howard government. They were mainly from the Middle East including Afghans, Iraqis, Iranians, and Palestinians (Bailliet, 2003, p. 745). It was a dramatic increase because Australia received around only 2,760 asylum seekers between 1976 and 1994 (Phillips & Spinks, 2012, p. 8). Responding to the dramatic increase of asylum seekers, the majority of the public opinion in Australia was opposed to the influx of asylum seekers. According to an Australian
survey of public opinion between 2001 and 2002, around 77% supported governmental strong anti-immigration strategies (Dimitrov, 2007, p. 131). Even worse, Australian domestic peoples’ primary concern became security and border protection after the terrorist attack on September 11th, 2001 (Siracusa, 2006, p. 42). An Australian NGO, called the Victorian Council for Civil Liberties, sued the Australian government stating that Australian behavior not to allow the *Tampa* to disembark by force was violation of international law. Even though its lawsuit was approved in the beginning, the Australian Federal Court overruled its decision on September 18, 2001 (Kirtley, 2006, p. 256). This decision clearly reflected Australia’s serious concern for security and border protection as a response to the global war on terror.

Furthermore, the Australian government was dealing with the election at that time. Hence, the timing of the event was an important moment for the Australian government because their response toward the Tampa Affair had a direct affect on the number of votes they would attain in the imminent election (Fox, 2010, pp. 363-364). The Liberal Party, which was in power at that time, had difficulty in attaining support from voters. In short, the Liberal Party ran a close race with their rival, the Labor Party. Prime Minister John Howard was criticized for Australian economic stagnation, and many people expected his rival Kim Beazley in the Labor Party to win the election (Bailliet, 2003, p. 744). Hence, Prime Minister John Howard needed to show his strong leadership and to use anti-immigration attitudes to get more support from Australian voters. During the election, Howard took a strong attitude toward illegal immigrants. He ignored UNHCR’s
proposal to permit disembarkation by sending asylum seekers directly to detention camps in the republic of Nauru and New Zealand (Bailliet, 2003, p. 744).

Furthermore, Howard started to amend the Migration Act of 1958 in order to restrict the influx of immigrants, namely, the Pacific Solution. On September 26th, 2001, the Australian Parliament adopted a series of immigration laws called the Pacific Solution (Goodwin-Gill & McAdam, 2007, pp. 255-256). The Pacific Solution narrowed the Australian migration zone by excluding around 4,891 places including Christmas Island, Ashmore and Cartier Island, and the Cocos Island (Phillips & Spinks, 2012, p. 9). Any asylum seekers who arrived at these excluded area were not allowed to have legal process to request for asylum in Australia. Instead, they were forced to move to somewhere else such as the republic of Nauru and Papua New Guinea in order to submit an application for refugee status. As a result, Prime Minister Howard won the election and was re-elected with the strong support from domestic people for his strict immigration policies. Under such a circumstances, the Prime Minister Howard strongly declared, “We will decide who comes to this country and the circumstances in which they come” (Gow & Quilty, 2004, p. 54).

In addition, after the terrorist attack of September 11th, the Australian government began to take more aggressive refugee policies. The Australian Minister of Defense, Peter Reith, insisted upon the necessity of refusing to accept refugees to prevent terrorists from entering Australia (Bailliet, 2003, p. 745). Ultimately, Australia adopted the new domestic policy, namely, Operation Relex in September 2011 (Goodwin-Gill & McAdam, 2007, p. 270). Operation Relex is an interception program by the Australian navy in order
to prevent unauthorized boats from entering the Australian migration zone. According to Operation Relex, Australia has authority to pursue and embark on foreign ships by using force if these boats can be judged as security threats (Goodwin-Gill & McAdam, 2007, p. 272). It is quite controversial whether nations can extend their sovereign authority to the high sea and use force on foreign boats with asylum seekers. According to maritime law, the situation, when states can extend their sovereignty even to the high sea, is limited to “exceptional” situations such as piracy (Fox, 2010, p. 370).

The Tampa Affair as Burden Sharing

According to William Kirtley (2006), the Tampa incident is a successful example of burden sharing in the long-term view. As mentioned above, it is quite difficult to determine which country should have direct responsibility for 433 asylum seekers in the MV Tampa. In other words, no one violated the existing international laws in an obvious way (Kirtley, 2006, pp. 259-266). Although one can say that Australia had a moral obligation toward these asylum seekers, this type of duty needs to be taken by discretion. Although Australia did not have to take responsibility for these asylum seekers, it actually provided enough care for them. Australia negotiated with New Zealand, Nauru, and Papua New Guinea, and persuaded them to provide the asylum seekers with opportunities to have an application for refugee, temporal protection during a refugee screening, and granting refugee status. Thus, Kirtley (2006) expresses that Australia’s behaviors had no reason to be blamed. Rather, Australian behaviors toward Tampa asylum seekers deserve commendation (Kirtley, 2006, p. 267).
On the contrary, Savitri Taylor (2005) insists upon the necessity to differentiate between “burden shifting” and “responsibility sharing” (p. 32). Taylor (2005) states that Australian behaviors toward asylum seekers of *MV Tampa* were a perfect example of “burden shifting.” That is to say, Australia strategically utilized vagueness regarding the location of responsibility in order to avoid bearing burden. Due to the Migration Amendment, Australia needed to find other nations, which were willing to conduct refugee screening of asylum seekers who arrived on Australian territory excluded from migration zone. Although Australia negotiated with various nations, many of them, including Fiji, French Polynesia, Palau, Tonga, and Tuvalu, rejected the Australian request. However, Australia successfully convinced Nauru and Papua New Guinea. Nauru agreed not only to receive 282 asylum seekers in *MV Tampa* and another 237 asylum seekers by signing a Statement of Principles and First Administrative Agreement (FAA), but also to accept up to 1,200 future asylum seekers who may arrive at Australian territory excluded from its migration zone via a Memorandum of Understanding (MOU) in 2001. Papua New Guinea also adopted MOU and accepted 225 asylum seekers in 2001. Furthermore, in 2002, Papua New Guinea agreed to receive up to 1,000 future asylum seekers and to evaluate them for refugee status (Taylor, 2005, pp. 6-7).

In addition to finding places to conduct legal process for granting refugee status, Australia and the UNHCR had to find a place for asylum seekers certified as refugees to resettle. However, Australia and the UNHCR had difficulty to find a place for resettlement, and it took years. In other words, asylum seekers were forced to be in a prison-like detention center in Nauru and Papua New Guinea until New Zealand admitted
to resettle some of the asylum seekers and Australia decided to provide temporal protection with some asylum seekers in 2004. Due to prolonged stressful lives in a detention center, nine asylum seekers in the Nauru detention center caused a hunger strike on December 10, 2003, which spread among other asylum seekers in the Nauru detention center rapidly. Responding to the spreading protest, Australia insisted that the hunger strike was out of Australian responsibility but of Nauru’s responsibility because Nauru actually administrated the detention center. On the other hand, Nauru criticized Australia stating that a hunger strike was not its responsibility but Australian liability.

From the perspective of the Nauruan government, Australia should have provided enough medical treatment with asylum seekers in accordance with the MOU (Taylor. 2005, pp. 11-15). According to Taylor (2005), it was not “responsibility sharing.” Rather, it was “burden shifting.” In short, each state attempted to impute responsibility to others.

