A Genealogy of the Sovereign State Border Fortification with the Erosion of Refugee Protection

Rikkyo University　Ryo Kuboyama

1. Preface: The 'Midsummer Night's Dreams in Tokyo and Poland, 2021

Domestic and overseas news media reported the 'midsummer night's' exile story of a female athlete of Belarusian nationality in the Tokyo International Airport. It was short before the finale of the controversial 2021 Olympic game in middle of the global pandemic victimized more than 15,000 Japan's citizens.

The polish government's quick and eager action enabling her to enter the territory in safety and without any trouble seemingly evoked admiration from the Japanese audience. The ambassador proudly told that "Poland has strongly criticized human rights violations" by the regime of Belarus, "most actively supporting — not only those protesting against the regime and its actions, but also those who for **other nonpolitical reasons have been forced to flee the country**. (emphasized by the author)[1]" A spokeswoman for the EU foreign policy chief Josep Borrell welcomed the Polish humanitarian visa for her seeking asylum to free from "the brutality of the repression of Lukashenko's regime"[2].

And now, needless to ask: what happened on borders of the so "humanitarian" country with Belarus quite in the same period, the beginning of August 2021? The refugees from Afghanistan, Iraq, Somalia and other countries in precarious situations forcefully remained in 'no man's land' between the borders of Poland and Belarus: not supplied even water and food and not allowed to be handed water, food and other daily necessaries. The Polish government proclaimed 'state of exception' on the border areas and thus criminalized the inhabitants there and civil persons engaging in humanitarian support to them.

1　https://www.japantimes.co.jp/news/2021/08/06/national/tsimanouskaya-polish-ambassador-interview/ (August 7, 2021)

2　https://www.bbc.com/news/world-europe–58052144 (August 5, 2021)

The EU bureaucrats and several politicians of the major EU member states loudly and proudly promised the support and acceptance of Afghanistan's citizens in despair and fear after the occupation of Kabul by Taliban. Then, some of them emerged as refugees in front of their home territories. The people escaped from the nightmare in their origin countries with the dreams for peace, safety and a humanitarian society got dropped in nightmare again, by the so humanitarian government.

It seems that another nightmare for the Polish government and EU is the appearance of the refugees passed thorough Belarus but politically instrumentalized by Lukashenko's notorious dictatorship. Which nightmare is important? The nightmare for statespersons with huge power? Or the nightmare for the powerless individuals in starvation, life-threatening danger, night's coldness and anxiety? A 19−years-old young man and a 1−year-old baby from Syria, a mother from Iraq left behind five small children, and others hopelessly died on the place of their hope and dream, where 'I' and 'you' enjoy peace and safety at least. Poland's government and EU totally thrusted responsibility on Lucaschenko's government and its political conspiracy: the responsibility for the humanitarian crisis and tragedies on borders where they rigorously never opened for the refugees against international and European law and the decisions by the European Human Rights Court (ECHR 244 (2021) 25. 08. 2021).

As a matter of course, many of the researchers for migration and refugee studies observed that a primary responsibility lay with the 'fortification' of the EU member states' boders, the tightening immigration and border control elaborately invented and developed by EU and EU member states. Gradually in last three decades, it has deprived refugees of legal and safe ways to asylum seeking in the Schengen Area. The dictatorship of Belarus could not invent the political intrigue without EU's and member states' border fortification development.

Facing the collapse of the postwar global refugee protection regime, the article, as introduction to my on-going research to put the framework of global refugee protection and the conception of refugee itself in fundamental question, deals with the 'fortification' of sovereign states' borders. Based on my Ph. D research on the birth and genealogy of state immigration control, my research under way focuses on the intersection of the birth of state immigration control in the international

community and the emergence of the international institution of refugee protection.

