



HOKKAIDO UNIVERSITY

Title	"Because We Are a Community of Refugees" : An Ethnographic Study on Church Asylum in Germany
Author(s)	ODA, Hiroshi
Citation	Journal of the Graduate School of Letters, 1, 17-29
Issue Date	2006-02
Doc URL	https://hdl.handle.net/2115/5760
Type	departmental bulletin paper
File Information	1-2_ODA.pdf



“Because We Are a Community of Refugees”: An Ethnographic Study on Church Asylum in Germany

Hiroshi ODA

Abstract: Asylum is a socio-historical phenomenon which is highly thought-provoking when developing an anthropological study on relationality to the other of a society. This ethnographic study focuses on church asylum (*Kirchenasyl*) in contemporary German society. Church asylum in the postmodern era means the protection of a foreign refugee threatened with deportation within the property of a church community. The purpose of this paper is to analyze the meaning of church asylum for its practitioners from their own terms of reference. In order to locate the research question, I give an overview of the historical transformation of asylum. Set against this context, I describe in outline a case of church asylum. Among several analytical points, one aspect of contemporary church asylum, i.e. hospitality to strangers, is theoretically examined in detail. Results reveal that certain practitioners of church asylum articulate a unique type of self-perception. They reported that they rediscovered their own or their church community's nature as refugee or stranger through personal contact with refugees during church asylum, and this emergent self-perception enhanced their primary reason to receive foreign refugees: a local church community that receives a stranger defines itself as a stranger. This type of compassionate hospitality represents a questioning of state sovereignty over the acceptance and exclusion of a refugee. It also implies a transnational imagination that enables community members to connect themselves to foreign refugees going beyond their imagined national identity.

Introduction

The subject of this research is church asylum (in German: *Kirchenasyl*). While carrying out field research in Germany, some informants directed my attention towards the Disney movie: *Der Glöckner von Notre Dame* (originally: *The Hunchback of Notre Dame*¹). The setting of this movie is Paris in the 15th century. There is a scene in the first half of this film in which a “Gypsy” woman, Esmeralda, is chased by a judge, Frollo. She runs into Notre Dame Cathedral. Frollo steps in there and tries to arrest her. However, she claims “sanctuary” and, even for Frollo, who possesses the judicial power of the state, Esmeralda's arrest becomes impossible. A cathedral priest says: “Minister Frollo learned years ago to respect the sanctity of the church.” In this scene, the reality of medieval Europe is represented, where the Christian church was the “sanctuary”: a shelter that could not be violated by secular power.

The purpose of this paper is to analyze asylum in contemporary society through an ethnogra-

1 1996, Walt Disney Pictures, based on the novel by Victor Hugo

phic approach. Does church asylum as described in the Disney film exist in modern “secularized” Europe? If so, how do the participants perceive their practices? Finally, how does a nation-state treat asylum? I will investigate these questions based on the materials acquired during my ethnographic research. On a theoretical level, *hospitality* will become a particular focal point of the discussion. I see asylum as a place of interaction between those who protect and those who are protected, or as a place in which a stranger is received. In the age of the modern nation-state, asylum is translated as reception and protection of a “foreigner”. Therefore, the theme of hospitality has become more important than in earlier periods. Thus, asylum can be regarded as a suitable phenomenon to examine the theoretical problems of hospitality and relationality to the other of a society.

The methodology of investigation and analysis of this study is ethnography. I visited actual sites of church asylum and conducted participant observations and interviews. Moreover, I acquired written documents, books and visual data. The purpose was to understand church asylum in its social and historical context. During the period between 2002 and 2005, I went to Germany 6 times, and conducted ethnographic fieldwork for 2 or 3 weeks at a time. Besides the intensive research in local communities that practice church asylum, I also investigated organizations and actors that are related to this phenomenon to various extents. For example, I visited the Federal Office for Recognition of Foreign Refugees (*Bundesamt für Anerkennung ausländischer Flüchtlinge*), the German branch office of UNHCR, the municipal immigration authorities (*Ausländerbehörden*), the office of the public prosecutor, NGOs for refugee support, and the Ecumenical Committee on Church Asylum (*Ökumenische Bundesarbeitsgemeinschaft Asyl in der Kirche*; its abbreviated name is *BAG Asyl in der Kirche*).

