

[Working Paper Series: Pandemic Crisis and Democratic Governance in Asia – Part 2]

The Fairness Trap: Vaccine Reservation Systems and Chaos for the Elderly in Japan

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COVID-19 vaccination in Japan has caused confusion for the elderly. Although a substantial portion of the elderly is not familiar with the Internet, municipalities used online reservation systems and designated an incomparably large number of elderly people as able to reserve spots at once. The reservation sites went down due to the large number of simultaneous accesses and, unfamiliar with such systems, the elderly users were at a loss to understand the situation. They also tried to make reservations by phone, but the phone lines were jammed and calls could not be answered. In anxiety, the elderly rushed to municipal offices in large numbers and vented their anger when they learned that the offices would not accept their reservations in person.

The root of the problem lies in the fact that many municipal offices tried to ensure fairness of opportunity without taking into account the characteristics of the target population. After explaining the confusion surrounding the vaccine approval process and the characteristics of the vaccine reservation systems in Japan, this paper analyzes how the reservation systems were problematic from the perspective of equity. The final section discusses how fairness should be interpreted in order to protect human rights.

Delay in Vaccine Approval

In Japan, vaccination for healthcare workers began on February 17, 2021. This was followed by the initiation of vaccine registration for the elderly on April 12 in some municipalities, and nationwide registration began on May 17. The vaccination itself began several months behind the original schedule, due to the delay in the government of being able to secure the required vaccines.

The Japanese government signed a contract with Pfizer for 120 million doses in July 2020, in what was one of the earliest contracts worldwide, alongside Canada, the United Kingdom, and the United States. However, Japan was slow in the subsequent approval process. The pharmaceutical authorities in the UK, for example, conducted domestic approval of the vaccines using a rolling review system in light of the urgency of the situation, where they did not wait for all the data from clinical trials to become available, but reviewed the data at each stage. In Japan, on the other hand, the rolling review method was not adopted and the approval process was conducted in the usual

manner. Whereas in the UK review of the Pfizer vaccine started in October and approval was granted on December 2,¹ the application was submitted on December 18, and approval was granted on February 14 in Japan. Thus, the whole process was delayed by two months compared to the United Kingdom.² This was followed by the approval of vaccines made by Moderna and AstraZeneca on May 21.

This delay in approval, combined with delays in the production and supply of vaccines of Pfizer, as well as the European Union's measures to control the export of vaccines manufactured in the EU, resulted in a significant delay in the supply of vaccines in Japan.

Delay in the Development of Domestic Vaccines

The delay in developing vaccines produced in Japan is another reason why the Japanese public has had to wait so long for access to vaccines. Historically, Japan has had good vaccine development technology. For instance, Yasuhiro Furuichi, a Japanese scientist at the National Institute of Genetics discovered in the 1970s that mRNA has a special structure with a chemical called a "methyl group" attached to the end.³ Research on mRNA later led to the development of COVID vaccines by Pfizer and Moderna.

However, the biomedical industry responsible for vaccine development has since been weakened in Japan. One factor which led to the weakening was that most of the vaccine development and production in Japan has been concentrated in just three public corporations, and there has been little development and production by private companies. This was due to a government policy based on the idea that government should be involved in vaccine development given the importance of vaccines to people's safety.⁴ The policy has however caused a loss of competitiveness in vaccine development. Another factor was the widespread mistrust of vaccines due to lawsuits involving deaths and post-vaccination events. The government has thus been reluctant to introduce vaccines from overseas as well.⁵

In order for the weakened biomedical sector to develop COVID-19 vaccines, large-scale government investment was required. However, the government's investment was too little and too slow. In early 2020, when the US government was investing \$10 billion in COVID vaccine development, the Japanese government invested only \$100 million. Although government investment has gradually increased since then, not only is the size of investment is still small compared with that of the US and some European countries, but the delay in investment has triggered a delay in development.⁶

¹ Government of the United Kingdom, *Regulatory Approval of Pfizer/BioNTech Vaccine for COVID-19*, December 2, 2020, <https://www.gov.uk/government/publications/regulatory-approval-of-pfizer-biontech-vaccine-for-covid-19>

