

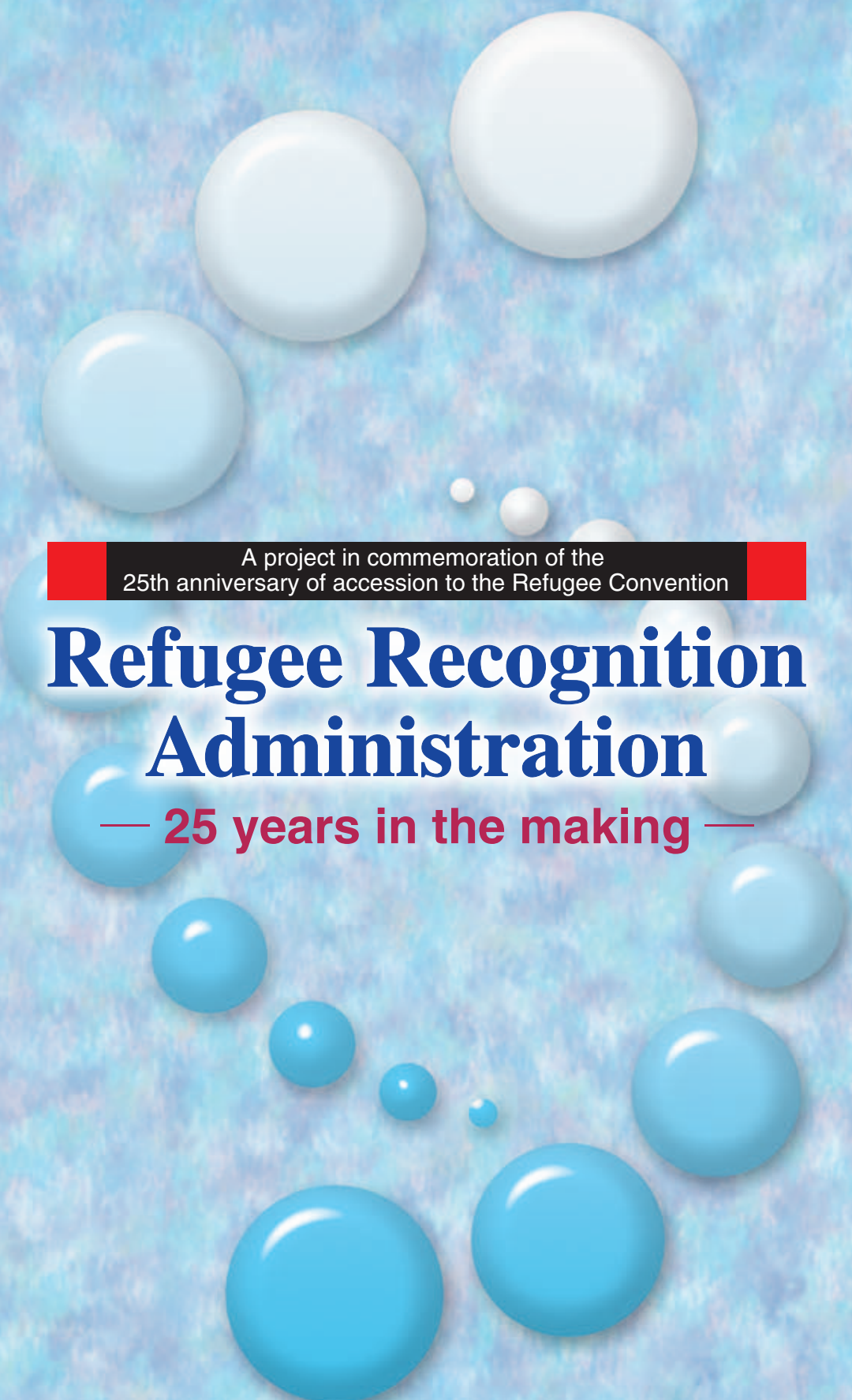


**Refugee Recognition  
Administration**

— 25 years in the making —

November 2006

Immigration Bureau,  
Ministry of Justice



A project in commemoration of the  
25th anniversary of accession to the Refugee Convention

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Although the term “refugee” is frequently used, the term itself has not yet been established as a uniform concept. Similar terms such as “political refugee” and “economic refugee” as well as “asylum seeker,” “displaced person” and “defector” are all used and each of these terms has a different meaning depending upon the person using it.

As used in Japan, generally a “refugee” means in a broad sense an evacuee or victim who has escaped from a crisis; and it is understood to collectively refer to those persons who leave their home country or place of residence in an attempt to either flee from political or religious persecution or to escape from the ravages of war or a natural disaster. In this sense, the refugee is unable to enjoy, or does not want, protection from the home country or the country of residence.

A “refugee” as defined in the Immigration Control and Refugee Recognition Act (hereinafter the “Act”) means a refugee to whom the Convention Relating to the Status of Refugees (hereinafter, the “Refugee Convention”) is applicable in accordance with Article 1 of the Refugee Convention or Article 1 of the Protocol Relating to the Status of Refugees (hereinafter the “Refugee Protocol”). Such a refugee is sometimes called a “Convention refugee” so as to be distinguishable from a refugee as generally understood in a broad sense.