1. Asylum

1.1. The concept of asylum

The English word asylum is derived from the ancient Greek *asylōs*, which means “inviolable” (Westermarck 1909: 161). The German word *Asyl* is derived from the same origin. This concept has had various meanings according to its historical and regional context. The following four words indicate its major meanings: “sanctuary”, “shelter”, “total institution”, and “protection from political persecution”. Sanctuary is a particular place to which a sacred meaning is given. One important function of sanctuary is a shelter in which a fugitive obtains his or her safety. It is said that prison was not originally a place of a punishment but a shelter which enabled a criminal to escape from revenge (Amino 1996: 29). This shelter was transformed into a place separating criminals from the external world and imposing a certain discipline on them. This is a birth of asylum as a “total institution”, which manages all the lives of those who are accommodated. Erving Goffman (1961) discussed this aspect of asylum in his monograph on mental hospitals. Asylum as a legal term (i.e. “protection from political persecution”) was developed by removing a territorial implication from the notion of asylum as “shelter”.

1.2. History of asylum since medieval Europe

Regarding asylum in the medieval Europe, research has been accumulated by both general

historians (Abe 1979) and legal historians (Henssler 1954; Kimmnich 1983; Landau 1979). In medieval Europe, the centralization of power by the state was not completed, but multiple institutions like the church, the city, etc. asserted their own power and authority, and, so to speak, two or more sovereignties coexisted. At this time, asylum as sanctuary and shelter occupied an important social position. The asylum of the Christian church is a salient example. The Roman Empire permitted the right of asylum to the Christian church by an edict². Also, in medieval times, the offender or the obligor could escape the hand of pursuit by running into a church to seek sanctuary. Furthermore, one background of medieval church asylum was *intercessio* by a bishop: for example, when a bishop asked the emperor for an amnesty for the fugitive. The punishment for those who violated church asylum was excommunication. In the early period of this time, this practice was not restricted to the church. Abe (1979) mentions a house, a feudal-lord hall, a trial meeting ground, a city, etc. as secular asylums or shelters. It is said that a function of these asylums in medieval times was to prevent such cases as revenge on a murderer by the victim's relatives—especially on those who committed accidental homicide. In the late medieval period, secular power tended to add restrictions to asylum. For example, various categories of crime were made exempt from protection, and limitations regarding the period of protection were laid down.

Historians have stated the historical “disappearance” of asylum after medieval times in connection with the process of national centralization. According to them, when the state strengthened its intention to monopolize political control within its territory, asylum came to be regarded as a “foreign body” which should be excluded. Restrictions on sacred and secular asylum became stronger, and it was finally abolished. As a result, the shift towards a state territory in which the teeth of a law reached uniformly was complete. Such statement can be categorized into an “entropic metanarrative” (Clifford 1988: 17). For example, Abe has described the process in which asylum disappears as follows: “When a state was established, which possessed regular army, inherited Roman Law, equipped modern criminal laws, and attained total control of police authority power, asylum was abolished extensively and it disappeared from European countries in the 15th or 16th century or by the 18th century at the latest.” (Abe 1986: 320-1)

So, did asylum disappear as suggested here? As it is, the state appropriated the social institution of asylum for itself. A nation-state has sovereignty over its own territory. This means that the territory is inviolable by any other countries. This inviolable territory is a precondition of the appropriation of asylum by a sovereign state, and consequently that state territory became a potential asylum for a foreigner who was politically persecuted in his or her country of origin. If we consider only the inside of a given territory, the state asylum has no territorial limitation as in church asylum. Therefore, in a modern state, asylum was defined not as a place, but as a legal function of “protection”. So, once the state has monopolized asylum, it became theoretically impossible for other actors within the state to assert the right of asylum.

2 Edict by emperor Arcadius and Honorius in 399 (Kimmnich 1983: 15)

1.3. Revival of medieval asylum?

In 1983, a church community in Berlin accepted three Palestinian families. The Berlin authorities had issued a deportation order to forcefully repatriate them to Lebanon or Jordan. In order to protect these families from the deportation, the church community allowed them to stay in a parish hall. In the meantime, the pastor of this parish negotiated with the city authorities, and succeeded in legalizing the stay of the Palestinians. This is the first case of church asylum in contemporary Germany (Ökumenische Bundesarbeitsgemeinschaft Asyl in der Kirche 2004: 12–17). It is notable that the police did not break into the site of this church community. The secular authorities did not arrest fugitives within the site of a Christian church. In this regard, this case of Berlin seems to closely resemble the church asylum that was described in “the Hunchback of Notre Dame”. Does it mean that medieval asylum was revived in the 1980s? “Modern” church asylum did not end there, but rather it expanded throughout Germany. In the period 1983 to 2000, a total of 395 cases were recorded by the Ecumenical Committee on Church Asylum (Sträter 2003). This development is referred to as “movement”.