Taylor (2005) also insists that the agreement by Papua New Guinea, Nauru, and New Zealand was achieved largely by political reasons rather than by fair burden sharing. Firstly, New Zealand approved to resettle 150 asylum seekers of the Tampa Affair. Although New Zealand seemed to accept these refugees for altruistic reasons, hidden pressure from Australia existed behind the decision. Taylor (2005) argues that the power relationship between Australia and New Zealand is not symmetrical. In other words, Australia is the strongest nation in Oceania taking a leadership role in trading, security, and economy (Taylor, 2005, pp. 18-19). Thus, New Zealand was likely to accept the request to resettle refugees under strong pressure from Australia.
Similarly, Nauru was also a weak nation that lacked economic, security, and political power in that region. At the time of the Tampa Incident, Nauru faced a severe financial risk. Nauru adopted FAA and, consequently, received not only 283 asylum seekers from MV Tampa but also another 237 asylum seekers who arrived on Australian offshore islands. Behind the Nauruan decision, a tremendous financial assistance from Australia existed. Australia offered around 20 million Australian dollars, which was almost equal with Nauruan GDP per capita, in exchange for Nauruan acceptance of FAA. In order for Nauru to accept more asylum seekers, Australia suggested another 10 million Australian dollars to Nauru. As a result, Nauru signed MOU in December 11th, 2001, and approved to accept another 1,200 asylum seekers. Furthermore, Australia persuaded Nauru to amend the first MOU and extended its effect from June 2002 to June 2003 by providing additional financial assistance of 14.5 million Australian dollars. Under the amended MOU, Nauru needed to accept up to 1,500 asylum seekers in total. By June 2003, Australia once again convinced Nauru to extend the effect of MOU until June 2005 via additional financial support of 30 million Australian dollars (Taylor, 2005, pp. 21-24). Obviously, a weak nation, Nauru did not have equal negotiating power as Australia. Nauru, which was in severe financial crisis, had no other choice but to accept what a strong nation, Australia, offered because it was the only way for Nauru to survive. Considering the fact that Nauru lacked equal bargaining power, burden sharing was not conducted in a fair way. Rather, it was an Australian strategic behavior to avoid accepting asylum seekers by utilizing its strong power and sufficient monetary resources.
Papua New Guinea also suffered from severe economic instability. From after the
Second World War to the independence in 1975, Papua New Guinea was under control of
Australia. Australia exploited natural resources in Papua New Guinea and devastated its
economy. Thus, Australia was partially responsible for economic instability in Papua
New Guinea. For the purpose of informal compensation for Papua New Guinea, Australia
has provided 300 million Australian dollars of financial assistance to Papua New Guinea
every year. Papua New Guinea is economically largely contingent on Australia. In other
words, the power relationship between Australia and Papua New Guinea is also unequal.
Under such an unbalanced power balance, Papua New Guinea was convinced by
Australia to sign a MOU on October 11th, 2001 and agreed to take care of refugee
application processing for asylum seekers, who arrived at Australian offshore territory
excluded from migration zone. As a result, Papua New Guinea received 225 asylum
seekers in accordance with the MOU. Before the expiration date of the first MOU,
Australia attempted to persuade Papua New Guinea to accept further asylum seekers.
Although the Papua New Guinean Foreign Affairs Minister, John Pundari, refused the
Australian request in the beginning, he was dismissed under the name of the Prime
Minister, Sir Mekere Morauta. For the poor Papua New Guinea, material benefits,
including money, employment opportunities, infrastructure, and health care, provided
from Australia via the MOU was indispensable for its survival. Finally, Papua New
Guinea agreed to accept up to 1,000 asylum seekers in January, 2002 (Taylor, 2005, pp.
25-29).
Although Australia insisted that the purpose of the Pacific Solution was to conduct fair burden sharing, burdens were actually imposed unfairly on weaker nations in the Tampa case. For example, despite its poverty, Papua New Guinea has long accepted refugees from the Indonesian province of Papua, but the Pacific Solution did not take Papua New Guinea’s past burdens into consideration. Rather, the Pacific solution was created in order to reduce responsibility of powerful nations’ side because only asylum seekers who tried to reach Australia were taken into consideration (Taylor, 2005, pp. 31-32). Taylor (2005) calls the Australian Pacific Solution the “Pacific Nightmare” (pp. 31-32). Within such asymmetric power relations, it is quite difficult to know whether the burden is shared equally because weaker nations’ voices are easily oppressed or ignored in such unbalanced power relationships. In addition, while Australia successfully reduced the number of asylum seekers who arrived by boat because of the Pacific Solution, the number of asylum seekers’ arrival dramatically increased in Australian neighboring nations including New Zealand. Thus, the Pacific Solution merely shifted the burden for refugees from Australia to other nations (Taylor, 2005, p. 33). In the words of Taylor (2005), it was exactly “burden shifting” rather than “responsibility sharing.”

Although Kirtley (2002) sees the Tampa Incident as a success, the Tampa Affair cannot be said to have achieved tangible improvement in refugee protection activities. Taylor (2005) states, the Australian people’s indifference toward refugees was so obvious that they laid emphasis on their own benefits, including national security, rather than providing protection to outsiders. In addition, other participants such as Papua New Guinea, New Zealand, and Nauru were not necessarily willing to take on the burden for
asylum seekers of the Tampa Incident. They seemed to have obeyed what a powerful nation ordered, because they did not have the same negotiating power as Australia. In addition, many asylum seekers were forced to stay in a detention center for years due to a prolonged process under Pacific Solution. Also it was quite questionable whether poor Papua New Guinea and Nauru could provide sufficient protection for asylum seekers. Thus, Pacific Solution was far from the intended concrete success. In other words, Australia was exactly in the first stage from the perspective of lack of domestic activists.

However, at the same time, some NGOs in Australia caused social movements against the Pacific Solution. A series of tragedies following the Tampa Incident made the existence of boat people, who were treated mercilessly by the Australian navy under Pacific Solution, more visible to Australian people (Tazreiter, 2010, p. 209). For example, the boat called Siev X, which headed for Christmas Island, sunk south of Java in October 19, 2001. Due to the sinking of Siev X, 353 asylum seekers, including 150 women and children, died. It is quite controversial to argue whether the Australian government ignored Siev X intentionally without providing appropriate rescue. However, an opinion arose among Australian people that the Australian navy did not fully accomplish its moral duty (Derrington & White, 2003, pp. 370-371). In other words, the Australian navy should have done something more to rescue these 353 asylum seekers.

In addition, many Australian people were shocked at the Children Overboard Incident in the beginning of October, 2001. The Australian government strategically utilized the picture of boat people loaded in Siev 4, who were trying to throw their children into the sea from the overloaded boat (Dimitrov, 2007, p. 139). According to the
Australian government, these asylum seekers, who tried to sacrifice their children, were not qualified as Australian citizens. It was obvious that the Australian government tried to manipulate domestic people’s sentiment against refugees heading for Australia because this picture was to be unrelated to *Siev 4* (Derrington & White, 2003, pp. 370-371). Both the sinking of *Siev X* and the Children Overboard Incident attracted Australian people’s attention toward refugees and the Pacific Solution taken by Australia.

Soon after the Tampa Incident, the sinking of *Siev X* and the Children Overboard Incident, various NGOs were established. Most significant were that the creation of A Just Australia (AJA) and Rural Australian for Refugees (RAR) in 2001. While AJA mainly consisted of people in the higher class, the members of RAR are mostly people in the middle class (Tazreiter, 2010, p. 209). These NGOs did not only collaborate with international organizations, including Human Rights Watch and Amnesty International, but also attained useful information about asylum seekers who were intercepted by the Australian navy and forced to return to where these asylum seekers had risks of being persecuted. These information resources became powerful evidence to prove Australian violation of non-refoulement.

In addition, one NGO, the Edmund Rice Center, began monitoring situations of asylum seekers who were repatriated from Australia forcefully or voluntarily. Researchers in the Edmund Rice Center actually visited 11 countries, including Afghanistan, Angola, Democratic Republic of Congo, Iran, Iraq, Nigeria, Pakistan, Rwanda, South Africa, Sri Lanka, Sudan, and Zimbabwe where asylum seekers returned and conducted interviews with 40 unsuccessful asylum seekers. The result of the research
revealed that around 90% of interviewed asylum seekers were in unsafe conditions. According to the interview, some of them were stateless and the others were forced to be in hiding all the time because of serious risks of persecution (Tazreiter, 2010, p. 210). Supported by the empirical evidence, criticism toward Pacific Solution was gradually growing. The Australian public was indifferent to refugees and, therefore, the power of domestic activists was significantly low. Domestic activists usually cause social movements in order to improve problematic situations in which they are actually placed. In other words, domestic activists work hard for the purpose of improving their own status. Apparently, refugee issues are not serious concerns of ordinary Australian people and, consequently, the power of domestic activists remained weak. On the other hand, some NGOs were established by individuals, who worked closely with refugees and became empathetic toward refugees by directly seeing how refugees were treated badly. Consequently, NGOs played a substitute role of domestic activists as this example clearly illustrates.

The Case of Shayan Badraie

The power of an NGO and advocacy networks are more significantly recognized in the case of a 6-year-old Iranian boy, Shayan Badraie. Under the Migration Act of 1958, any non-Australian citizens without a valid visa are automatically recognized as an illegal immigrant and are forced to be impounded in a detention center (Penovic, 2003, p. 58). This law can also be applied to refugee children mercilessly. According to Penovic (2003), 94 children are currently impounded in detention centers on the Australian mainland and 90 children are detained in a detention center located in Nauru. The
average length of detention for each child is about 17 months. The record for the longest detention was around 5 years. Chen Shi Hai was born in a detention center and finally released from it when he became 5 years old (Penovic, 2003, p.56).

McSherry and Dastyari (2007) clarify numerous harmful effects of a detention center. Firstly, the suicide rate among asylum seekers who are impounded in detention centers is from 3 to 17 times higher than that of ordinary Australian citizens. Secondly, asylum seekers who have spent time in a detention center are two times more likely to suffer from depression and three times more likely to have posttraumatic stress disorder (PTSD). In addition, many asylum seekers in a detention center tend to injure themselves (McSherry & Dastyari, 2007, p. 260). In general, children are more vulnerable to unhealthy living conditions. The case of Shayan Badraie clearly illustrates how significantly a detention center has negative influence on asylum seekers, especially for detained children under the Australian Migration Law.

Shayan Badraie and his family fled from Iran in January of 2000 because they belonged to a religious minority group, the so-called Al-Haqq, and had risks of being persecuted under the Iranian authoritarian regime. Firstly, they went to Indonesia from Iran and then headed for Australia from Indonesia by a boat. Because of the Australian Migration Act, they did not have a valid visa and were compelled to be in the Woomera detention center in Southern Australia. From August 23, 2001 to January 16, 2002, Shayan, who came to suffer from PTSD due to a prolonged stay in a detention center, lived apart from his parents and was raised by unknown Australian foster parents in
Sydney until his father was released from the detention center and granted the status as a refugee in August of 2002 (McSherry & Dastyari, 2007, p. 264).

During his stay in the Woomera detention center, Shayan witnessed violent acts numerous times. Around 1,400 people were impounded in the Woomera detention center. These detained people caused uprisings three times in April, June, and August and a hunger strike in November of 2000. In order to suppress these riots, staff in the Woomera detention center assaulted detainees by utilizing sticks, water cannons, and lachrymatory gas (tear gas). Shayan also witnessed a detainee who grabbed fragments of broken glass and pointed the broken glass toward his own chest in order to commit suicide on November 28, 2000. As a result, Shayan was so frightened that his fear caused him a serious loss of sleep and no desire to eat (Penovic, 2003, p. 57). He recognized all windows and mirrors around him as harmful weapons. He started to suffer from a nightmare in which a man approached Shayan with a piece of broken glass and attempted to kill him. In addition, Shayan started to wet the bed (McSherry & Dastyari, 2007, p. 264).