The article tries clearly to demonstrate and to depict, in a genealogical frame, the birth and the development of the fortification of sovereign states invented in Europe and globally diffusing at the moment. First, the article introduces the contexts and origins of the border fortification in the Global North in the 1980s. Second, the developing border fortification is conceptualized and genealogically traced, in dividing four stages. Last, it shortly notes concluding remarks.

2. Origins of Fortification: Does Global North Encounter Refugees from Global South?

The 1951 refugee protection regime often have been critically reexamined, while numbers of refugees on globe recognized and counted by UNHCR drastically have been rising and no sign of calming down in the numbers and scales of people seeking heaven can be observed. The rapid growth in refugee, especially from the regions outside the 'Global North' significantly originates in the global historical institutional structures dominated and operated by the Global North and its colonial powers[3].

The humanitarian crises in the 'South' regions forcing the inhabitants to emigrate are not only inherent in their indigenous societies, politics and economies. Rather they are created and recreated by the capitalist systems led by the Global North hegemonial states and their colonialist rule and exploitation of the regions. Many of the officers and scholars of the Global North regions and the international organizations stereotypically stress the ethnic conflicts, civil wars and the collapse of governmental powers and authorities in the 'South' in association with forced

---

3 The arguments here are based on the explanatory frameworks of the historical institutionalism emphasizing significance of institutional legacies and path dependency in economic and political affairs of the present day. Regarding the historical institutionalism, see following classical works: Evans, P, Rueschmeyer, D and Skocpol, ed., T, *Bringing the State Back in*, Cambridge: Cambridge University Press, 1985; Hall, P, ed., *The Political Power of Economic Ideas*, Princeton: Princeton University Press, 1989; Steinmo, S, and K. Thelen ed., 1992, *Structuring Politics: Historical Institutionalism in Comparative Analysis*, Cambridge: Cambridge University Press; Thelen, K, Historical Institutionalism in Comparative Politics, in: *Annual Review of Political Science*, 1999, 2, pp. 369–404.

emigration.　As the colonial and postcolonial history of Haiti, one of the most impor-
tant origin countries of refugees, clearly indicates, these humanitarian crises often
root in the historical legacies of the colonial rules and continuing domination of the
ex-colonial and hegemonial powers in the political and economic lives in a postcolo-
nial era[4].

　The 'orientalist' narratives of the 'savage' 'uncivilized' human rights violations
such as gender violence, caste systems, and the persecutions with religious labels
have contributed to the invisibilization of these causalities and the 'North' states'
responsibilities and the production of the myth of the 'indigenous' humanitarian
crises of the 'South'.　The myth legitimizes the 'North' states' evasion of the duties
of refugee reception and protection imposed by the 1951 convention.　Moreover,
problematic is the" myth of difference" in this context[5].　The myth assumes that
the refugees from the 'South' to the 'North' substantially different from the typical
refugees as victims of the totalistic communist regimes, that "there were no non-
European refugees in the world at the time of drafting the 1951 Convention and
that these refugees appeared only in the late twentieth century."[6]　As the remark
by the Polish diplomat quoted above "non-political reason" suggests, the refugees
from the 'South' were labelled refugees with 'non-political' and illegitimate reasons
and thus with 'bogus refugees'.　But, the great part of the refugees from the com-
munist 'East' had rather 'non-political reasons"[7].

　The post-war era until the 1960s witnessed massive scale of forced and non-
forced migration within colonial and postcolonial regions.　As a part of refugee flow
from the 'South' reached to the 'North' in the beginning of the 1980s, the socio-
political panic suddenly were spread among the policy makers and the publics in
the 'Western'.　Through the eye of the 'Western', the forced migration seemed to

---

4　The historical causalities and connections between the humanitarian crises in and the
　forced emigration from the 'South' and the colonial, postcolonial, and imperial rules and
　the exploitation by the 'North' powers up to the present are further in depth discussed in
　another short coming article.
5　Chimni, B, S, The Geopolitics of Refugee Studies: A View from the South, in: *Journal of Refugee
　Studies*, 11(4), 1998, pp. 350–374,
6　Mayblin, L, *Asylum after Empire: Colonial Legacies in the Politics of Asylum Seeking*, London:
　Rowman and Littlefield, 2017, p. 31; Chimni, 1998, p. 356 ff.
7　Mayblin, 2017.

shift from the direction from the 'East' to the 'West' (within the 'North') to the one from the 'South' to the 'West' (from the 'South' to the 'North'). But it is not the case.