2. Church asylum

2.1. German asylum law and procedure

Next, in order to establish the background of church asylum, I want to outline the modern legal system of German asylum here³. It started in 1949, when the Basic Law for the Federal Republic Germany, which included the following provision (Article 16) of the rights of asylum, was enacted:

Persons persecuted on political grounds shall have the right of asylum.

This provision is regarded as epoch-making, because it positioned the right of asylum not as national sovereignty but as an individual right (Homma 1985; Kimminich 1983). Moreover, it regarded as exceptional, that the constitution of a country stipulated the foreigner’s right. These points will be analyzed later. The Federal Office for Recognition of Foreign Refugees (*Bundesamt für Anerkennung ausländischer Flüchtlinge*)⁴ which has jurisdiction over the asylum procedure was established in 1953. This office is an extra-ministerial bureau of Federal Ministry of the Interior (*Bundesministerium des Innern*).

The procedure of German asylum is as follows. When a foreigner who seeks asylum enters German territory, he or she is sent to a First Reception Center (*erste Aufnahmeeinrichtung*), which is administrated by a federal state. The asylum seeker makes an application for asylum at a branch office of the Federal Office (*Außenstelle des Bundesamtes*), which lies adjacent to the

3 With the enforcement of the new Immigration Act (*Zuwanderungsgesetz*) in 2005, the German asylum procedure was partly changed. But the cases of church asylum investigated for this study happened under the previous legal systems. Hence the procedures and names which are referred and explained here are previous one.

4 Since 2005, it was renamed with the Federal Office for Migration and Refugees (*Bundesamt für Migration und Flüchtlinge*).

Reception Center. An eligibility officer (*Einzelentscheider*) at the branch office conducts a hearing (*Anhörung*) with the applicant, and gives a decision referring materials about situation of the country of origin. In a case where there are two kinds of positive decisions, “person entitled to asylum (*Anerkennung als Asylberechtigter*)” based on Article 16 of the Basic Law and “protection from deportation (*Abschiebungsschutz*)” based on § 51 of the Aliens Act (*Ausländergesetz*) a legal residence title is given to the applicant. Even when the application is rejected, a temporary suspension of deportation (*Duldung*) could be allowed, if humanitarian grounds are recognized (§ 53 of the Aliens Act). If this possibility is also rejected, the asylum applicant can file an action to the administrative courts (*Verwaltungsgericht*). When a new proof of political persecution comes out, a follow-up application (*Folgeantrag*) can be made at the branch office of the Federal Office. If all these applications and actions are denied to the asylum seeker, the immigration authority (*Ausländerbehörde*) will execute a deportation order.

At this stage, church asylum can be put into practice for a refugee threatened with deportation.

2.2. Outline of church asylum

Since church asylum is not a legal system, there is no stipulated normative definition. However, there are some definitions formed through practical experiences (for example, Quandt 1993: 194–5). They could be summarized provisionally in the following way: church asylum means to receive a refugee threatened with deportation temporarily in the site of a church community, in order to protect the refugee from the danger to his or her body or life expected by the forced repatriation, and to take the means for legalizing his or her stay in the meantime. Of course, this is the broadest definition of church asylum, and all the diversities and variations are not covered by it.

The main actor of church asylum is *Kirchengemeinde*. This German word can be translated with the English words like congregation or parish. However, here I would like to use “church community” as the English equivalent. This is the minimum unit of the Christian church in Germany. In the case of the Protestant Lutheran church, it is typically composed of a church, a cleric, a parish council, and lay members. In Germany after the Peace of Augsburg (1555), the local political community and the church community were united in principle (*cuius regio, eius religio*=your religion according to your region). The separation of state and church was implemented by the Weimar Constitution of 1919 (Article 137). It resulted in the separation of the political community (municipality) and the church community. However, a substantial overlapping of members of the local community and the church community still remains today.

The practice of church asylum causes various expenses, such as the living expenses of a refugee. Such costs are usually covered with donations specified for the purpose. Each church community of the Roman Catholic and Protestant Churches receives a fund that is financed by church tax revenue. However, this money “from above” is not used for church asylum, since church asylum is not an organized act by the Evangelical Church in Germany (*Evangelische Kirche in Deutschland*) or the German Bishop’s Conference (*Deutsche Bischofskonferenz*). Rather it is a practice based on the self-determination of each local church community. Just (1993) phrased this aspect of church asylum as “asylum from below”.