In January of 2001, Shayan was moved from the Woomera detention center to the Sierra Compound with his family. Shayan spent an isolated life in the Sierra Compound because no children of his age lived there. Generally, children acclimate themselves to a society through interaction with friends. In other words, Shayan was not allowed to enjoy childhood as many other Australian children normally do. Instead of having a well-balanced childhood, he was exposed to a series of violent scenes in a detention center as mentioned earlier. Shayan was taken to see a psychologist on January 25, 2001, and was
diagnosed with PTSD. Although the physician continuously insisted upon the immediate necessity to allow him to live outside of the detention center with his family, repeated appeals from the physician was ignored by the Australian government (McSherry & Dastyari, 2007, p. 264). Even after the physician’s diagnosis of PTSD, Shayan was forced to stay in a detention center and to witness more violence. On March 3, 2001, Shayan and his family moved from the Sierra Compound to the Villawood detention center. According to records, Shayan witnessed further violence when detainees attempted to break windows in the Villawood detention center on February 27, 2001. In addition, on April 30, 2001, Shayan saw another attempt of a detainee who tried to commit suicide by cutting his wrist (McSherry & Dastyari, 2007, p. 265).

Because of witnessing of tremendous violent acts in a detention center even after the diagnosis of PTSD, Shayan became aphasic and was taken to the Westmead Children’s Hospital in order to have medical treatment. Despite the significant necessity for him to live with his family away from a detention center, Shayan was taken to unfamiliar foster parents in Sydney from August 2001 to August, 2002. The foster parents had no previous experience caring for foster children (McSherry & Dastyari, 2007, p. 265). Consequently, Shayan continuously has suffered from mental instability even after being released from a detention center. He still felt that he cannot trust anybody else except for his parents (Wallace, 2006, p.1).

An Iranian doctor impounded in the Woomera detention center conducted a research on the harmful effects of a detention center on children. The research result was published in the Medical Journal of Australia. According to the research, children’s
exposure to violence, such as a hunger strike, suicide attempt, self-injurious behavior, physical punishment by officers in a detention center, seriously damaged the mental and physical health of detained refugee children. Another harmful effect for detained children is that these children are easily used as leverage by guards in a detention center riots in order to oppress detainees. For example, officers intentionally separate detained children from their parents until these parents stop revolting. In other words, officers in a detention center often use children of detainees who cause riots or hunger strikes as hostages. Thus, refugee children in a detention center usually remain unsecured because their parents cannot provide enough care for their children in such a strained atmosphere. The research reveals that exposure to violence and the lack of family support give children serious risks of mental disorders including depression, PTSD, eating disorders, and insomnia (Penovic, 2003, p. 57). Australian policies, which place children in such harmful conditions, clearly contradict international law. In 1990, Australia ratified the Convention on the Rights of the Child (CRC). Article 3(1) in CRC stipulates that the obligation of its contracting state is to give the highest priority to “the best interests of the child” in any circumstances (Penovic, 2003, pp. 59-60). Hence, it is obvious that Australia violates CRC by prioritizing their own domestic interests, including border protection and security rather than “the best interests of the child.” Australia places refugee children in a detention center as a deterrent of asylum seekers’ future arrival on Australia (Penovic, 2003, p. 64).

Even worse, the Australian government intentionally regulates the access to a detention center. Gow and Quilty (2004) argue that Australia tactfully places immigrants
without a valid visa in a detention center far from the public eyes, including the Southern desert area in Australia, Nauru, and Papua New Guinea, in order to hide the unstable conditions of their detainees (p. 48). More significant is that Australia strategically established a detention center within a framework of a large loophole to avoid having direct responsibility for detainees. Firstly, detention centers located on the Australian mainland are administrated by a private company, the so-called Australian Correctional Management (ACM), and not by the Australian government. The Australian government pays around 90 million Australian dollars or ACM every year (Gow & Quilty, 2004, p. 51). According to the 1998 contract between the Australian government and ACM, ACM is obliged not to reveal any information about detention centers on the Australian mainland (Gow & Quilty, 2004, p. 52). In addition, an incentive system was introduced in the Woomera detention center. In accordance with the incentive system, the Australian government can punish ACM with a fine when violence, including a suicide attempt, a hunger strike, self-harm, and a riot, is caused in the detention center. Thus, ACM is more likely to hide facts of such violent protest in a detention center out of fear of being punished (Gow & Johanne, 2004, p. 53). The duty of confidentiality under the contract, the financial incentive system, and the huge amount of governmental annual funds for ACM prevent voices of detained refugees from being heard. Moreover, the Australian government can easily evade direct responsibility for the unstable environment of detained refugees because detention centers are under the control of a private company.

Similarly, the access to a detention center in Nauru is also strategically controlled by the Australian government. In addition to geographical distance and the shortage of
transportation, the Australian government has authority to decline a request for visa application to visit Nauru. That is to say, the Australian government can easily prevent advocates for refugee protection from reaching a detention center in Nauru. Moreover, Australia can deny responsibility for detained refugees because a detention center in Nauru is operated under Nauruan state sovereignty. Detention centers located outside of Australia under the Pacific Solution are quite similar to the Guantanamo Bay detention camp used by the U.S. military. Because these detention centers are located outside of Australia, Australia has no obligation to observe domestic laws and detainees have no access to help from attorneys and human rights advocates. Even worse, isolated detainees cannot even know whether such help is available (Gow & Quilty, 2004, p. 54). Although it seems there is no way for detained refugees to make their voices heard, NGOs significantly contribute to reveal the unstable situation in which detained refugees are placed.

Despite the limited access to a detention center under the Australian governmental strategic control, some activists, including a childcare worker, a health care researcher, and a Catholic priest, had direct contact with refugee children impounded in a detention center and began to take a role in advocating for detained refugee children, creating a network for improving the status of refugee children in a detention center as a response to such merciless attitudes toward refugee children. A lawyer who works for family rights, Jacquie Everitt, succeeded in making a video recording from the Villawood detention center in 2001. One of the Australian broadcasting companies, ABC TV, aired the documentary of a detained child refugee’s life via its TV program Four Corner in August,
The influence of media was tremendous. Even after the broadcasting, people could continuously access the documentary of Shayan Badraie via the Internet. Severe criticisms rose rapidly and collectively. Many domestic Australians, who used to have no access to detained asylum seekers, were largely shocked to know of the horrendous conditions to which child asylum seekers were exposed (Tazreiter, 2010, p. 208).

Along with increasingly strong sympathy and anger toward the situation regarding detained child refugees, individuals who watched the Four Corner established a NGO, the Children out of Detention (ChilOut) (Tazreiter, 2010, p. 208). According to Dimitrov (2007), ChilOut played the most successful role in making voices of detained refugee children heard. The success of refugee protection activities is largely contingent on whether domestic people can feel the pain of refugees as if it were their own suffering. Geographically distant Northern people have difficulty recognizing refugee issues as real because they lack opportunities to witness the horrendous situations in which these refugees are placed. ChilOut held a monthly event called “information nights” in Sydney. In this event, people who actually had direct opportunities to contact refugee children in a detention center, such as nurses, attorneys, and medical doctors, made speeches to ordinary Australian people about detained refugee children and their situations (Gauthier, 2004, Summer, p. 28). In addition, ChilOut also provides ordinary Australian people with opportunities to visit the Villawood detention center through the Villawood visitors programme (Gauthier, 2004, Summer, p. 28). A direct contact with detained refugees has strong potential to agitate domestic people’s sympathy toward refugee issues. For
example, a visit to the Villawood detention center perfectly transformed David Penberthy’s anti-refugee sentiment to pro-refugee attitude (Dimitrov, 2007, p. 132).

David Penberthy was an editor who worked for the Sydney Daily Telegraph. In an article published by Daily Telegraph on December 17, 2002, Penberthy reported that the life of refugees in an Australian detention center was luxurious. According to Penberthy, these illegal immigrants lived in a gorgeous five-star-hotel and wasted taxes paid by the sweat of the Australian brow. However, since Nagreta Rosssell, a journalist who advocates refugee issues, brought Penberthy to the Villawood detention center, Penberthy has completely changed his mind. In the Villawood detention center, Penberthy witnessed the miserable and horrendous circumstances in which refugees were placed. After his visit to the Villawood detention center, Penberthy published a new article in Daily Telegraph with the title “Learning to Play the Waiting Game.” In this article, he reported his experience and what he saw in the detention center. Since then, he never published an extreme lopsided view toward detained refugees as he once did with the expression of “illegals in five-star style” (Dimitrov, 2007, pp. 132-133). Thus, the direct access to detained refugees is indispensable in order for domestic people to feel the suffering of refugees as if it were their own sorrow.

However, in reality, it is difficult for every person to have direct contact with refugees. As a substitute of direct contact with detained refugees, ChilOut strategically utilizes the power of the media and information technology. Dimitrov (2007) points out that ChilOut is an organization based around the Internet community rather than direct meetings with actual members (Dimitrov, 2007, p. 132). In other words, their
membership is established on the framework of mailing lists rather than a hierarchical organizational structure. The most significant accomplishment ChilOut successfully achieved was that it strategically linked refugee issues with the issue on which Australian people place higher priority, namely, family issues. According to the Australian public opinion of 2003, 85% of Australian constituency were concerned about health care, 82% of them about education, 64% of them about environmental issues, 63% of them about family problems, 62% of them about social welfare, 46% of them about immigration, and 41% of them were concerned about inflation. As illustrated by the public opinion poll, it is clear that Australian people have lower interest in refugee (immigration) issues (Dimitrov, 2007, p. 133). From the perspective of Dimitrov (2007), ChilOut successfully made a linkage between the lower concerned refugee (immigration) issues with the higher concerned family issues.