² Yuima Mitani et al., "Vaccination: Why Is Japan So Slow? Part 2 [in Japanese]," *NHK*, May 14, 2021, <https://www3.nhk.or.jp/news/html/20210514/k10013026081000.html>

³ Shigeko Segawa, "Actually, Japanese Research Contributed as Well: mRNA Vaccine for COVID-19 [in Japanese]," *Asahi Shimbun*, April 10, 2021. <https://digital.asahi.com/articles/ASP47560ZP22PLBJ001.html>

⁴ Riko Muranaka, "Political Decisions by Countries That Affected the Vaccine War [in Japanese]," *Diplomacy*, Vol. 66, March/April 2021, pp. 31-32.

⁵ Eisuke Eguchi, Shigeko Segawa, Kenta Noguchi, and Kenji Tamura, "Why the Delay in Domestic Vaccines? 'Gaps' that Existed in the Past as well [in Japanese]," *Asahi Shimbun*, April 10, 2021. https://digital.asahi.com/articles/ASP4B6D5JP4BULBJ003.html?iref=pc_rellink_02

⁶ Ken Ishii, "Special Report: Vaccines and National Defense: The Key to Japan's Vaccine Development Is 'Slow and Steady Wins the Race' [in Japanese]," *Voice*, May 2021.

Vaccine Reservation Sites Flooded

By the time the general public was able to reserve vaccines in Japan, more than 60% of people in Israel and nearly 50% of people in the United Kingdom had already been vaccinated, and the pre-COVID lifestyle was returning to these countries. By the time nationwide vaccination began in Japan in May, the vaccination completion rate in the United States was close to 50%, and it was reported that mask-free daily life was returning there as well. Meanwhile, COVID's fourth wave hit Japan in April, and medical facilities were in short supply in large urban areas. With preparations for the Tokyo Olympics underway, it was expected that the spread of COVID would be aggravated by the influx of people from overseas. There were growing calls for early vaccination among the Japanese.

It was against this backdrop that some municipalities started vaccine reservations on April 12. However, there were major problems in the design of the systems. First, the target population was too large for the spots available for reservation. Each municipality accorded its own discretion as to what system to use and who was allowed to make reservations. Many municipalities allowed reservations for everyone aged 65 and older—the population officially defined as the elderly in the country. However, since the vaccine was to be distributed to each municipality in stages, the number of spots that could be reserved at any one time was limited.

The mismatch between spot availability and eligibility for reservations caused tremendous confusion and chaos. For example, the city of Hachioji in Tokyo allowed 160,000 elderly people to make reservations for the first round of vaccinations in April, although only 1,950 reservations were available for the first round. This meant that the chance of obtaining a reservation was just 1/82.⁷ The city of Yokohama, which has the largest population among all the municipalities in Japan, started accepting reservations on May 3. And while only 75,000 spots were available, 340,000 people over the age of 80 were designated as eligible to make reservations. A peak of two million people accessed the reservation website, which was twice what had been anticipated. The system went down within 45 minutes of initiating, causing reservations to be suspended.⁸ Only 2,600 people were able to make reservations on the first day.⁹

With the long-awaited vaccine reservations due to start and reservation slots in scarce supply, competition for available slots could be anticipated as a natural outcome, along with a rush to gain access at the commencement of the reservation schedule. It was a fundamental strategic error to allow reservations for a population far in excess of available slots.