So who can be protected by church asylum? There are criteria like “refugee threatened with deportation”, “expected danger by the deportation” and “concrete legal means”. The refugee’s ethnicity or religion is not relevant. In fact, the rate of Muslim refugees protected by church asylum is actually high (Ökumenische Bundesarbeitsgemeinschaft Asyl in der Kirche 2004: 78–93).

In total, Sträter analyzed 227 cases of church asylum in the periods from 1996 to 2000 (Sträter 2003: 172–4). According to these statistics, 73.62% of church asylums had a successful outcome. “Successful” in this context means that deportation was prevented and—at least—a “temporary suspension of deportation” achieved (Sträter 2003: 165). Of these successful cases, 3 cases were “persons entitled to asylum” (1.27%), and 25 cases were “recognition as refugee” based on § 51 of the Aliens Act (10.63%). In these cases, the final judgment was clearly reversed. Other cases fall into various other categories, for example, “temporary suspension of deportation”, “implementation of a follow-up application” or “old case rule (*Altfallregelung*)”.

2.3. A case in Niedersachsen

Modern church asylum is not an institution, but an event. It has a beginning, a progress and an end. Therefore, in order to understand church asylum, we have to see its process (cf. Turner 1957: 91; 1985: 152)

Here, I will reconstruct a case of church asylum in city A. in Niedersachsen (Lower Saxony). This is based mainly on the narrative of pastor B. who is one of the practitioners of this case. I interviewed her in August, 2002 in the office of a Reformed Church community that she belongs to.

One Pakistani family (parents and 6 children) lived in the parish hall of this community from the end of 1996 to the spring of 2001. The church asylum lasted for four and half years. It is one of the longest church asylums ever carried out in Germany. This family was persecuted in Pakistan because of their religious affiliation to the Ahmadi sect, and they fled to Germany. Ahmadi is considered as heresy by orthodox Muslims in Pakistan⁵.

The church asylum began after their application for asylum had been definitively denied and a deportation order had been issued. In December 1996, a local NGO asked the Reformed community to give protection to this family. The NGO reported that a petition requesting a temporary suspension of deportation had already been filed to the parliament of Niedersachsen, and they were optimistic about its prospects. At a meeting of the presbytery, it was decided to give church asylum to this family.

Pastor B. told about the background of their church asylum as follows. In these passages, the history of the church community is connected to the current case of church asylum. I will analyze this point in the next chapter:

The Bible is full of stories of refugees. A more important point is: we ourselves are a community of refugees. The origin of this community was religious refugees who fled here

⁵ See Amnesty International, “Pakistan: Killing of Ahmadis continues amid impunity”, 11 October 2005, AI Index: ASA 33/028/2005 (Public), News Service No: 271: <http://web.amnesty.org/library/print/ENGASA330282005>

from Rheinland, Holland, Switzerland and France in the 17th and 18th century because of their Protestant-Reformed denomination, and economic refugees who came from Pfalz in the middle of the 18th Century. From this history of our community, we have an obligation to help refugees.

In December, 1996, during Advent, this family came to our community. Advent was the time when Joseph and Mary fled from the persecution of Herod and was waiting birth of Jesus. They themselves were refugees.

Pastor B. described the practical aspects of church asylum:

The Pakistani family lived in our parish hall. We informed the municipal authorities and the police about this from the start. A support group of this church asylum was formed easily. All expenses were covered with donations, and the children were able to go to school.

The next passage is her critical consideration on arbitrary asylum politics:

In the next year, the petition was dismissed at the Parliament of Niedersachsen. The reason for it was "no capability of integration" (nicht integrationsfähig). But this was totally incorrect. This family had bad timing. Until 1993, the Ahmadi from Pakistan were recognized in Niedersachsen as a "persecuted group (Gruppenverfolgte)". It is no longer recognized not because persecution in Pakistan ceased, but because politics in Germany changed.

She mentioned a transnational network of her denomination. Church asylum is not geographically restricted in Germany:

A concrete aim is always required for church asylum. When I attended the international conference of the Reformed Church in Hungary in 1997, I heard about the possibility of immigration to Canada from the Canadian delegation. Thus, the acquisition of qualification for immigration to Canada became the new aim. During the next year an immigration application was made through the Canadian embassy.