Clearly, a life in a detention center does not only destroy family relationships but also gives detained children harmful effects. In order to get powerful backing, ChilOut actively contacted experts, including attorneys, writers, and child psychiatrists, all of which achieved a consensus about the harmful effects of a detention center on impounded children (Dimitrov, 2007, p. 134). In other words, ChilOut succeeded to attain support from people in the middle class. Attainment of support from the middle class is important because these people are usually known as non-active participants in social movements (Tazreitter, 2010, p. 208). With strong support from the middle class, ChilOut took a further step to make the situation of detained children more visible to the public (Dimitrov, 2007, p. 135).
Along with a journalist, Alanna Sherry, a member of ChilOut, and previously a diplomat, succeeded in exposing detained children’s identification (ID) cards from the Villawood detention center in May of 2005. Before smuggling these IDs, they had investigated that the guards in the detention center did not conduct a body search of visitors on weekends and, consequently, they tactfully hid these IDs in their underclothes. In addition, they also established relationships of trust with detained children’s parents so that they could carry out IDs. The purpose for smuggling these IDs was to make detained children’s faces visible to the public so that Australian people would be more likely to imagine the unstable life of a detention center. These IDs were with pictures of detained-refugee children. Surprisingly, one of the IDs of a newborn baby was without his or her name. On that ID, only “baby” and a barcode were shown. Soon after that, an Australian newspaper, *The Sydney Morning Herald*, published the article about detained refugee children with their pictures. The title of this article was also shocking enough to capture the public’s attention: “The Barcode Kids” (Dimitrov, 2007, p. 135).

As Keck and Sikkink (1997) argue, language has a strong power to help an advocacy network to be recognized more widely. According to Keck and Sikkink (1997), NGOs criticized Nestles’ problematic strategy to sell baby food to the Third World with the expression that “Nestle kills babies” (p. 21). Fused with the power of language and media, the advocacy network could successfully make the issue widely known in international communities. Similarly, ChilOut had a significant influence in
refugee protection activities due to its tactful use of media, expert knowledge of the middle class, and well-calculated marketing strategies.

Furthermore, empathy plays a dominant role in motivating the refugee protection activities of ChilOut. In the press release (2013, February 19) of ChilOut, one of the workers, Leila Druery, argues about the negative effects of witnessing a suicide attempt and self-harm toward refugee children, stating that “Children are extremely vulnerable and impressionable; our worst fear is that they’ll see acts of self-harm and suicide attempts and think that is an option for them.” From her choice of words, “our fear,” her empathy for refugee children is obvious.

More significant is that ChilOut uses social media, namely, Facebook, and represents the feeling of detained refugees. For instance, ChilOut posted a detained 18-year-old Iranian girl’s voice on its Facebook page: “All I want is safety, justice, and honesty. I never found them in my country. I just want a life which is the same as any other 18 year old girl. I’m full of wishes and hopes but now I’m here in Manus Island without any future” (ChilOut Revived, 2013, January 17). As a response to this post, some people reacted by saying “Don’t give up. We hear you” (ChilOut Revived, 2013, January 17). In its Facebook post of March 13th, 2013, ChilOut contributed the recorded conversation of a detained refugee girl: “We are asylum-seekers. I do not know how long I am going to stay here. I feel I am living like an animal. I feel I am a prisoner. I wish I could be a dove, then I was free” (ChilOut Revived, 2013, March 13). After listening to the recording, one of the Facebook users criticized the problematic power politics, stating that “These are real people here treated like herding animals” (ChilOut
Revived, 2013, March 13). Then, on March 14th, 2013, ChilOut posted a letter from a detained girl. In the letter, the girl illustrated how she felt after knowing that her oppressed voice was finally heard: “I felt like crying after I watched it. Not because I was sad. But felt I was finally being heard. But I think I have run out of tears” (ChilOut Revived, 2013, March 14). As such, ChilOut devoted all their efforts to represent oppressed voices on behalf of detained refugees. In short, ChilOut reveals voices of detained refugees from the viewpoint of detained refugees. Through the ChilOut’s refugee protection activities and close ties with detained refugee children, their sense of empathy is developing. Moreover, ChilOut strategically utilizes information technology and speaks on behalf of oppressed refugees in order to share their empathetic feeling toward refugees with many other people. Thus, it can be said that the role of empathy is indispensable to improve refugee protection.

Again, the situation of Shayan was the trigger for ChilOut’s establishment, after which ChilOut grew the advocacy network via an effective use of information technology, marketing strategy, and skilled middle class supporters. ChilOut recognized that visible images could transform people’s indifference toward detained refugees into strong sympathy for refugees and criticism toward the Australian government. In addition, ChilOut recognized that bringing the situation of detained children into focus enabled refugee issues to attain more attention from the public. In other words, the clear image of detained refugee children helps indifferent people to feel the suffering of these children as if it were their own suffering. As a result, transnational movements against the Australian policy to detain children occurred. For example, supporters of Amnesty
International sent hundreds of letters of protest to the Australian government in 2004, demanding immediate release of all impounded children in a detention center and the abolishment of the Australian Migration Act, which allowed Australia to detain children (Cox, 2009 Winter, p. 16). As mentioned earlier, around 80 percent of the world refugee population consists of women and children, namely, the weakest on the social scale (Young, 2002, p. 38). Thus, improvement of refugee children’s status has potential to improve refugee protection as a whole.

Although the advocacy network across borders has not achieved complete success in improving detained refugee children’s conditions, it obviously took a significant step. In 2006, a former detained refugee child, Shayan sued the Australian government and ACM, demanding compensation for his suffering in a detention center. As a result, he won around 400,000 Australian dollars on March 3rd, 2006. However, this victory in a legal suit did not mean the complete success of the advocacy network toward children’s detention. That is to say, the Australian government did not admit a direct causal relationship between detention center and the mental and physical health issues of Shayan. According to the Australian government, Shayan’s health issues were caused under the responsibility of his parents. His parents tried to enter Australia illegally and refused to leave Australia. Thus, illegal attempts by his parents created Shayan’s health problems and were not created by the Australian government (McSherry & Dastyari, 2007, p. 265). Furthermore, the Australian Migration Act still allows the Australian government to impound people who arrive at Australia without a valid visa, including children in a detention center. Nevertheless, it can be concluded that the transnational advocacy
network took a significant step because it succeeded to make oppressed voices of the weakest, namely, detained refugee children, visible and widely heard in international communities.

In sum, UNHCR seemed to be helpless under the Australian authority. Australia ignored the request from UNHCR to accept the Tampa asylum seekers. Instead, under the strong norm of state sovereignty, Australia adopted the extreme immigration law, the Pacific Solution. As a result, many asylum seekers arriving at Australian territory were not allowed to have a legal process to attain refugee status in Australia and were mercilessly repatriated or impounded in a detention center. Even worse, Australia intentionally placed these asylum seekers far away from the public eye as represented by detention centers located outside Australia or in the Australian southern desert area. Australia also utilized its authority to reject visa applications from social activists for refugee protection so that they could not reach detention centers located outside Australia. Furthermore, the Australian government put Australian detention centers under the administration of a private company, ACM, in order to avoid direct responsibility for the conditions of asylum seekers in detention centers. In other words, it seemed there was no help for refugee protection under the authority of Australia.

Nevertheless, individual people, mostly those who had direct contact with refugees, created NGOs such as AJA in order to improve refugee protection in Australia. Many of them actually witnessed the horrendous conditions in which asylum seekers were placed. Thus, these social activists could feel the suffering of refugees as if it were their own. They worked strategically in order to make the suffering of refugees widely
recognized by utilizing the power of information technology and media. Even though the Australian government tried every possible way in order to blockade the access to detained asylum seekers, some social activists did not only reach detained asylum seekers, but they also succeeded to make voices of asylum seekers heard through transnational advocacy networks in international communities.

The power of NGOs is more significantly revealed through the case of Shayan. As mentioned earlier, ChilOut tactfully related refugee issues to family problems, the field in which Australian people placed the most importance. Consequently, ChilOut gradually transformed indifferent Australian people into empathetic supporters toward refugee protection activities. As a response, Australia received severe criticisms both domestically and internationally. Thus, it is obvious that the initially weak power of NGOs is growing and enhancing in the framework of transnational advocacy networks. Hence, it can be said that transnational advocacy networks sustained by empathetic NGOs and domestic activists have strong potential to go beyond the norm of state sovereignty and to achieve tangible improvement for refugee protection.
CHAPTER 4: JAPAN’S RESISTANCE TOWARD RACIAL DIVERSITY AND THE POWER OF SOCIAL MOVEMENTS

In this chapter, I discuss the Indochinese refugee case in Japan for the purpose of evaluating whether Japan conducted burden sharing in a fair way. In addition, I analyze the power of domestic activists, civil social groups, NGOs, transnational advocacy networks, and the role of empathy in the broader framework. I select Japan for my case study because Japan is also known as a conservative country which enacts strict immigration policies in order to maintain its social homogeneity. Although I will provide more detailed explanations about Japanese immigration policies and its unique cultural background later in this chapter, their legal process to grant refugee status for asylum seekers lacks transparency. Under the authority of the Japanese government, voices of refugees in Japan are completely restricted. In addition to Japanese people’s indifference toward refugees because of its cultural background, social movements inspired by NGOs are largely prevented from having access to the top political decision makers.