The legitimacy crises of the postwar-welfare and industrial democracies of Europe and the USA in the times of serious recession since the late 1970s accelerated and promoted the drastic politicization of the forced migration from the South regions. It was misused as a meta-political object to evade responsibilities for the misgovernment of the macro-economic management and social policies and the high unemployment during the 1980s and 1990s[8]. West European states' governments adopted the symbolic measures to limit social benefits for asylum seekers, while the party politicians there instrumentalized refugees in the welfare chauvinist discourse against counter-parties.

In the same time, the European Council and the semi-informal working group by ministers of justice and interior, the "Ad-Hoc Group" from 1986 onward took the political initiative drastically to restrict the migration to the Schengen Area, targeting at the migration of refugees. Together with the signs of the harsh turns of the immigration and refugee policies of several major destination states such as Germany, the UK and Belgium from the mid-1980s, one can observe that immigration and asylum as one of 'low politics' issues remained during the cold war came to the fore in the European and national policies[9].

The rapid increase in forced migration to the North from the beginning 1970s and the awareness of the "migration crisis" explored a way to the restrictive reorganization of the immigration and border controls in following years through the

---

8 Kuboyama, R, *Constructing State Immigration Control: How Immigration Has Been Transnationally Configured and Reconfigured as a Political Object in Germany and the United States*. (Ph. D dissertation, Bielefeld University, 2018); cf. Faist, T, How to define a Foreigner?: The Symbolic Politics of Immigration in Germany Partisan Discourse, 1978-1992, in: *West European Politics*, 17(2), 1994, pp. 50-71.

9 Kuboyama, R, Hito no Kokusaiidoomeguru Kokkashukengainen to Takokukan-shugi no Saikento: Ohshyushyokoku no Iminseisaku no "Ohshyuka 1974-2006 (Reexamining the Conception of State Sovereignty and the Multilateralism on International Migration: the "Europeanization" of Migration Policy in Europe), in: Japan Association for Comparative Politics ed., *Kokusaiido no Hikakaku Seijigaku (Comparative Politics of International Migration)*, Kyoto: Minerva Shyobo Ltd., pp. 115-169; Kuboyama, 2018.

1990s, hand in hand with the growing notions of 'out of control' and 'legitimacy crises' of the postwar 'Western' welfare and industrial democracies in the 1980s[10]. It opened a new page in the history of the immigration and asylum policy of modern sovereign states, named the "fortification" of states and borders, which step by step downgrades the postwar refugee protection regime.

3. Fortification 1.0: Visa Requirement and Career Sanctions in 1980s–1990s

Shortly after the European council on December 1986 took immigration and asylum as one of significant issues, quite for the first time in the postwar European integration process, the Ad-Hoc Group began to examine the European integration policy plans in launching the 'fortification' of the Schengen external borders. The new policy projects include the strict over-arched visa requirement program adopted in the upcoming European political integration, the carrier sanctions and the measures to eliminate multiple asylum applications inside the Schengen Area, such as the ruled responsibilities for accepting applications (Dublin Conventions as well as Regulations) and the legalization of the 'safe third country' concept.