Trouble and conflict seem to be an inevitable accompaniment to church asylum. In particular, a conflicted relation to the state places a burden on the church community. Even so, the response by the state authorities in this case was extremely harsh:

There were also some problems during this long church asylum: a Neo-Nazi made a threat against us, and I should mention especially that my colleague and I were prosecuted on suspicion of violating paragraph 92a of the Aliens Act, i.e. "smuggling" of foreigners. This is the first case in the history of the Federal Republic of Germany that a cleric was prosecuted for smuggling. Probably, we were being made an example for other people who

were practicing church asylum. In the trial in January, 2000, we filed a protest. Then even the judge said, “Why must this be trial at all?”, and the deliberations were interrupted. In the spring of 2001, the prosecutors offered a deal to withdraw the prosecution if we agreed to pay the court costs. We thought of the fighting in the courts further to win an acquittal. However, on weighing up this matter we decided finally to pay the costs.

Several participants of church asylum underline its positive side, including Pastor B.:

We learned very many things in close contact with people who have different views of life. While continuing this church asylum, some critics changed their opinion: “What you are doing is persuasive.”

In March 2001, the application for immigration to Canada was recognized. Not long after that the Pakistani family left for Canada. About 120 persons came to their farewell party. I am proud that one daughter of the family achieved an A grade in Politics in her Canadian school. Even now, we keep in touch with this family. Moreover, some community members visit the family in Canada.

In the second half of the interview, she repeated that her community is characterized with “*refugeeness*”. In a contact situation with the other, self-reflection can become activated. This process reveals the feature of the community that receives a stranger:

Through this church asylum, the profile of this church community became clear. Firstly, the political nature of the Reformed Church, for example, the spirit of resistance was awoken, like the “Confessing Church (Bekennende Kirche)” in Nazi Germany. Secondly, it is not trifling that we are just a community of refugees. The passage from Exodus in the Old Testament was transposed to our community—“because you were strangers in the land of Egypt”. A community member said, “My ancestor was once persecuted, so I rendered help to those who are now suffering persecution”.

3. Discussion

3.1. Appropriation of tradition

Does modern church asylum have a continuity with the medieval one? Is it a “free space” from secular power? “Revival” and “continuity” of medieval asylum cannot easily be called that just because we can see a similarity with its modern counterpart (e.g. its sacred character, or the hesitation of the secular power). What cannot be overlooked is the difference of the person protected: in medieval times they were mainly criminals and debtors, whereas today they are mainly foreign refugees threatened with deportation. Furthermore, the following points cannot be seen in medieval asylum: a church community as the principal actor, democratic decision-making through the parish council, a sovereign nation-state as the context, legalization of the resident as the aim, and public relations activities through the mass media. Therefore, contemporary church asylum is not mere recurrence of the medieval tradition. Rather, I want to use the

concept *appropriation of tradition* in order to understand present-day sanctuary. Bakhtin used the term “appropriation” in the sense that a speaker makes someone else’s word one’s own when he appropriates it with his own intention in his specific context (Bakhtin 1981: 293). In 1983, at first it did not occur to the pastor in the parish in Berlin to practice church asylum. Members of a support group for Palestinian refugees asked him to protect the refugee families in the site of the church, “as in medieval times”. The beginning of contemporary church asylum was thus improvisational. In the face of an urgent need, it was a creative act of “appropriating” a medieval concept to the contemporary setting.

3.2. Relationship to state asylum

As a result of this appropriation of tradition, there are two sorts of heterogeneous asylum in contemporary Germany. State asylum protects refugees in the national territory. On the other hand, contemporary church asylum protects refugees whom the state authority does not recognize as “refugees” and is going to arrest for deportation. Therefore, the refugees in a church asylum are fugitives in two ways: they had to flee in their country of origin; and they then have to flee from the country in which they were seeking refuge. They are the *dis-placed persons* in the true sense of the word: they have no place on earth where they can stay safely. The case in Niedersachsen in which the pastors were prosecuted is a concrete example of the conflicted relationship between state and church asylum. From the perspective of the state authorities, church asylum can fall under the category of “illegal” act in the same way as “smuggling of foreigners”. However, I met an officer at a municipal immigration authority who showed an understanding that church asylum does have a certain significance—i.e. it is subsidiary to state asylum system—because it can make it possible to reexamine problematic cases. In his jurisdictional district, he experienced one case in which an asylum application of a refugee had been once denied, but during a church asylum his follow-up application was accepted and finally he received a reverse judgment as a “person entitled to asylum” from the federal office. Such experiences led him to a positive appraisal of church asylum.