Of course, some local governments were able to prevent access overload and excessive competition by spreading out the population eligible for reservations. For example, in Kita-ku, Tokyo, out of a population of 87,000 elderly people, vaccines were provided first to 900 residents of special nursing homes for the elderly, and then to

⁷ "A Flood of Vaccine Reservations: 'People Who Can Get Vaccine Shots' Talk about Their Concerns [in Japanese]," *TV Asahi*, April 11, 2021, https://news.tv-asahi.co.jp/news_society/articles/000212663.html

⁸ Yoshihiro Kato, "Yokohama City, in Vaccination Confusion, Strengthens System and Resumes Accepting Reservations at 9 am on May 5 [in Japanese]," *Tokyo Shimbun*, May 4, 2021, <https://www.tokyo-np.co.jp/article/102311>

⁹ "COVID-19: Suspended Vaccine Reservations in Yokohama City to Resume on May 5 [in Japanese]," *Kanagawa Shimbun*, May 4, 2021, <https://www.msn.com/ja-jp/travel/news/%e3%80%90%e6%96%b0%e5%9e%8b%e3%82%b3%e3%83%ad%e3%83%8a%e3%80%91%e4%b8%ad%e6%96%ad%e3%81%97%e3%81%9f%e6%a8%aa%e6%b5%9c%e5%b8%82%e3%81%ae%e3%83%af%e3%82%af%e3%83%81%e3%83%b3%e4%ba%88%e7%b4%84%e3%80%81%ef%bc%95%e6%97%a5%e5%86%8d%e9%96%8b%e3%81%b8/ar-BB1glqKa>

9,000 residents of other facilities for the elderly.¹⁰ This approach led to smooth reservations without undue confusion. Information on the availability of vaccines, the status of reservations, and the schedule for future vaccine availability were disclosed on the municipality's website,¹¹ measures that were successful in preventing the psychology of competition over vaccine reservations.

The second problem with the design of the vaccine reservation system was that it mainly deployed online reservation approaches without sufficient offline support. This was problematic because the first ones to make vaccine reservations using the new systems were elderly people that were not familiar with the Internet. Many of the elderly have never made an appointment online before, and it took them a long time just to enter passwords and email addresses required to sign in. Often, they could not log in to the system due to continuous input errors. It was also widely observed that the reservation slots for the day became filled even as these new users were struggling with the Internet.

These same elderly people who are not familiar with the Internet also tried to make reservations by phone. However, under the deluge of calls to the designated numbers for municipalities and clinics in charge of vaccinations, not only were municipal staff kept busy fielding calls, but many municipal offices suffered from jammed phone lines. Being desperate when they could not get through no matter how many times they called, the elderly flocked to municipal offices to make appointments in person, plunging municipal offices into confusion. While just getting to the municipal office could be difficult for these citizens, they then learned they were not permitted to make appointments in person and grew increasingly anxious and frustrated. The situation was also dangerous as gathering a large number of disorganized people in one place could cause COVID-19 clusters, the very opposite effect of what was intended.

It is understandable that local governments have been hard-pressed to make rapid decisions and set up brand new systems under pandemic conditions. However, the fact that the elderly, who were not familiar with the Internet, were the first ones to be placed in such a situation and were bewildered and anxious, in the absence of any experience with reservations among the citizenry of Japan, was too great an administrative failure.

The Sin of “Fair” Reservation Systems

Paradoxically, these two problems with Japan's vaccine reservation system were both caused by an emphasis on fairness. In Japan, people over 65 are referred to as the elderly, and people over 75 are referred to as the late-stage elderly. In the face of the government's attempts to rush the vaccination of the elderly, municipal offices focused on ways to ensure that the elderly population get their appointments fairly and quickly. As a result, many offices chose to allow all eligible people over the age of 65 to make appointments from the first day of the reservation period, and to adopt an Internet-based appointment system regardless of whether or not the customers are familiar with the Internet. There were some municipalities that gave priority to the older age groups, such as 75 and 85, but most of

¹⁰ "Priority Vaccination for the Elderly: 'We Hope to Finish the Second Dose by the End of June' in Kita-ku, Tokyo [in Japanese]," *NHK*, April 7, 2021, <https://www3.nhk.or.jp/news/html/20210407/k10012960821000.html>

¹¹ Kita-ku, "Status of COVID-19 Vaccination [in Japanese]," Release start date: March 1, 2021; Last update date: May 24, 2021, accessed on May 22, <https://www.city.kita.tokyo.jp/wakuchin/sessyuzyoukyou.html>

them gave bulk reservations to those over 65. This was to give the elderly a fair chance to make reservations. As a result, the elderly, who as a population is the most vulnerable in terms of ability to navigate new systems, were thrown into confusion, resulting in a very unequal outcome.