The visa requirement program was introduced to the Schengen Agreement of 1990 and following years, and later the Schengen Aquis, called the "Schengen Visa System". It literally 'fortifies' the states and borders of the Schengen Area (see Figure 1). The UK's, Belgian and other West European states promptly domestically legislated the carrier sanctions as an informal policy proposal of the European Council in 1987 and thereafter. The both comprehensively block the channels of legal migration of the refugees from the 'South' regions as a whole to the Schengen Area. In other words, these have plunged them in "illegal migration" to Europe, and in doing so, have produced the 'illegallization' of and, in terms of the European and domestic immigration laws' breaches, the 'criminalization' of the human beings seeking asylum and peace from the 'South' to Europe. For a huge part of populations in the 'South' region, it is highly the difficult to obtain a Schengen visa whose application needs numbers of the difficult requisites including the information of an individual bank account with much remaining value.

10　Kuboyama, 2018.

The Schengen Aquis differentiate the world population in three classes in human mobility. The first class population in the Schengen Area and Switzerland have rights of freedom of movement. The second class in several 'North' countries such as the United States, Japan, Korea, Australia and others enjoys certain rights to migrate to the Schengen Area. The last class population in the 'South' countries, the vast majority of the global society, are denied rights of migratory access to the Schengen Area except for some cases of privileged inhabitants. It confines the most part of the 'South' population to their birth regions and factually deprives them of escaping from the humanitarian crises and persecutions there to Europe.

4. Fortification 2.0: Externalization of Border Controls in 2000s

Next to the wall-building in the 1.0 version in the late 1980s and the 1990s, the 2000s witnessed the consolidation, heightening and extension of the walls. Several Schengen border states such as Italy and Spain and the European Commission extended the border controls to the neighbor and transit states outside the Schengen Zone. FRONTEX as a special agency for the cooperation of border controls and surveillance of the Schengen border was created, while the United States after 9.11 introduced the institutional devices of territory entry controls. The forced migration from the 'South' to the Schengen Zone legally was irregularized and to criminalized in the stage of the 'Version 1.0'. Then the 'Version 2.0' aims to remotely control them and to capture and expel vulnerable people seeking asylum before crossing borders and entering territories, using semi-military instruments and organizations. From the 2000s onward, state and EU officers, party politicians, journalist and, even researchers (including many of the Japan's scholars for EU studies) have called it "the policy against illegal migration", in Japanese "EU no Fuhou-Imin-Taisaku".

Looking into the development of states' management of immigration in the international community, border control is a novel state behaviour, contrary to the conventional wisdom. It is quite not until the 2000s that states essentially and massively embarked in border control as a permanent device of entry control, except

for the emergent cases such as wars, revolutions, military coups, and pandemics[11].

Right after the 9.11 (New York and Washington) and the 3.11 (London and Madrid) attacks to the symbolic cities of the ex-imperialist and colonialist powers, the EU summit in Sevilla in 2002 paid attention to the control of territory entry, i.e., border control. Besides the creation of the FRONTEX agency and the exploration of several border control devices, EU and several EU member states developed the cooperation of border control with the Mediterranean and the African ex-colonial and transit states, also using the "mobility partnership programs" with economic supports and subvention.

Berlusconi's government of Italy concluded the treaty of friendship and cooperation with Gaddafi's dictatorship of Libya in 2008. In exchange of huge scale of the economic, financial and diplomatic aids, it obliges Libya as one of the important transit states for migration to Europe strictly to control the migrants from the southern part of Africa and to cooperate with the EU's and Italy's border control, particularly to readmit those deported by Italy's government. After then, Italy's coast guards and marine troops massively and directly have sent refugees captured in high seas, the most parts of the Mediterranean Sea. On the other hand, Libya's police no longer have ignored the refugees transiting through and staying in the territories, arresting them and pushing them out outside the borders, mostly helpless desert areas. Spain has the similar agreements with Morocco, Senegal, and Mauritania.

Bulgaria closely cooperates with Turkey, building steep walls on borders, strictly surveying migrants accessing the borders and driving out them, often by means of violence or force. Hungary often is pushing back refugees to Ukraine, based on an informal agreement, which places them in the detention centres created by EU's financial support.