3.3. Compassionate hospitality and transnational imagination

The Bible is full of stories of refugees.—I heard this phrase often from participants of church asylum during my research. This implicates their rediscovery of the Bible as a book of refugees. Furthermore, in some cases another interesting point has emerged from my ethnographic materials—i.e. the reframing of their self-perception. Reinterpretation of the Bible can lead to a particular sense of the Christian self, for example “the self as a stranger on earth”, at the ideal level. But the reframing of self-perception can occur through remembering one’s own concrete history, too. The case of Niedersachsen is one example of that. The pastor of the parish said the profile of “the community of refugees” became clearer. In the following section I will discuss this “inner” aspect of church asylum.

Hospitality is receiving a stranger, offering a meal and accommodation, and providing protection (Peyer 1987: 1). Several scholars have pointed out the general relation between asylum and hospitality (Falk 1979; Kimminich 1983; Peyer 1987). The character of hospitality is recognized particularly in contemporary church asylum in which a church community receives

a refugee. Apart from the pioneering work by Morgan (1881)⁶ in the fields of anthropology, ethnology, and folklore, hospitality has also featured in theoretical discussions on strangers (Komatsu 1985; Oka 1928; Origuchi 1929). In previous studies, while the stranger who is received has been analyzed in detail, (e.g. Oka 1928 and Yamaguchi 1975 have pointed out the “ambiguity of the stranger”) most studies have largely ignored the community that receives the stranger. It seems that this bias derives from certain underlying assumptions that are taken for granted in those papers: i.e. (1) a community is a gathering of people who reside permanently in a fixed territory, (2) this community receives the stranger who has moved from the outside and (3) a community member and a stranger can be clearly distinguished. This is a static and dichotomic view of community and stranger. Malkki described such a view as having a “sedentarist bias” (1995: 509). However, what is understood through the examination of cases of church asylum is the diversity and specificity of the communities who receive a stranger.

In the case of Niedersachsen described above, it was said that self-recognition as a “community of refugees” gave them an important ground to protect a religious minority from Pakistan. I will now provide further examples of this type of self-recognition. Rolf Heinrich, pastor (Protestant Lutheran) in Nordrhein-Westfalen, who participated in several church asylums, has stated in an interview with me as follows: “Personally, what I feel very much important is the discovery of stranger in myself during church asylum” (see also Heinrich 1998: 114). One member of this pastor’s parish belongs to the second generation of Polish immigrants to the Ruhr region. He still remembers when he came to Germany with his father in his childhood and when they escaped bombardment by the Allies during World War II. These life experiences give him a reason to support church asylum for refugees. A member of another parish in Niedersachsen reported that she helps refugees, “Since I myself am a refugee’s child”. When the Soviet army invaded former German territory in East Europe during the final stages of World War II, she had to flee together with her family. Even in the German city where they arrived, she felt her family was not welcome.

The following passages from the Old Testament⁷ are frequently quoted in relation to church asylum:

Also you shall not oppress a stranger, for you know the heart of a stranger, because you were strangers in the land of Egypt. (Exodus 23.9)

And if a stranger dwells with you in your land, you shall not mistreat him. The stranger who dwells among you shall be to you as one born among you, and you shall love him as yourself; for you were strangers in the land of Egypt: I am the LORD your God. (Leviticus 19.33–34)

These passages became the focus of attention through the reinterpretation of the Bible mentioned above. Here we can see the same logic in the participants’ own personal narratives:

6 Chapter II: The law of hospitality and its general practice

7 They are quoted from the New King James Version.

“We receive a refugee, because once we were refugees.”

Through this argument that they themselves were once refugees, contemporary church asylum is unexpectedly connected with German state asylum. Article 16 of the Basic Law had been developed from life experiences of the German politicians who drafted it. Some of them had been persecuted politically by the Nazis and found asylum in other countries: they themselves were refugees during the war. Therefore they earnestly wanted to introduce the article on the right of asylum into the Basic Law of the new Germany. One of the members of the Parliamentary Council, Friedrich Wilhelm Wagner stated: “We were very lucky that we found accommodation abroad, and that thereby we escaped from Hitler and his executioners.” (Kreuzberg and Wahrendorf 1992: 52)

It seems that we can observe a common self-recognition in the narratives of the participants of church asylum, their citation of the Old Testament, and the statement by members of the Parliamentary Council. They find their own nature as a refugee or stranger, and on this basis they receive a refugee. This is a different type of hospitality from the “sedentarist” version (cf. Malkki 1995). In the former type we can point to reciprocity. However, the participants of church asylum don’t expect that they will also be protected in countries where refugees come from. I think it would be more appropriate to call this characteristic *compassionate hospitality*. The word *compassion*⁸ refers here to someone’s attitude when he or she finds the other’s suffering in him- or herself, and gets engaged in fortune of the other. What kind of meaning does this type of hospitality have in the context of a nation-state?