The same applies to the reservation system based on the Internet. Municipal offices must have been aware that there would be many elderly people who would not be able to make online reservations. On the other hand, it would have been impossible from the standpoint of efficiency to establish a reservation system that relies mainly on the telephone, since phone lines could easily be flooded. Assuming that there would be a large number of elderly people who would not be able to make an appointment online, municipal offices could have unilaterally set vaccination dates and times for the elderly and allowed them to change the appointments only if the designated date and time did not work. Nevertheless, almost no municipal office chose such a method, seemingly to give each elderly citizen an equal opportunity to choose the date and time of their own appointment, just like the rest of the population.

The problem here is that the choice to focus on superficial fairness, without taking into account the characteristics of the target population, has led to great inequality in terms of results. One can only imagine how anxious the elderly, who are not familiar with the Internet, must have been when they were told that they had to reserve vaccines through a first-come-first-served system on the Internet. In Japan, the percentage of nuclear families is high. This also means that the percentage of households with only elderly couples or elderly people living alone is high, and many of them do not have young people nearby to rely on. In order for these elderly people to receive vaccinations on a fair and equal basis in comparison with younger people, it would have been necessary to establish a vaccination appointment system that gives necessary support for the elderly. Even if municipal offices had to face some criticism for prioritizing specific groups within the elderly over others, they should have set priorities based on some justifiable criterion such as age or address and should have disclosed the basis to the public to gain their understanding. In short, they should have built systems that would not require the elderly to compete on the Internet.

Viewed from a different standpoint, it can be said that this was an approach to affirm the digital divide and associate it with the value of one's life. Affirming and encouraging a situation where people get vaccine appointments only if they can make online reservations is an act of ranking the value of lives. This is also an act that accelerates polarization within society. In the current situation where we confront the necessity to mitigate further polarization, there should have been approaches that take into consideration, and provide special support for, the elderly who cannot use the Internet, so that municipal offices are not in the position of disregarding the lives of these people.

What is more, some municipal offices are taking approaches to accelerate polarization in dealing with the reservation chaos. For example, the city of Sendai in Miyagi Prefecture switched its designated phone number from a toll-free number to a paid call in response to a flood of calls from the elderly. The city explains that the toll-free number uses taxpayers' money, but since vaccination is voluntary, the person booking a vaccination should pay for the call themselves.¹² It has been reported that it can take up to an hour to respond to calls from the elderly who are

¹² "Sendai City Revises Explanation in Response to Inoculation Inquiry: 'Call Charges Are for Fairness' [in Japanese]," *Kahoku Shimpo*, April 9, 2021, <https://kahoku.news/articles/20210409khn000024.html>

confused about vaccinations, and it would certainly be a burden for the city to pay these charges. However, given that many have lost their jobs due to COVID-19, including the elderly who lost their part-time jobs, and are economically exhausted, creating a system that dares to require citizens to spend money just to ask questions to clarify the confusion caused by these very municipal offices seems to be a way of cutting off the economically weak.

Considering the Characteristics of Subjects for Human Rights

The problem of focusing only on superficial fairness and not giving consideration to individual characteristics is not limited to the case of COVID-19 vaccines. It can be seen in a wide range of human rights issues in Japan. In the 2021 World Economic Forum Gender Gap Report, Japan was ranked 120th out of 156 countries in terms of the gender gap.¹³ The number of female leaders was low particularly in the areas of politics and economics. In Japan, the Act on Promotion of Gender Equality in the Political Field came into effect in 2018, and this law requires each political party to have as equal a number of male and female candidates as possible. However, this is not stipulated as an obligation, and thus a quota system has yet to be introduced in Japan. The main reason for such a passive approach to the quota system is that incumbent politicians with vested interests are not willing to introduce it. But some oppose the quota system from the viewpoint of equality as stipulated in the Constitution. They argue that the quota system will unduly merit women.