Just as with Australian cases, UNHCR seems helpless facing the strong norm of state sovereignty and the deeply ingrained culture of homogeneity in Japan. Thus, I hypothesize that Japan stands at the initial stage where the newly created norm of burden sharing is prevented from being accepted in Japanese society under the name of state sovereignty. At the same time, I provide description of the power of social activists, empathy, and transnational advocacy networks behind Japanese conservative refugee policies, which are necessary elements to take a further step for burden sharing. In the following sections, I present background information regarding Koreans with permanent
residence in Japan in order to explain the unique cultural basis of Japan, which significantly impedes the improvement of refugee protection activities. Then, I move to the case of Indochinese refugees.

The Korean Power

According to Erin Young (2010), Japan is the only country which has a “fourth-generation immigrant issue” among developed democratic nations (p. 3). That is to say, while many developed nations are trying to solve issues regarding post-war immigrants, Japan still has difficulties resolving issues regarding pre-war immigrants, namely, Koreans with permanent residence in Japan. Since the annexation of Korea in 1910, Japan dominated Korea as a colonizer in order to enhance its influence in Asia and to obtain cheaper labor forces and natural resources. At that time, Japan was firmly united under the shared belief of blood-tie (Young, 2010, p. 70). Japan has a special social structure on the basis of blood ties, and Ohnuki-Tierney (2002) explains this social structure situates the whole of Japan as one family having the emperor as a father (p. 78).

The Meiji government used a patriarchy, which gave the father the strong position as the head of a family. The father had not only an absolute supremacy above any other family members, but he also had the authority to make any decision about his family such as his children’s marriage and future life. In addition, the father had to be treated respectfully by his family members. For example, meals had to be served to the father first, he got to take a bath before anyone else in the family, and family members had to make a respectful bow to him (Benedict, 1946, p. 52). Thus, Japanese people did not only have strong loyalty toward fathers, but also defiance toward fathers was not tolerated,
resulting in a very strict patrichical system. The loyalty to the emperor was an expansion of this family system. That is to say, Japan established a definite top-down decision-making style based on the family structure. In order to maintain the unification, Japan conducted forced assimilation toward colonized Koreans including an enforced change of name from a Korean to a Japanese name and an enforced education of Japanese language, culture, and worship of the emperor (Young, 2010, p. 66). In addition, under the annexation of Korea, Japanese citizenship was granted to Korean people. For example, Korean people were exempted from the restriction to enter Japan and Korean men attained suffrage and the right to run for election in Japan (Young, 2010, p. 68).

After the defeat of Japan in the Second World War, Korean people in Japan lost Japanese citizenship and were encouraged to repatriate to Korea along with the decolonization process of Japan. As a result, around 1,300,000 Korean people, approximately two-thirds of Koreans who lived in Japan, returned to Korea soon after the end of the war. However, the process of repatriation was impeded because of the outbreak of the Korean War in 1950. Instead, thousands of Koreans tried to smuggle themselves into Japan in order to escape the horrors of war, Korean political confusion due to sudden independence from Japan, and economic instability (Young, 2010, pp. 72-73).

As such, numerous Korean people came to Japan as illegal immigrants. Many Korean people were involved in illegal actions, including participation in the black-market. Consequently, Japanese people started to recognize Korean people in Japan as severe security threats. At the same time, Japan began to struggle with the dilemma
between its responsibility for Koreans due to its colonization and its desire to expel Koreans from Japan because they were significant obstacles for the Japanese democratization process (Young, 2010, pp. 72-73). Korean people continued to live as foreigners maintaining a Korean identity and establishing an autonomous Korean community in Japan. Thus, Japanese authorities could ignore the existence of Koreans in Japan for a while because the power of the Korean people was weak in the beginning. In addition, the Korean people were not significant threats to destroy Japan’s unity on the basis of blood-tie because of the physical and cultural similarities between Japanese and Koreans (Young, 2010, p. 23).

Despite the initial weak influence of Korean people in Japan, Koreans attained power within Japan gradually. For example, some Koreans in Japan economically succeeded and increased their influence. Moreover, a new Korean generation that was born in Japan emerged. The Koreans of this new generation started to suffer not only from severe racial discriminations (Brysk, 2009, p. 161) but also from their unsecured status because they were rejected citizenships both from Japan and Korea (Young, 2010, p. 24). In other words, they were stateless persons. Under Japanese domestic law, they were denied access to the Japanese national pension system, the national health insurance system, suffrage, and employment in the civil service.

Japan’s ratification of the 1951 International Refugee Convention and 1967 Protocol in 1981 was an ideal occasion for the oppressed Korean people in Japan to make their voices heard. Although it adopted the Refugee Convention and Protocol due to strong international pressure, Japan still had contradictory immigration policies which excluded
foreigners from receiving social welfare services (Young, 2010, p. 23). Young (2010) insists that a grassroots movement agitated by Korean people played a significant role in amending existing Japanese domestic laws such as the Nationality Act. For example, Japan repealed the obligation of people who have the right of permanent residence to register their fingerprints as a response to social movements by Korean people. Korean people made an alliance with NGOs, local governments, and international organizations, including Amnesty International, and, eventually imposed significant pressure on the Japanese government from both domestic and international spheres (Young, 2010, pp. 20-21). These Korean people were strong domestic activists regarding a series of amendments of Japanese domestic laws because Japan’s amendment of domestic laws were directly connected with Koreans’ future survival in Japan. Consequently, it caused the combined effects to improve refugee protection in Japan. In other words, discriminatory domestic laws toward foreigners in Japan were not only obstacles for refugees but also for Koreans themselves. Thus, due to the existence of strong domestic activists, Japan successfully removed some discriminatory regulation toward foreigners in its domestic laws.

The Indochinese Case in Japan

Even though Korean people successfully convinced Japan to give them full citizenship, it did not necessarily mean that Japan became tolerant of foreigners. The sense of blood-tie is still deeply ingrained in Japan. In other words, Japan granted Korean people in Japan with full citizenship because of their physical and cultural similarities. Similarly, during the high-rate economic growth of Japan, Japan allowed many foreigners
to enter Japan in order to fill the demand for labor forces. However, Japan mainly accepted Brazilians and Peruvians of Japanese ancestry (nikkei) as labor forces because they were physically quite similar to Japanese people and difficult to be distinguished as foreigners (Flowers, 2009, p. 40). The attitude of Japan to maintain its homogeneity has not changed. Thus, Japan’s reluctance to accept refugees who have no common characteristics with Japanese people, including physically different races, still remains even after the ratification of the international refugee conventions and amendment of domestic laws. Such ingrained anti-immigration attitudes in Japan are revealed via the Indochinese refugee case.

The Indochinese refugee issue was the first attempt of Japan to accept refugees and provide refugees with protection after adopting the International Refugee Conventions. Along with the U.S. army’s retreat from Vietnam in 1975, many people started to flee from Vietnam due to political persecution under the Vietnamese socialist regime (Betts, 2009, p. 113). Consequently, neighboring nations experienced the sudden influx of boat people from Vietnam. In the beginning, these nations tried to accept boat people rather than preventing their entrance because they considered that the boat people’s arrival was only a temporal phenomenon. On the other hand, the number of boat people kept increasing continuously. Due to this open-ended influx of asylum seekers, Hong Kong and other member states of the Association of Southeast Asian Nations (ASEAN) started to struggle with heavy burdens and gradually became reluctant to accept them. Responding to the Indochinese Refugee Crisis, the International Conference on Indochinese Refugees was held in 1979 and in 1989. In these international
conferences, UNHCR suggested the Comprehensive Plan of Action (CPA) for Indochinese refugees. In the CPA, burdens are clearly distributed among three groups: the country of refugees’ origin, the country of refugees” first arrival, and the country of for resettlement. Thus, the Indochinese CPA could not be well conducted without all of the three groups’ cooperation. In this conference, each participant nation was assigned burdens including temporary protection and resettlement by the Comprehensive Plan of Action for Indochinese Refugees (Koizumi, 2011, p. 34). Although Japan sent approximately 70 percent of boat people to other nations before this decision (Flowers, 2009, p. 43), Japan accepted 192 refugees, mostly Indochinese refugees, from 1982 to 1988. Compared to the current number of refugee acceptance in Japan, which is less than 50 refugees every year (Brysk, 2009, p.159), the acceptance of 192 refugees was a significant concession.

Betts (2009) provides a broader perspective toward the Indochinese refugee case stating that Indochinese CPA ended as a successful step toward burden sharing. Indochinese CPA had difficulties to bridge the gap between the participant nations. The most significant obstacle was a serious division among the Northern nations, namely, between the United States and the other Northern nations. However, in the end, UNHCR persuaded all participant states via cross-issue persuasion (Betts, 2009, p. 120). In other words, UNHCR overcame a series of obstacles and succeeded to persuade these three groups via “cross-linkage persuasion.”