In the “*national order of things*” (Malkki 1995), “nation” and “foreigner” are imaginarily categorized as qualitatively different groups of humankind (cf. Anderson 1991), and a foreigner’s entrance into a country is controlled by the sovereign state. Therefore, in the modern era, the nation-state has also grasped the sovereignty over hospitality to a foreigner. However much a citizen wants to receive a foreigner as his guest, it will be impossible if relevant documents, such as passport, visa, permission of residency, are not prepared. In church asylum and the type of compassionate hospitality, the control of people by a sovereign state is imaginarily exceeded and questioned. To recognize “refugeeness” in oneself and to see one’s self in a refugee can (re-) connect people beyond the sharp distinction of “national citizen” and “foreigner excluded from the national order of things”. Article 16 of the Basic Law, though part of the state constitution, had been an expression of this imagination to foreign refugees until the restriction was imposed in 1993. So, contemporary church asylum is a social practice from below based on this *transnational imagination*.

Conclusion

In this paper I have examined the meaning of church asylum and its relation to the nation-state. The analysis revealed that church asylum is a complex socio-historical phenomenon which contains the following elements: (1) a response of the local religious community to a (post-) modern refugee issue, (2) a questioning of state refugee politics, (3) an appropriation of

8 In Forges 1997 and Takahashi et al. 2002, the significance of the concept *compassion* is discussed in detail.

tradition and (4) compassionate hospitality. To summarize, church asylum is a place or a “gap” opened by a local community for people who have no place to reside safely in the national order of things. The type of compassionate hospitality is observed in its practice, and it implicates transnational imagination to the other. However, I must add the caveat that this typology cannot cover all possible cases of church asylum.

Abe (1979) regarded asylum as an important phenomenon for investigating the relationship between people in medieval times. I think it is still true in the present day. However, the following questions remain to be determined: (1) what does the “revival” of church asylum indicate in the broader European context after the middle of the 1980s, and (2) is it a germination of a post-national social order?

Acknowledgements

My special thanks are due to all those who received me warmly and cooperated with my field research in Germany. This research was supported in part by the Grant-in-Aid for Scientific Research of the Ministry of Education, Culture, Sports, Science and Technology, Japan, in 2002 and 2003 (Encouragement of Young Scientists (B)). I am indebted to Mr. Mark Holst, Associate Professor at the Center for Language Studies, Otaru University of Commerce, for editing the English draft and making a number of helpful suggestions. But responsibility for the text rests entirely upon the author.

References

- ABE, Kinya (阿部謹也), 1979, Doitsu Chusei-Kohki ni okeru Asyl (Asylum in late medieval Germany). In *Europe: Keizai, Shakai, Bunka*. Fukuya KURIHARA, Kingo YAMADA and Shinichi YONEKAWA (eds.), pp. 269–310. Sobun-Sha. (「ドイツ中世後期におけるアジール」『ヨーロッパ——経済・社会・文化』栗原福也, 山田欣吾, 米川新一 編, 創文社)
- 1986, Asyl no Shiso (On the Idea of Asylum). In *Chusei no Hoshi no Shitade*. pp.315–322. Chikuma-Shobo. (「アジールの思想」『中世の星の下で』筑摩書房)
- AMINO, Yoshihiko (網野善彦), 1996, *Muen, Kugai, Raku* (enlarged edition). Heibon-Sha. (『増補 無縁・公界・楽』平凡社)
- ANDERSON, Benedict, 1991, *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (revised edition). Verso.
- BAKHTIN, Mikhail, 1981, *The Dialogic Imagination: Four Essays*. University of Texas.
- CLIFFORD, James, 1988, *The Predicament of Culture: Twentieth-Century Ethnography, Literature, and Art*. Harvard University Press.
- FALK, Zeev W., 1979, Asylrecht II. Altes Testament. In *Theologische Realenzyklopädie, Band IV*. Gerhard KRAUSE and Gerhard MÜLLER (eds.), pp.318–319. Walter de Gruyter.
- FORGES, Jean-François, 1997, *Éduquer contre Auschwitz: Histoire et Mémoire*. Editions Sociales Françaises.
- GOFFMAN, Erving, 1961, *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates*. Anchor.
- HEINRICH, Rolf, 1998, “Laß mich Zuflucht haben unter deinen Fittichen”: Gemeindepädagogische Implikationen des Asyls in der Kirche. *Jahrbuch der Religionspädagogik* 14: 109–134.
- HENSSLER, Ortwin, 1954, *Formen des Asylrechts und ihre Verbreitung bei den Germanen*. Vittorio Klostermann.
- HOMMA, Hiroshi (本間浩), 1985, *Kojin no Kihonken toshiteno Higoken* (The Right of Asylum as an Individual Basic Right). Keiso-Shobo. (『個人の基本権としての庇護権』勁草書房)