However, these opinions emphasize superficial equality that ignores the various discriminatory practices against women who for many years were confined to the domestic family space and not allowed to play other roles in the greater society. Acts of superficial equality that ignore deep-rooted discrimination only reinforce the structure of inequality. The situation where women take on the overwhelming burden of domestic and childcare work in the home, alongside a value system where leadership is considered as something that men take on, places an undue burden on women who aspire to become politicians. The fact is, these burdens are so great that few women aspire to become politicians themselves. Thus, the quota system is not an attempt to unduly benefit women, but rather an effort to remove the disadvantages imposed only on women. In other words, the proposed system is an effort to eliminate the disadvantages that women are forced to face, and to bring about true equality, taking into account the circumstances in which women find themselves.

The same can be said about refugee status in Japan. Japan has very strict requirements for refugee status, and the number of refugees accepted each year is very limited. For example, according to the Japan Association for Refugees, the acceptance rate for according refugee status to Syrian refugees in 2017 was only 19% in Japan, compared to 38% in Germany, 82% in the United States, and 94% in Australia.¹⁴ Here, too, we see a problem of thorough impartiality that fails to take into account the unique circumstances of each person subject to review. The Refugee Convention defines a refugee as “someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a

¹³ World Economic Forum, "Global Gender Gap Report 2021," March 30, 2021, <https://www.weforum.org/reports/global-gender-gap-report-2021>

¹⁴ Japan Association for Refugees, "Why Are There So Few Refugee Statuses in Japan?: From the Perspective of Institutional Issues [in Japanese]," August 13, 2020, https://www.refugee.or.jp/refugee/japan_recog/

particular social group, or political opinion.”¹⁵ In Japan, people who apply for refugee status are strictly required to prove with objective evidence that they fall into this category, but most people who apply for refugee status do not have any documentary evidence because fleeing the country with objective evidence is a dangerous act in itself.¹⁶ The logic that it is not fair to grant refugee status to those who cannot provide evidence leads to the unfair result that those who really need refugee status are not granted it.

Time to Revisit the Principle of Fairness

The emphasis on superficial fairness without taking into account the characteristics of each person seems to come from the risk-averse Japanese way of thinking. It has been several decades now since Michael Breaker pointed out that Japan is risk-averse in international negotiations,¹⁷ but Japanese risk-averse behavior can be seen in the entire domestic society. The emphasis on fairness and uniform application of the same standards has long been used as a means to avoid the risk of being criticized.

The recent confusion over COVID vaccine appointments shows that it is time for Japanese society to rethink the principle of fairness. Those refugees who have been confronted with the inequalities delivered by superficial fairness are not at the core of Japanese society, and their voices have been drowned out. The inequality of female politicians is precisely the reason why the number of women who want to become politicians is not increasing, and the voices of female politicians to resolve this problem are growing only slowly. In contrast, the case of the vaccine reservation for the elderly was an opportunity for the 36 million elderly people in Japan, as well as their families and friends, to experience firsthand how superficial equality of opportunity can lead to inequality of outcome.

The anguish experienced by the elderly when vaccination appointments started is quickly forgotten by society. Since then, vaccination has progressed smoothly, which in itself is commendable. However, it is necessary to review the root of the confusion that arose in the early days over the vaccination of the elderly, and attempt to reflect it in the design of social systems.

It is time for Japanese society to reconsider an approach that takes into account the different vulnerabilities of different groups of people. Japan's elderly population has been unfairly burdened with confusion and anxiety, and efforts must be made to convert this unfortunate situation into a positive reform.

¹⁵ United Nations High Commissioner for Refugees, "Convention and Protocol Relating to the Status of Refugees," 2010, p.3, based on Article 1 of Convention Relating to the Status of Refugees, July 28, 1951. <https://www.unhcr.org/3b66c2aa10.html>

¹⁶ *Ibid.*

¹⁷ Michael Blaker, *Japanese International Negotiating Style* (New York: Columbia University Press, 1977).

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