All these cases of border control externalization are well known, whereas, needless to say, numerous cases of human rights violations have been reported in great numbers of documents, reports, and articles in past[12].

---

11 Why the 2000s could be identified as one of significant turning points in the history of state immigration control is discussed in depth in my Ph. D dissertation (Kuboyama 2018). The dissertation is on the way to publication in next year.

12 In 2017, moreover, Italy signed the highly problematic and controversial document

5. Version2.0 Plus: Politico-Legal Conception of 'Safe Third Country'

What significantly supports and consolidates the reinforcement and externalization of border controls is the politico-legal conception of the 'Safe Third Country'. It apparently 'legally' legitimizes 'illegal' ― under international law― activities of the states as ratifiers of the 1951 Convention and the 1967 Protocol to push back refugees on borders.

The 'Safe Third Country' concept, the politico-legal conception legally not only authorized but politically justified, originates in the period of the end of the 1970s and the beginning of the 1980s mentioned above. It was the major 'North' states' and UNHCR's negotiations and practices on the Indo-Chinese refugee 'crisis.' [13] The 'crisis' was the seemingly emergent crucial 'shift' of forced migration the 'North' states and publics recognized. It appeared for them that the 'North' encounters refugees from the 'South'.

The probably earliest legal state of this exclusionary concept is observed in the UNHCR's Executive Committee Conclusion No 15 of 1979 and No 22 of 1981 [14]. The conception was further developed and used to limit reception of Indo-Chinese refugees.

It neither legally relies on the 1951 Convention nor granted by interpretations of any paragraph of the Convention. So often in past debates is mentioned Article 31 of the Convention including "The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a

---

"Memorandum of Understanding on Cooperation in the Field of Development, Fight against Illegal Immigration⋯. and on Enhancement of Border Security" with the Libyan Government of National Accord, aiming to strengthen and support more strict internal control of transit migrants by the Libyan government of National Accord within the territories and, in doing so, to inhibit them from reaching the International Sea neat to the Italian territorial sea. (Liguori, A, *Migration Law and the Externalization of Border Controls: European State Responsibility*, London: Routledge, 2019.)

13　How this 'legal' concept socially has been constructed and reconstructed as polit-legal conception is discussed in Kuboyama 2018, and in depth in another short coming article, too.

14　Kneebone, S, The Legal and Ethical Implications of Extraterritorial Processing of Asylum Seekers: The 'Safe Third Country' Concept, in: McAdam, J, ed., *Forced Migration, Human Rights and Security*, Oxford: Hart Publishing, 2008, pp. 129‒154.

territory where their life or freedom was threatened in the sense of Article 1, enter or are present in their territory without authorization" (emphasized by the author).

However, the paragraph does not directly rule a destination state's reception of asylum application but forbids imposition of legal penalty on refugees illegally entered its territories. The conception's legal validity is highly contested and even today neither yet has been authorized by majority of jurists of international law, nor yet has demonstrated convincingly sufficient legal sources, although it has been considerably disputed among and examined by legalists, practitioners, UNHCR and other international organizations' officers and UN's experts and officers for human rights protection,[15].

Nevertheless, the concept often is tried to apply to the expulsion of refugees by the Danish government in the 1980s, in the period of the turning point as noted above[16] In the same time, Germany adopted it to the administrative law for asylum process, increased numbers of 'Safe Third Country' in the law's amendment of 1987, and defined all neighbor states as 'Safe Third Country' in the change of the political asylum rule of the Fundamental Law in 1993.

It further informally and formally discussed around the European Council, various working groups of the Council and the Schengen Group, and the informal closed transnational forums participated by the major EC member states officers and ministers, the international organizations including UNHCR and several non-European destination states (the United States, Canada and Australia) officers, which resulted in the Dublin Convention's (later the Dublin Regulation's) 'safe third country' clause[17].