The core of the concept of this Convention refugee consists of whether or not a refugee has, as provided in the Refugee Convention, a “well-founded fear of persecution because of his/her race, religion, nationality, membership in a particular social group, or political opinion”. In Japan’s judicial precedents “persecution” as used in the Refugee Convention is generally interpreted as “aggression or pressure that imposes affliction unbearable by an ordinary person, which is an infringement or oppression of the freedom of life or the body” while “fear” is generally understood from judicial precedents to mean “in addition to a subjective situation where such person has a fear of persecution, an objective situation should exist where an ordinary person would have a fear of persecution if placed in the same situation as such person”. Other requirements are also being defined by the courts.

Recognizing the acceptance of such refugees to be an important duty in fulfilling its role in the international community, Japan signed the Refugee Convention in 1981 and the Refugee Protocol in 1982, and subsequently implemented a system necessary for refugee recognition procedures. In reality, however, only a small number of foreign nationals have sought protection from Japan as refugees with the exception of Indochina refugees who formed an exodus out of their countries over an approximate 10-year period starting from 1975.


Over recent years, however, the number of applicants for refugee status in Japan has been on the increase as a result of regional conflicts occurring across the world or unstable domestic conditions in various countries amid the ever-changing international situation. This global state of affairs has compelled our society to take a greater interest in the refugee issue.

Therefore in 2004, from the perspective of providing appropriate, prompt protection of refugees, a refugee examination counselors system was established, creating a scheme to grant permission for provisional stay as well as permission for residence to those persons recognized as refugees, eliminating the deadline for the application for status of residence and other matters. Regulations for these revisions entered into effect on May 16, 2005.

The refugee examination counselors system is such that the Minister of Justice seeks opinions on objections filed by petitioners from refugee examination counselors who have been appointed from among people of experience or with an academic background in law or current international affairs. Establishment of the refugee examination counselors system was progressive reform at the time in that members of the private sector would participate in the refugee recognition procedures in order to provide greater fairness, neutrality and transparency in the procedures.

This year marks the 25th anniversary of Japan’s accession to the Refugee Convention and the first anniversary of the implementation of reforms in the refugee recognition system.

On the occasion of this anniversary we have prepared this document to serve as a useful reference for consideration of future refugee recognition administration, by analyzing the 3,928 applications seeking refugee status in Japan filed in total up to 2005, as well as subsequent situations regarding their stay in Japan or return to their home countries, and by analyzing the operation of the refugee examination counselors system from all different aspects.



## II Analysis of refugee status applicants

## 1. Outline of refugee status recognition procedures

A foreign national who seeks refugee status in Japan can apply to the Minister of Justice for refugee status (Article 61-2 of the Act). Upon an application being filed, the Minister decides whether or not to recognize the applicant as a refugee based upon the results of the examination conducted by the refugee inquirers. This procedure is generally called the “primary examination”. If, as a result of the examination, the applicant is recognized as a refugee, he/she shall be granted the “disposition of refugee recognition”, and if not, shall be given the “disposition of denial of recognition of refugee status”.

Under the current law, if a person recognized as a refugee has no status of residence, he/she will be guaranteed a status of residence provided that he/she meets certain requirements (Article 61-2-2, Paragraph 1 of the Act). In addition, a person who fails to meet certain requirements or who is not recognized as a refugee will be granted special permission to stay if there are extenuating grounds for doing so (Paragraph 2 of the same Article) <sup>(Note 1)</sup>.

A person who is not recognized as a refugee in the primary examination may express dissatisfaction with the disposition to the Minister of Justice (Article 61-2-9 of the Act) by filing an objection, which shall be subject to an examination generally called the “objection examination”. Details of the objection procedures are given in Section III. If, as a result of the objection examination,

the petitioner is found to be eligible for refugee status, the objection examination will render a decision of an “objection with reason” judging his/her objection to be with grounds <sup>(Note 2)</sup>. Based on the decision the Minister will recognize the petitioner as a refugee, and if the petitioner does not have a status of residence, he/she will be permitted to obtain such status provided that certain requirements are met. Even where such petitioner recognized as a refugee fails to meet certain requirements or the petitioner is subject to a decision of an “objection without reason” because he/she is not recognized as a refugee by reason of the objection having no grounds, the petitioner may be granted special permission to stay if there are exceptional grounds for doing so.

**Note 1:** Procedures under the amended Act into effect on May 16, 2005. Procedures under the previous act failed to legally connect refugee recognition with the granting of a status of residence, and therefore theoretically, there was the possibility that a recognized refugee would not be granted a status of residence. No recognized refugee, however, has ever been denied a status of residence in practice.

**Note 2:** Under the procedures prior to the enforcement of the revised act, the decision was, strictly, an “administrative decision with reason” or an “administrative decision without reason”. In this document, however, for convenience’s sake we will refer to them as a “decision of an objection with reason” or a “decision of an objection without reason”.