The United States strongly opposed refugees’ involuntary repatriation with Vietnam because the U.S. wanted to keep them to enhance influence of the liberal
democratic regime. On the other hand, some northern nations including Australia and the United Kingdom questioned the U.S. attitude against involuntary repatriation blaming Vietnam for its attitude not to actively accept repatriated returnees (Betts, 2009, p. 119). With the end of the Cold War, northern nations expected to have the decrease of refugees’ arrival and the increase of refugees’ repatriation to Vietnam. Yet refugees continuously came to the northern nations and their original country, Vietnam, was not only unwilling to accept repatriated refugees, but also opposed to forced repatriation. The continuously increasing number of refugees and Vietnam’s attitude led to serious skepticism by the North except for the U.S. Eventually, it started to threaten the principle of non-refoulement, which was the core of UNHCR. The 1951 Convention says that “States should not return refugees in any matter whatsoever to territories in which they face the possibility of persecution” (Goodwin-Gill & McAdam, 2007, p. 267).

Since 1975 when the U.S. retreated from Vietnam, a large number of Vietnamese refugees started to flee from Vietnam to neighboring Asian nations. The Indochinese CPA determined the cut-off date as March 14, 1989. While asylum seekers who arrived before this date were automatically admitted as refugees, asylum seekers who arrived after this date were obliged to undergo screening process in order to attain official refugee status. Even though many applications for refugee status by Vietnamese asylum seekers were rejected due to lack of qualification, the United States and Vietnam continuously opposed to these unqualified asylum seekers’ forced repatriation. In other words, the number of asylum seekers became out of control by countries of asylum and, consequently, a large number of asylum-seekers flew into both first asylum and
resettlement nations. Finally, countries of asylum and resettlement states started to insist that they were going to enforce repatriation if this situation did not change. That is to say, these nations were about to violate the principle of non-refoulement because involuntary repatriation is prohibited under this international law (Betts, 2009, pp. 117-118).

Faced with the threat of violating the non-refoulement principle, UNHCR played a key role in mediating these three groups: countries of asylum, resettlement countries, and Vietnam (Betts, 2009, p. 119). The principle of non-refoulement is a core belief in UNHCR and therefore, UNHCR could not take any position inconsistent with this principle. Hence UNHCR decided to oversee responsibility for rejected and repatriated asylum seekers by monitoring them in Vietnam. Betts (2009) insists that UNHCR’s tactful mediation prevented the principle of non-refoulement from being violated and alleviated the widening gap among these three groups.

In the framework of the Indochinese CPA, Japan took a role of a country of asylum and, consequently, accepted 192 refugees between 1982 and 1988 as mentioned earlier. However, it is quite controversial whether Japan’s behavior regarding Indochinese CPA could be recognized as a successful step to achieve burden sharing in the long-term view because Japan obviously gave preferential treatments only to Indochinese refugees. In other words, Japan provided selective refugee protection on a case-by-case basis rather than consistent and continuous refugee protection. Although thousands of asylum seekers arrived in Japan every year, Japan forcibly deported asylum seekers who did not have the proper documents, which were necessary to apply for attaining refugee status. Compared to other asylum seekers, Indochinese refugees had a
great advantage because they were more likely to gain permission for a long-term stay in Japan and, therefore, had a greater chance to be granted official refugee status in Japan.

Along with the end of the Cold War, the risk of Indochinese refugees being persecuted for where they came from, namely, former communist nations, decreased. In addition, the U.S. and Vietnam’s strong opposition toward involuntary repatriation was alleviated. In other words, Vietnam started to welcome returnees instead of forcing other nations to resettle these Indochinese refugees. Responding to this change, the number of accepted refugees in Japan dramatically decreased. For example, only one applicant was granted refugee status in 1991 (Flowers, 2009, p. 60). In short, this decreased number represents Japan’s attitude not to accept any refugees other than exceptional Indochinese refugees. The citizens’ shared recognition that Japan is a homogenous country and is not suitable for refugees to actually settle in Japan, also prevented Japan from enforcing comprehensive refugee protection. In other words, refugee protection is not fundamentally improved as this data illustrates that Japan accepted Indochinese refugees as an emergent exception and a mere temporary issue (Flowers, 2008, p. 342). As a response to both international pressure and partial domestic pressure from Koreans in Japan, Japan tried to show its attitude to improve refugee protection through the ratification of the International Refugee Convention and a series of its domestic laws’ amendments such as the National Pension Law, the National Health Insurance Law, and the Nationality Law. However, these actions only led to superficial improvement regarding refugee protection rather than to concrete change (Flowers, 2009, pp. 38-41).
Part of the reason Japan could not successfully conduct burden sharing in Indochinese refugee case was the weak power of domestic activists.

Some countries such as the United States and Australia were established by immigrants. According to John Kane (1997), Australia also desired to maintain its homogeneity as “White Australia” and its unity on the basis of “Anglo-Celtic Australia.” However, due to the already existing diversities within Australia and its liberal democratic regime, Australia no longer could maintain its homogenous nature (pp. 128-129). Thus, countries with such historical background are more likely to be tolerant of diversities compared to homogenous countries such as Japan. Tolerance of diversities makes it easier to cause active domestic movements to improve refugee protection. That is to say, many of their people were refugees and they can agitate domestic activities through their own empathetic experiences. On the contrary, Japan has successfully maintained its homogeneity.

Compared to the Australian case, the extent of social movements for refugee protection caused in Japan is significantly low. Korean people successfully persuaded Japan to amend a series of domestic laws and their success led to a combined effect to improve refugee status. However, Korean people were not actually concerned with refugee protection (Young, 2010, p. 3). That is to say, Koreans no longer worked as helpful domestic activists to improve refugee protection after fulfilling their desire to attain full citizenship in Japan. Thus, homogenous countries like Japan are far less likely to have domestic activists strong enough to accelerate fundamental changes. Although the extent of social movements in Japan remains weak, some NGOs contributed to refugee
protection activities. Meryll Dean and Miki Nagashima (2007) argue, through analyzing Japanese cases, the importance of NGOs for the purpose of conducting states’ internal reform. Concerning refugee-status issues in Japan, two Japanese governmental institutions engage in refugee issues in Japan: the Ministry of Foreign Affairs (MOFA) and the Ministry of Justice (MOJ) (Dean & Nagashima, 2007, p. 490). These two governmental organizations have completely different institutional cultures. While MOFA places emphasis on establishing Japan’s international reputation and relationship with other nations, MOJ mainly lays importance on protecting Japan from exterior hazards, including illegal immigrants, and on enforcing the existing Japanese domestic laws. In short, Japan successfully adopted the International Refugee Convention with the MOFA’s leadership. However, the convention’s actual application to the domestic legal sphere was strongly opposed and prevented by MOJ (Flowers, 2008, p. 343). As a result, while Japan largely contributed to support refugees in the international sphere as represented by its tremendous donation to UNHCR, the Japanese government could not accomplish its responsibility for refugee protection domestically as a contraction state of the International Refugee Convention (Dean & Nagashima, 2007, p. 484).

Due to the lack of domestic activists and Japanese governmental support for refugees in the domestic sphere, many Japanese NGOs were formed and played supplemental roles. (Dean & Nagashima, 2007, pp. 483-484). These NGOs were established by individuals who actually saw refugees’ sufferings and recognized the seriousness of refugee issues. For example, the Japan Lawyer’s Network for Refugees (JLNR) consists of Japanese lawyers who have opportunities to give asylum seekers legal
advice to attain refugee status in Japan. In the 1990s, they devoted their effort to appeal against the rejection of asylum-applications because around 75 percent of them were denied at that time. They examined Japan’s judicial determination and refugees’ profiles carefully for the purpose of helping refugees to win and attain official refugee status from the Japanese government (Dean & Nagashima, 2007, p. 495). That is to say, these organizations are more likely to work as a voice for refugees in Japan.

Even though JLNR contained only 30 members, their influence was significant. The Japanese lawyers started to apply international refugee laws in the domestic courts in order to disseminate the international legal standard regarding refugee status. They invited Alan Mackay, the vice president of the International Association of Refugee Law Judges, to the Japanese court for two days to monitor the court system in Japan. In addition, the attempt of a North Korean family to seek protection in the Japanese consulate in China occurred, which agitated the anger of these lawyers. The family was caught by the Chinese guards inside of the Japanese consulate on May 9th, 2002 (Rosenthal, 2002). Even though the Chinese guards entered the Japanese consulate, Japan turned these North Korean refugees over to the Chinese guards without any resistance. Japan’s indifferent and cruel attitude toward the North Korean refugees was criticized internationally through the media. For instance, the broadcasted image of a two-year old North Korean girl, Kim Han Mee, was shocking enough to attract people’s attention internationally. Han Mee was a member of the North Korean family who tried to enter the Japanese consulate seeking asylum, and the horrendous image of her crying while the Chinese guards treated her mother oppressively was broadcasted internationally (Brooke,
2002, p.1). As a result, the indifferent attitude of the Japanese consular officer with the North Korean refugees fueled the anger of the Japanese attorneys toward the conservative Japanese government, insisting that Japan should have given the North Korean refugees a helping hand rather than acting as an indifferent spectator. These lawyers rose to change the governmental conservative policies regarding refugee status including a 60-day rule (Brysk, 2009, p. 159).

Japan had a 60-day rule, which stipulated that any asylum-applications were declined without mercy if they were submitted more than 60 days after asylum seekers’ entry in Japan (Dean & Nagashima, 2007, p. 493, 498). However, the Immigration Bureau’s staff, under the control of MOJ, were told not to provide adequate information about the 60-day rule and the asylum-applications’ process (Dean & Nagashima, 2007, p. 491). As a result, many asylum seekers’ applications were declined without having legal evaluations, and JLNR continuously exposed this rule’s problematic aspect. According to JLNR, due to this problematic 60-day rule, many potential refugees, who had risks of being harmed by their native countries were repatriated to where they originated because of their late applications. These domestic criticisms were expanded through not only NGOs’ alliance with other NGOs but also with international organizations, including UNHCR, and returned as a larger international pressure toward Japan, namely, the boomerang effect. In other words, these activities caused both domestic and international criticisms. The Japanese government, therefore, finally abolished the rule in 2005. Although the extent of the boomerang effect was not significant enough to bring concrete
improvement of refugee protection in Japan, it is an important step to solve refugee protection activities in the long-term view.