- JUST, Wolf-Dieter (ed.), 1993, *Asyl von unten: Kirchenasyl und ziviler Ungehorsam—Ein Ratgeber*. Rowohlt Taschenbuch Verlag.
- KIMMICH, Otto, 1983, *Grundprobleme des Asylrechts*. Wissenschaftliche Buchgesellschaft.
- KOMATSU, Kazuhiko (小松和彦), 1985, *Ijin-Ron* (On Stranger). Seido-Sha. (『異人論』青土社)
- KREUZBERG, Hans and WAHRENDORF, Volker, 1992, *Grundrecht auf Asyl: Materialien zur Entstehungsgeschichte* (2. neubearb. Aufl.). Heymann.
- LANDAU, Peter, 1979, Asylrecht III. Alte Kirche und Mittelalter. In *Theologische Realenzyklopädie Band IV*. Gerhard KRAUSE and Gerhard MÜLLER (eds.), pp.319-327. Walter de Gruyter.
- MALKKI, Liisa H., 1995, Refugees and Exile: From “Refugee Studies” to the National Order of Things. *Annual Review of Anthropology* 24: 495-523.
- MORGAN, Lewis Henry, 1881, *Houses and House-Life of the American Aborigines*. Government Printing Office.
- OKA, Masao (岡正雄), 1928, Ijin sono ta (Stranger and so on). *Minzoku* 3(6): 79-119. (『異人その他』『民族』)
- ÖKUMENISCHE BUNDESARBEITSGEMEINSCHAFT ASYL IN DER KIRCHE (ed.), 2004, *Asyl in der Kirche: Eine Dokumentation*. Von Loeper Literaturverlag.
- ORIGUCHI, Shinobu (折口信夫), 1929, Tokoyo oyobi “Marebito”. *Minzoku* 4(2): 1-62. (『常世および『まれびと』』『民族』)
- PEYER, Hans Conrad, 1987, *Von der Gastfreundschaft zum Gasthaus: Studien zur Gastlichkeit im Mittelalter*. Hahnsche Buchhandlung.
- QUANDT, Jürgen, 1993, Kirchenasyl—Ein praktischer Wegweiser für Gemeinden. In *Asyl von unten: Kirchenasyl und ziviler Ungehorsam—Ein Ratgeber*. Wolf-Dieter JUST (ed.), pp.193-204. Rowohlt Taschenbuch Verlag.
- STRÄTER, Beate, 2003, Über Erfolg und Misserfolg von Kirchenasyl. In *Kirchenasyl: Ein Handbuch*. Wolf-Dieter JUST und Beate STRÄTER (eds.), pp.164-177. von Loeper Literaturverlag.
- TAKAHASHI, Tetsuya, SUNAGA, Yoko, NAKANISHI, Shintaro et al. (高橋哲哉, 須永陽子, 中西新太郎 他), 2002, *Compassion ha Kanou ka?* (Is Compassion Possible?). Kage-Shobo. (『<コンパッション(共感共苦)> は可能か?』影書房)
- TURNER, Victor, 1957(1996), *Schism and Continuity in an African Society: A Study of Ndembu Village Life*. Berg.
- 1985, Process, System, and Symbol: A New Anthropological Synthesis. In *On the Edge of the Bush: Anthropology as Experience*. pp.151-173. The University of Arizona Press.
- YAMAGUCHI, Masao (山口昌男), 1975, *Bunka to Ryogisei* (Culture and Ambiguity). Iwanami-Shoten. (『文化と両義性』岩波書店)
- WESTERMARCK, Edward, 1909, Asylum. In *Encyclopedia of Religion and Ethics*. James HASTINGS (ed.), pp.161-164. T. & T. Clark.