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研究人員	<u>林文裕</u> 、方承輝		
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研究報告摘要(中英文)	關鍵詞:難民法、難民認定、人權立國、難民地位公約、世界人權宣言 1、研究緣起 民國 91 年行政院研究發展考核委員會會商各項人權工作重點分工表暨人權保障推動小組於 91 年 7 月 31 日會議決議:爲落實人權治國理念,應建立難民庇護制度及制定「難民法」,移民署爰開始擬訂「難民法」,馬總統亦表示將積極提升我國人權水準,與世界人權接軌,並落實人權治國理念,爲落實馬總統施政理念,建立我國重視人權的國際形象,爰作本項研究,希望我國難民法的立法工作,提供助益及研究上之參考。 2、研究方法及過程本研究除了參照 1948 年聯合國「世界人權宣言」、1951 年「難民地位公約」及 1967 年「難民地位議定書」之原則及精神,審度我國國情及邀集國內專家、學者召開會議,並蒐報,例如美國、加拿大、英國、法國、紐西蘭、日本、韓國等先進國家的立法體例,綜合彙整而研擬、送審。我國難民法草案業經行政院於 98 年 12 月 31 日送請立法院審議。 三、重要發現 在研議我國難民法的過程中,最重要的議題係是否應將大陸地區人民及香港、澳門地區居民納入難民法的適用。如果將之納入難民法之適用,恐有與憲法增修條文第 11 條「自由地區與大陸地區間人民權利義務關係及其他事務之處理,得以法律爲特別之規定」之規範不符之虞;反之,如果不將其納入難民法中規範,亦有遭受我國人權水準不足,		

審度因應,尤值得我國深度研究。 4、主要建議事項研究發 現世界各國的難民法,爰於早期的訂定,多未將大規模自然 災害所發生的難民納入適用,鑑於近年環境保護的意識抬 頭,大規模的自然災害頻頻發生,各國紛紛簽署節能減碳協 議、宣言,未來因大規模自然災害所發生的難民,勢必發生, 大批自然災害難民潮的發生,各國將如何因應,似應及早研 究因應之道。 Summary A.Origin of Research Research, Development and Evaluation Commission, Executive Yuan meet with Human Rights Protection and Promotion Committee to discuss each table of distribution of primary human rights work in 2002. They have reached a conclusion, to fulfill the mission of governing the country with human rights; the government should establish the refugees' protection system and regulate the refugee law, after the meeting at July, 31st, 2002. Therefore, National Immigration Agency began to develop the refugee law. President Ma Ying-Jiu also indicated that he will positively increase the level of Taiwan citizen's human right standard, catch up with international human right standard, and to fulfill the mission of governing the country with human rights. This research was made to accomplished President Ma Ying-Jiu's governing mission, build our country's international image, and hope to provide the benefit and reference resources for the process of refugee law of our country. B.Research method and Process This research takes the principle and spirit of the "Universal Declaration of Human Right (1948)," the "Convention Relating to the status Refugees (1951)," and the "Protocol Relating to the Status of Refugees (1967)" as reference to study and weigh the conditions of our country, hold meetings which involve specialists and scholars of the country, collect lawful information established by advanced countries such as the United States, Canada, the United Kingdom, France, New Zealand, Japan, and Korea, then revise, research on, and submit it for reviewing. The draft of the Refugee Law was submitted by the Legislative Yuan to the Executive Yuan for reviewing on December 31th, 2009. C.Major Discoveries During the process of studying and discussing the Refugee Law of our country, the most critical issue is whether to consider the validity of this law to residents of mainland China, Hong Kong, and Macau. If the law applies to residents previously mentioned, this may violate chapter

11 of the added articles of ROC Constitution: "Matters concerning the residents of Taiwan-governed areas and mainland China should be handled in accordance with specialized laws. On the contrary, if this law does not apply to these people, the country may be criticized for the human rights being as being below standard, and the infringement of the rights of residents of Mainland China, Hong Kong, and Macau. It is of significant worth to take a deep research on how to take a reaction to the condition. D.Main Suggestion The Research found base on the previous establishment, most countries do not include the refugees that caused by nature disaster in their Refugee Law. In the view of the raise of environmental protection conscious, frequently happening large scale natural disaster, reduce energy agreement signed by countries, therefore, in the future there will be the refugees that caused by the nature disaster. Every country should develop a solution as a reaction before flood of refugees caused by nature disaster appears.

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項次	建議事項	辦理情形
1	塡寫英文摘要	已於 99 年 11 月 18 日塡報