15 Cf. Hathaway, J, C, *The Rights of Refugees under International Law*, Cambridge: Cambridge University Press, 2021; Moreno-Lax, V, The Legality of the "Safe Third Country" Notion Contested: Insights from the Law of Treaties: in Goodwin-Gill, G, and P. Weckel, ed., *Migration and Refugee Protection in the 21st Century: Legal Aspects, The Hague Academy of International Law Centre for Research*, Leiden: Martinus Nijhoff, 2015, pp. 665–721; Kneebone, 2008; Gil-Bazo, M, The Safe Third Country Concept in International Agreements on Refugee Protection: Assessing State Practice, in: *Netherlands Quarterly of Human Rights*, 33(1), 2015, pp. 42–77; Achermann, A, and M. Gattinger, Safe Third Countries: European Developments, in *International Journal of Refugee Law*, 7(1), 1992, pp. 19–38.

16 Joly, D, *Refugees: Asylum in Europe?* Boulder: Westview Press, 1992.

17 Regarding details in this process up to the 1990s including practices and critics of the

Thereafter, the concept globally has been diffused, imitated and learned through various channels, even among the 'South' states[18]. For instance, South Africa's government used it in practices of asylum application rejection since the creation of the legal refugee protection system by the 1998 Act and legalized it in the reform of the Immigration Act in 2002[19]. Indeed, in the same year, the United States introduced it to the agreement of 2002 on the asylum policy management with Canada (entered into force in 2004). In July 26, 2019, the Trump administration signed the controversial agreement on 'Safe Third Country' rules with the Guatemala's government to expel the refugees passed through its territory to the United States. The Trump government planned the similar agreements further with Mexico, Honduras and El Salvador, in exchange of economical and commercial benefits, also dealing with the threats of custom tariff policies against these economically vulnerable countries in reliance upon the United States.

The EU Directive of 2013 (2013/32/EU) launched the extension of the concept to the neighbor states outside the Schengen Area, which is used as an indispensable device for the externalization of border controls discussed above, and the Turkey-Deal in 2016 and the extraterritorialization of asylum process mentioned below. Even it is misused by the party politicians and government officers of several East European member states to excuse and justify their illegal push back actions on borders. As criticized by even UNHCR bureaucrats[20], it is considerably disputable whether Turkey could be defined as 'Safe Third Country.' It is the same with Libya, Mauritania, Morocco, Senegal and Ukraine.

Dublin-EU version of the concept, i.e., Joly, D, The Porous Dom: European Harmonization on Asylum in the Nineties, in: *International Journal of Refugee Law*, 6(2), 1994, pp. 159–193; Shah, P, Refugees and Safe Third Countries: United Kingdom, European and International Aspects, in: *European Public Law*, 1(2), 1995, pp. 259–288; Achermann and Gattinger, 1992; Lavenex, S, *Safe Third Countries: Extending the Eu Asylum and Immigration Policies to Central and Eastern Europe*, Baltimore: CEU Press, 1999.

18 Cf. Rausis, F, *Mapping the Global Diffusion of National Asylum Frameworks and Safe Country Policies*, unpublished working paper presented at the IMISCOE annual conference, 2021.

19 Gil-Bazo, 1992

20 UNHCR, *Legal considerations on the return of asylum-seekers and refugees from Greece to Turkey as part of the EU-Turkey Cooperation in Tackling the Migration Crisis under the safe third country and first country of asylum concept*, March 2016.

6. Fortification 3.0: Extraterritorialization and Detention

Even if the states of the 'North' built steep walls and reinforced and extended surveillance and control of the walls, refugees from the 'South' landed on borders. Moreover, the global community observes how they do and they cannot any way to evade critics from the audience of the global community. In these cases, what they do in next stage, in a version 3.0, is the 'externalization' of refugee protection on the one hand, and the 'internal confinement' of asylum seekers, detention of them, on the other hand. In doing so, they try to make asylum seekers uncomfortable and psychic illness as well as to smoothly deport them in case their applications are rejected, and refugees further thereby induce to give up asylum seeking as well as to keep away them in future.