As illustrated by this case, NGOs have great potential to lead nations to fundamental change. Although no domestic activists existed for refugees in Japan, NGOs worked as a substitute for domestic activists. Traditionally, there is a low level of interest in refugee status among Japanese. However, Japanese lawyers, who had actual opportunities to see refugees and to recognize their problems, formatted an NGO, namely JLN, and represented refugees’ voices. In addition, Japan still takes a conservative attitude toward refugee protection, and the role of NGOs in Japan is quite restricted as Flowers (2009) argues (p. 55). However, it is also true that NGOs succeeded to mediate Japan’s extreme anti-refugee behaviors. NGOs conducted domestic activities to improve refugees’ status in Japan on behalf of refugees. However, when the number of accepted refugees increases and they become accepted as official Japanese citizens, refugee issues will be advocated and dealt with as more internal issues, further improving the status of refugees.

The role of empathy plays a significant role in Japanese social movements for refugee protection. For instance, Shogo Watanabe, the secretary general of JLN, is one of the refugee lawyers that has improved refugee status in Japan. Watanabe argues that the incident of the North Korean family’s attempt to enter the Japanese consulate in China obviously represents Japan’s strict and cruel attitude toward refugees (Jinbou, Miyadai, & Watanabe, 2002). According to Watanabe (2002, August), the Japanese refugee policies are nothing but fearful and heartbreaking for refugees. Responding to
strong criticism toward small number of refugee acceptance, the Japanese government explains that the proportion of refugee recognition in Japan is by no means inferior to that of other developed nations. That is to say, Japan grants refugee status to asylum-seekers less often because the number of refugee applications itself is quite small compared to that of other developed nations. Thus, from the perspective of the Japanese government, Japan takes adequate responsibility for refugees. However, Watanabe (2002) insists that the strict refugee strategies of Japan prevent asylum-seekers from applying for refugee status. Even though the application for refugees is still in progress, Japan often impounds asylum-seekers in a detention center as if they were criminals. Because of the obscure, unpredictable, and merciless legal process, many asylum-seekers hesitate to apply for refugee status in Japan because of the fear of being punished and deported (Jinbou et al., 2002).

Watanabe (2002) also strongly claims that Japan established a problematic legal structure in order to avoid accepting refugees. He criticizes the 60-day rule stating that this rule completely ignores the viewpoint of refugees. The Japanese government insists that the 60-day period is long enough for asylum-seekers to apply for the refugee status and, therefore, it is a reasonable rule. On the other hand, Watanabe questions the attitude of the Japanese government, asking, “Can we demote refugees to illegal immigrants simply because of their 60-day application delay?” According to Watanabe, the risk of being persecuted in their original countries would still remain. Thus, the deprivation of their rights to apply for asylum under the 60-day rule is highly problematic (Jinbou et al., 2002).
From the perspective of Watanabe (2002), the Japanese government and their people should recognize refugees as human beings rather than political and labor tools. For instance, during a time of high economic growth in Japan, Japan strategically accepted immigrants and refugees in order to supplement the demand for labor forces, and they were often assigned dirty work in which ordinal Japanese people hesitate to engage. In other words, Japan recognized foreign immigrants and refugees as a mere cheap and easy labor force. Instead of accepting refugees as convenient tools, Watanabe (2002) insists that we should treat them humanely. Actually, Watanabe (2002) actively helped a refugee family in order for them to live a more humanely acceptable human life. In one of his cases, Watanabe (2002) plead for a Burmese man who came to Japan in 1988 in order to avoid political persecution under the authoritarian military government. Although he applied for refugee status in 1994, his application was rejected because of the 60-day rule and he was impounded in a detention center. His detention meant a separation of family. Seeing the daughters of the Burmese man cry, Watanabe (2002) strongly said that Japan should not deprive the children of their father; the Japan’s behavior was a violation of the CRC. In addition, the children of the Burmese immigrant grew up in Japan and can speak only Japanese. Considering these facts, Watanabe insists the necessity to keep a family unit together and to take what is the best for their future into consideration (Jinbou et al., 2002).

Watanabe broadly works as a human rights lawyer especially for protecting the rights of foreigners, including refugees and immigrants. His empathetic attitude toward such foreigners is shown in his words, “Foreigners are not objects. You cannot just bring
or take them whenever you wish” (Filipino family at center, 2010, para. 4). Watanabe (2010) says he provides quasi-pro bono services for refugees because asylum-seekers do not usually have enough money to pay for lawyers (pp. 80-81). Furthermore, he receives strong criticisms by Japanese people. Some Japanese people criticize Watanabe saying that Watanabe is a betrayer of Japan who tries to protect criminals and, therefore, he does not deserve to be a lawyer and should be disbarred (Rejection of a special stay permit in Japan, 2009). Considering scarce monetary compensation and severe criticism from Japanese people, it is obvious that Watanabe works to improve refugee protection for his personal and altruistic reasons rather than material benefits.

In sum, just as Australia, the authority of Japan is also far beyond the legitimate power of UNHCR. Although Japan has been strongly criticized about its conservative attitude toward refugee protection from various international organizations, such international pressure did not succeed to change the strict attitude of Japan because the annual number of refugee acceptance in Japan continuously remains extremely limited (Brysk, 2009, p. 159). As in the case of Australia, Japan also intentionally prevents social activists from having access to top governmental decision makers: MOJ. Social movements were formed in order to change extreme governmental anti-immigration policies in both Japan and Australia. However, the significant difference between Australia and Japan is the degree of effectiveness of social movements. Various classes of Australian people, including intellectuals and the middle class, enthusiastically participate in refuge protection activities as represented by the example of ChilOut. In Japan, however, social activists for refugee protection were quite limited to specific
social groups such as a group of refugee lawyers: JLNK. The difference of social movements in these two countries is mainly due to the role of empathy and their cultural background. As mentioned before, Australia had to give up its harsh policy of White Australia and its social unity under “Anglo-Celtic Australia” because of already existing ethnic and cultural diversities in Australia. However, Japan successfully remains as a racial and cultural homogenous nation. Under such social homogeneity, Japanese people are less likely to become empathetic toward refugees because they merely recognize refugees as “others.” This unique cultural background is directly connected with lower enthusiasm in social movements for refugee protection in Japan.

Although the growth of social movements for refugee protection seems slow and weak in Japan, it can be said that transnational advocacy networks have enough potential to improve refugee protection in the long-term. The potential is well illustrated by the power of transnational advocacy networks when social activists including JLNK succeeded in persuading the Japanese government to abolish the notorious 60-day rule on behalf of refugees in distress. The number of empathetic activists is apparently increasing through transnational advocacy networks as represented by a refugee lawyer, Watanabe. When the number of accepted refugees increases and they become accepted as official Japanese citizens, refugee issues will be advocated and dealt with as more internal issues, increasing refugees’ status.
CONCLUSION

As both of the Australian and Japanese cases indicate, the degree of public awareness toward refugees and the influence of advocacy networks have been continuously enhancing in order to improve refugee protection. Some scholars of rational theories might conclude that the Tampa Affair and the Indochinese refugee case are the perfect failure of UNHCR and burden sharing in the face of the Australian and Japanese sovereign power. However, when these cases are analyzed in the broader context, a different scenario, which the Australian and Japanese government did not envision, has been occurring.

For instance, the Australian government attempted not only to agitate people’s emotion against the influx of refugees through the Tampa Affair by labeling asylum-seekers as illegal immigrants, but it also tried to shut asylum-seekers out of Australian territory completely by creating the extreme immigration law of the Pacific Solution. Furthermore, Australia strategically diverted the public eye from horrendous situations in which refugees were placed by establishing detention centers outside Australia. Thus, it is obvious that the Australian government imagined a scenario for the future in which Australia excluded all refugees from their territory with the public support or at least without having strong criticism from Australian people.

Contrary to the intentions of the Australian governmental, public awareness toward refugees has been gradually increasing. Visible horrendous images of refugees provided by social activists spread through transnational advocacy networks and fueled the public anger toward the extreme Australian anti-immigration attitude. As a result, the
number of empathetic social activists, who can feel suffering of refugees as if it were their own, has been continuously growing. Ironically, Australia made its problematic immigration policies widely known in international communities through the Tampa Affair. I hypothesize that Australia is now at the first stage of refugee protection. In this initial step, refugee issues should gain attention from broad audiences and be widely recognized. Thus, this process has clearly been caused in the case of Australia because oppressed voices of refugees have gradually been heard in international communities, and audiences come to know how refugees are treated badly.

Even in ethnically and culturally homogenous Japan, such a process has been occurring and public awareness has been gradually enhancing through transnational advocacy networks. Due to Japan’s unique cultural and historical background, progress to improve refugee protection is weak and slow. In addition, the large number of ordinary Japanese people still remain indifferent toward refugees and recognize them as merely “outsiders.” Even so, the limited number of Japanese people who have direct contact with refugees, such as Japanese refugee lawyers, are becoming empathetic and causing social movements in order to change the Japanese strict immigration policies. Thus, the dynamics of social movements cannot be fully recognized by Betts’ (2009) state-centric and material-focused theory. Compared to Betts (2009), Flowers (2009) provides broader explanations about refugee protection by analyzing the role of domestic activists and symbolic power. However, Flowers (2009) mainly focuses on already existing social structures rather than providing further analysis of the social dynamics. As a result, Flowers (2009) concludes that the role of NGOs in Japan is restricted and, therefore,
refugee protection activities in Japan are less successful. Yet, as mentioned earlier, it does not necessarily mean the failure of NGOs and social movements. It is necessary to analyze refugee protection activities in the broader framework because the public awareness has been continuously growing. Thus, both Betts’ and Flowers’ theories should be enhanced to analyze refugee protection in the long-term view because their theories overlook important future scenarios of refugee protection.