The former, the extraterritorialization of asylum process and reception of refugees is observed classically in the airport process noted above, and outstandingly in the Australian government's 'Pacific Solutions' policy since the beginning of the 2000s. Inside the circle of EU member states' (especially Germany and the UK under the centre-left governments), the extraterritorialization strategies are discussed and planned, quite in the same period. Now Denmark's government is planning the project of the asylum process outsourcing to Uganda, agreed by the parliament and other member states will follow Denmark.

The spatial confinement of refugees is not limited to the increase in detention of asylum seekers in a wide range of countries. The softer approach observed in recent decade aims to restrict rejected asylum seeker's access to legal supports and judicial due process and to easily and smoothly deport them[21]. In this context, one can observe growing limitation of movement of refugees accommodated in camps in various regions including Africa and Middle East.

On the other hand, the accommodation and reception centres of the traditional EU destination states such as Germany, the UK and Sweden have transformed to the semi-detention institutions. They strictly survey and control asylum seekers,

---

21 In last two decades, more and more asylum seekers have been detained on grounds of a variety of political and legal justification. i.e. Campesi, G, Seeking Asylum in Times of Crisis: Reception, Confinement, and Detention at Europe's Southern Border, in: *Refugee Survey Quarterly*, 2018, 37, pp. 44–70.

whereas they purposely are dispersed in inconvenient places in isolation with local communities, restricting contacts with indigenous population and civil supporters as well as lawyers and not to make them integrated to destination society[22]. In short, refugees were uprooted in their origin countries and again are kept uprooted in destination countries: they remain in ʻno man's land' inside the destination states' territories.

7. Fortification 4.0: Confinement in Origin States' Territories

Finally, the border fortification strategies end in the confinements of refugees

Figure 1: Countries required Schengen Visa (stand: 2014)
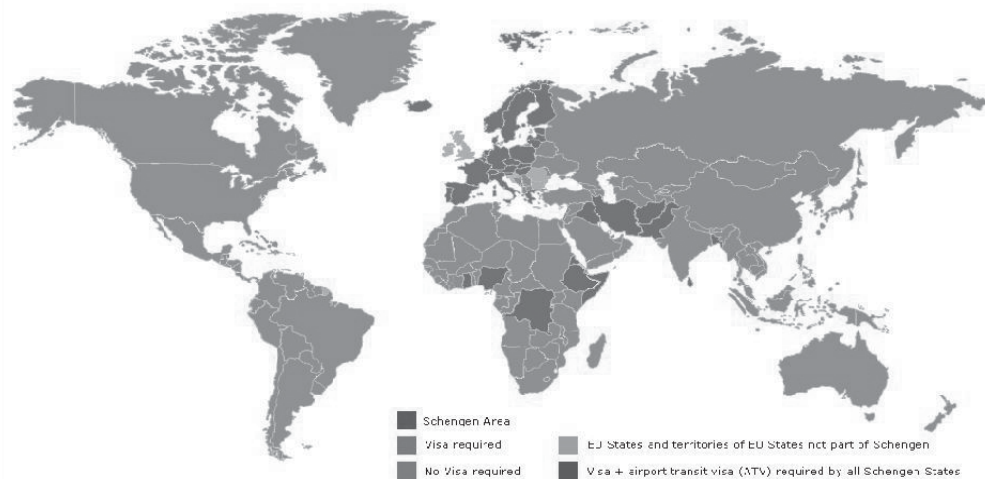
(source: http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/visa-policy/index en.htm [April 20, 2015])

---

22 Kuboyama, R, Nanmin wo Meguru Seiseiji to Sono Tenkan: Doitsu ni okeru Nanminhigoshinseisya no Syuyou to Kanri (Shifting Biopolitics for Refugee: Detention and Control of Asylum Seekers in Germany), in: *Nanmin Kenkyu Journal (Refugee Studies Journal, issued by Refugee Studies Forum, Japan)*, 8, 2019, pp. 18–37; ECRE, *Anker Cntres: Implications for asylum procedures, reception and return*, 2019; Robinson, V, et.al. *Spreading the ʻBurden'? A Review of Policies to Disperse Asylum Seekers and Refugees*, Bristol: The Policy Press; Darling, J, Domopolitics, Governmentality and the Regulation of Asylum Accommodation, in: *Political Geography*, 30(5), 2011, pp. 263–271.