As illustrated by both the Australian and Japanese cases, international pressure alone is not enough to lead to states’ fundamental change. For instance, due to international pressure, Japan adopted the International Refugee Convention, which Japan could not totally enforce. In addition to the international pressure, strong pressure from domestic activists helped to mediate the extreme refugee strategies of the Japanese government. Even though there exists no affirmative domestic activists for refugee protection, NGOs can play a significant role on behalf of asylum-seekers. In the end, an alliance between NGOs and UNHCR may cause the boomerang effect, which can cause fundamental change in states, namely, significant increases of refugee status and refugee protection activities.

Domestic social movements are more likely to occur when a visible horrendous image regarding refugee issues are available. For instance, after the Tampa Affair, many Australian people witnessed the scene when boat people were mercilessly pushed back to the high sea by the Australian naval forces. Similarly, many Japanese people came to know the cruel attitude of the Japanese government toward refugees through the broadcasted image of a sympathetic two-year old North Korean girl crying. That is to say,
such visible images tend to turn indifferent domestic audiences into empathetic social activists. Empathetic social activists work strategically in order to share their empathy toward refugees with many other people. Through their own experiences, empathetic social activists understand well the power of an image as illustrated by the example of ChilOut and, therefore, they work tactfully. With the effort of social activists, advocacy networks grow continuously. In short, empathy plays the most significant role in improving refugee protection and removing the North-South division. Unfortunately, the power of advocacy networks is not strong enough to attain access to top political decision makers as both Australian and Japanese cases indicate at this moment. However, it can be argued that it has enough potential to reach the top political decision makers and convince them to change their anti-refugee attitude to pro-refugee attitude. In other words, the strong potential of advocacy networks is clearly illustrated by their significant achievement of revealing hidden refugees’ voices heard to the public despite various constraints including the strong norm of state sovereignty. This process has just started and, therefore, no clear evidence exists to prove the UNHCR’s autonomous power. However, historical evidence shows how states behaviors were restricted by symbolic power, and the examples of Australia and Japan clearly indicate the UNHCR’s potential to act as an independent power vis-a-vis its strong member states.

Referring to a solution to remove the North-South division, Betts (2009) proposes that UNHCR should conduct strategically “cross-issue linkage” so that the North becomes more likely to provide financial assistance for the South regarding refugee protection. Although his suggestion is prospective as an initial approach of refugee
protection, his liberal institutionalist approach has the significant risk of merely encouraging the powerful North to shift burdens to the weaker South, rather than to share burdens fairly. As Betts (2009) argues, the South has significantly less bargaining power compared to the North. Thus, weaker nations usually have fewer options at the negotiation table. Even though the amount of money in the name of burden sharing proposed by the North is insufficient, the poor South has no other option but to accept the conditions put forth by the North. That is to say, the poor South is eager to attain money for its state survival, and the rational North is fully aware of such a desperate situation in the South. For instance, if the South accepts an insufficient amount of money for refugee protection from the North, some Southern countries might use such limited monetary resources for their own benefits which are unrelated to refugee protection, including the developmental purpose. In other words, refugees are continuously forced to remain in miserable and marginalized situations in poor developing nations. From my perspective, burden sharing should not be a means of the powerful North of avoiding their responsibility. Hence, such situations should not be recognized as burden sharing.

Furthermore, even though the amount of monetary assistance provided by the North is sufficient, it does not necessarily mean that burden sharing is conducted fairly. For instance, considering the fact that Japan is the second highest donating nation toward UNHCR (Loescher, Betts, & Milner, 2008, pp. 93-95), some scholars might argue that Japan largely accomplishes its duty for refugee protection by its tremendous amount of financial investment. However, I suggest that this type of interpretation is not necessarily accurate. According to a survey of the public opinion in 1980, the majority of Japanese
people showed sympathy for refugees and agreed with the necessity of providing aid. However, at the same time, 97% of Japanese people disagreed with settling these refugees within Japan for security concerns (Flowers, 2009, p. 55). As this data illustrates, Japan places emphasis on their own benefits of border protection rather than refugee protection. For instance, these refugees are forced to stay in a detention center for years while Japan looks for other nations which can accept refugees on behalf of them. This prolonged process is contrary to providing benefits for refugees. To put it in extreme terms, Japan provides financial aid for refugee protection in accordance with their prioritized interests rather than providing actual protection for refugees. As a result, many neighboring developing nations provide actual protection for refugees. It can be said that such behavior is a unilateral imposition of burdens on the weaker South.

Unilateral burden sharing is usually conducted without recognizing the suffering of refugees as if it were the suffering of the North and their people. Such shortage of empathy toward refugees has the potential risk to exacerbate refugee protection activities. According to Kazuo Sumi (1989), the argument for how financial aid should be distributed is always in dispute. From his perspective, any kind of assistance has both advantages and disadvantages. For instance, while Japan distributes a huge amount of money among developing nations for the Official Development Assistance Program (ODA), Japan sometimes receives serious criticisms for its financial aid. Indigenous people who live or have lived in a developing nation receiving aid from Japan have complained that Japan provides financial assistance in an inappropriate way. From the perspective of these indigenous people, the financial aid provided by Japan was nothing
but hazardous, devastating local people’s lives rather than improving them. In other words, Japan invested money without thinking how this financial aid would influence indigenous people’s lives. Rather, Japan utilized ODA projects for their own benefits, including avoidance of criticism toward its unilateral trading surplus and the alleviation of international pressure that Japan should have redistributed its wealth as a developed nation of the second highest GDP.

As one of the ODA projects, Japan provided around 50,000,000 U.S. dollars of financial aid for the Indonesian government for the establishment of Kedung Ombo dam (Sumi, 1990, p. 98). However, due to the construction of this dam, thousands of indigenous people were displaced forcefully without sufficient compensation (Sumi, 1990, p. 98). Although this project was conducted in order to respond to the demand of the Indonesian upper-class for irrigation and the generation of electricity, voices of the poor were completely ignored. That is to say, the poor were not only compelled to move out from where they lived, but they also lost their ancestral agricultural land, houses, and livelihood due to this project (Sumi, 1990, p. 100). Any protest was mercilessly oppressed by the Indonesian military under the authoritarian government (Sumi, 1990, p. 99). Sumi (1990) categorizes such displaced persons as “refugees engendered from an unilateral developmental process (kaihatsu nanmin)” (p. 109). Sumi (1990) put a question to the Japanese ODA, asking, “Can it be called the real assistance?” In sum, Sumi (1990) strongly criticizes the Japanese authorities insisting that the indifferent Japanese government does not even try to hear the suffering of indigenous people as the example of the ODA project shows (p. 93). Under the name of assistance, ODA exposes the
weakest people to risks as represented by “refugees engendered from an unilateral developmental process (kaihatsu nanmin).” Hence, governments who support refugees without hearing voices of the weaker entities, including refugees and the South, do not conduct fair burden sharing.

Lastly, I conclude how problematic and contradictory the current Northern behaviors toward refugees are. As I described in the Australian case of Shayan, states are clearly allowed to do whatever they want under the name of state sovereignty. That is to say, states are even allowed to impound small refugee children for years in a prison-like detention center for the sake of national security. Although the Australian government introduced the Migration Act of 1958 in order to protect Australian people from security threats, it is quite questionable whether a state can recognize a 6-year old boy as a severe security threat, so much so that he deserves to be imprisoned in a detention center so that Australian people can stay safe. The majority of developed nations, including Australia and Japan, ratified international human rights conventions, and these conventions regarding human rights are more or less applied to the northern people. However, people, who are recognized as “others” in the northern political structure, are treated completely differently from human rights standard as the case of Shayan clearly illustrates.

One might say that human rights abuse is more common in developing nations and, therefore, refugees are treated in better ways even in a detention center compared to the horrendous situations in their original countries. However, the significant problem is individualistic behaviors of northerners. To put it in extreme words, even though developed nations have enough resources to give help to refugees in distress, they cast
furtive glances on refugees and let them remain in distress. While severe human rights violations toward refugees are caused within developed nations, ordinary citizens in developed nations are merely ignoring the suffering of refugees and are largely enjoying their lives under the name of human rights protection, raising the question of what liberal democracy should be like.

Currently, the world has become highly globalized and, therefore, it is necessary for us to place more emphasis on the global public good. That is to say, lives of refugees should not be sacrificed in exchange for developed nations’ unilateral benefits. For instance, Shayan will have severe difficulties to adjust himself to a normal life due to a prolonged stay in Australian detention centers. In short, the future of a child is deprived because of states’ individualistic purposes. Now nations are facing various issues such as global warming, global refugee issues, and the global war on terror. These issues cannot be solved unless each nation works collectively seeking for the global public good. In order to replace states’ individualism and make rational states recognize global issues as real, empathetic social activists are necessary. Only when people recognize issues or the suffering of victims as real or as if they were their own, global issues including the North-South division in refugee protection are more likely to be resolved.
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