Table 1: Typology of Border Fortification to Restrict Refugees' Asylum Seeking

	Focal Spot	Implication	Policy Cases	Period of Planning, Emergence and Diffusion
Version 1.0	Migratory process between origin and destination States	Limitation of legal Migration for asylum seeking	−Visa requirement and its extension (ex. Schengen Visa System) −Schengen Group's and EU's rule of carrier sanction	1980s-
Version 2.0	Borders of destination states	Extension of border control and keeping away of refugees	−Externalization of border control −Militarization of border control −Safe third country rules	2000s- (Safe third country rules: from the late 1970s)
Version 3.0	Territories of destination states	Restrictive control inside territories	−Extraterritorialization of refugee reception and Protection (ex. airport asylum process by Schengen Group's States; Australia's Pacific solutions; Denmark's outsourcing project) −Immigration detention −Spatial confinement of refugees in camps and reception centres	2000s− (Airport asylum process: from the late 1980s)
Version 4.0	Origin states	Confinement of refusees in origin states' territories	−Safe country clauses −UNHCR's confinement strategies with concept of 'IDP's −Cooperation with origin states (ex. Khartoum and Valletta Process)	1990s-

Created by the author based on the arguments above

in origin states' territories. The next version derives from the 1990s. The safe country clauses are adopted in the asylum processes of several member states of the Schengen Group such as Germany. It is well known that, during the Gulf War, UNHCR's and major 'North' states adopted the strategies to hold refugees in their own regions, in coping with the cases of the Kurdish refugees in Iraq, naming them 'Internal Displaced Persons', and they have developed the strategies to keep away refugees from the territories of potential destination states.

EU developed similar strategies for the confinement of refugees in origin states, supporting and financing border control and police of them. In this regard, EU endeavoured particularly to cooperate with Africa's origin states, such as the Khartoum Process in 2014 and the Valletta Process in 2015. In recent decade, EU rapidly developed the cooperation with African states in border controls[23].

8. Concluding Remarks: Future Research

The dismantling of the postwar refugee protection regime is inviting many researchers to disclose what happened and how the 'North' states intervened in the emergent phase of the creation of the regime and the 1951 Convention[24]. The border fortification to demolish the postwar refugee protection regime illustrated above asks a fundamental question in shedding light on another period: Who are refugees in nature? Why does the global politics need the invention of the concept of 'refugee' in the time of dominance of the hegemonic 'North' and colonialist powers? In next article, the discursive questions on so-called "mixed migration" raised by the researchers and the practitioners in the 'North' in last decade will be reexamined, focusing on the birth and transformation of the political conception of 'refugee'. The 'North' states invented the novel notions of "refugee" and refugee protection, quite while constructing immigration control systems[25]. The border for-

---

23 Kuboyama, R, *Reexamining the Reintegration Policies and Practices in Assisted Voluntary Return from Europe: German Case Studies and Political Implications*, unpublished working paper presented at the IMISCOE annual conference, 2020.

24 i.e., Krause, U, Colonial Roots of the 1951 Refugee Convention and its effects on the global refugee regime, in: *Journal of International Relations and Development*, 24, 2021, pp. 599–626.

25 Kuboyama, 2018

tification development might be only a part of the reconstruction process of state immigration control regimes in the regions of the Global North in adaptation to the globalization dynamics since the 1980s.