## 2. Breakdown of applicants

During the 24-year period from January 1982 when the refugee recognition system was established through the end of December 2005, there were a total of 3,928 applications for refugee status in Japan.

By nationality the applicants’ principal countries of origin were as shown in Attachment 1. The top five countries (Myanmar, Turkey, Pakistan, Iran and Afghanistan) together accounted for some 60% of the total while applicants were from as many as 76 countries <sup>(Note 3) (Note 4)</sup>.

Attachment 2 shows the regions of origin: 2,095 (53%) from Asia, 1,339 (34%) from the Middle East, 398 (10%) from Africa, 65 (2%) from Europe and 20 (0.5%) from the Americas.

Attachment 3 breaks the applicants down by sex, into 3,156 men and 772 women. **Men accounted for**

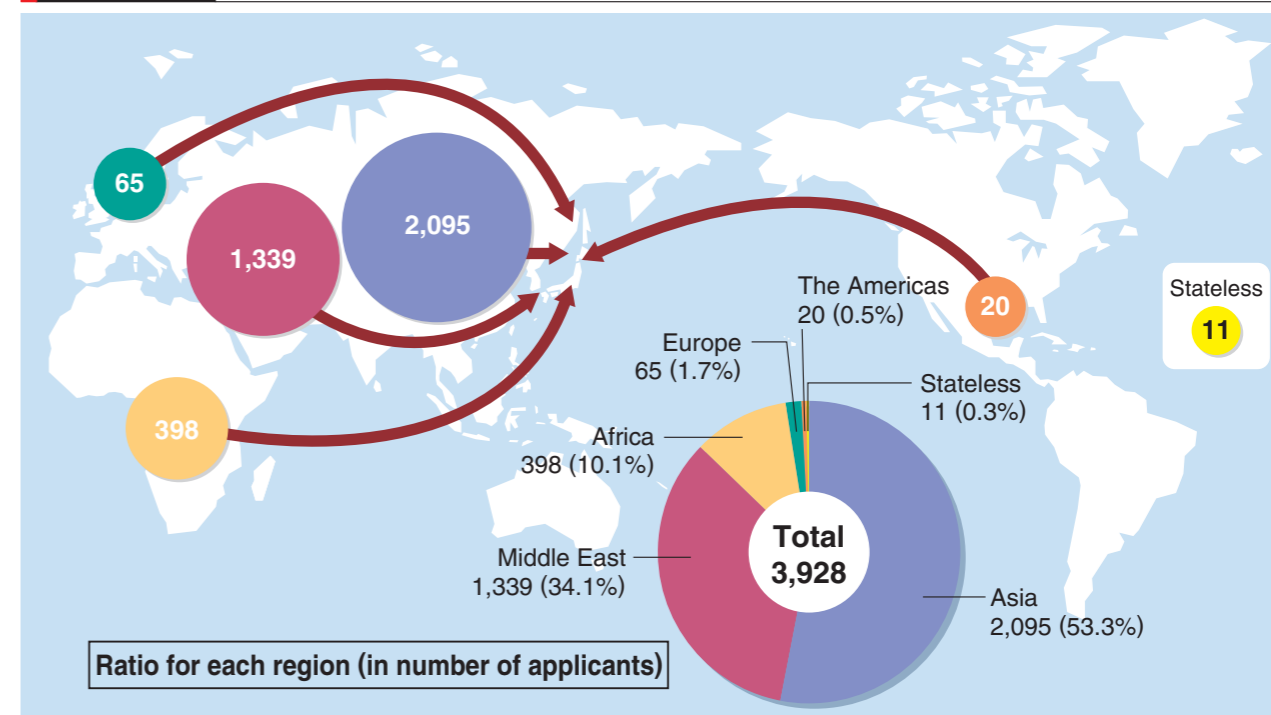
**some 80% of the total.**

Attachment 4 shows their breakdown by age. **People in their 20s and 30s accounted for about one third each.**

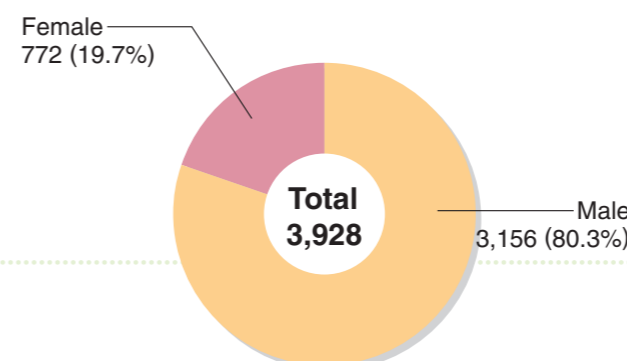
**Note 3:** The constitution ratio (%) in each item in the text and the chart, a total of a breakdown, does not always accord with a number of a total so that it is rounded off under number of the indication figures.

**Note 4:** If there has been substantial change to the country name or territory as was the case with the Union of Soviet Socialist Republics that changed to the Russian Federation, newly named countries or newly defined territories were listed separately. A territory that is not recognized by the Japanese government as a country is listed also as a country for convenience’s sake.

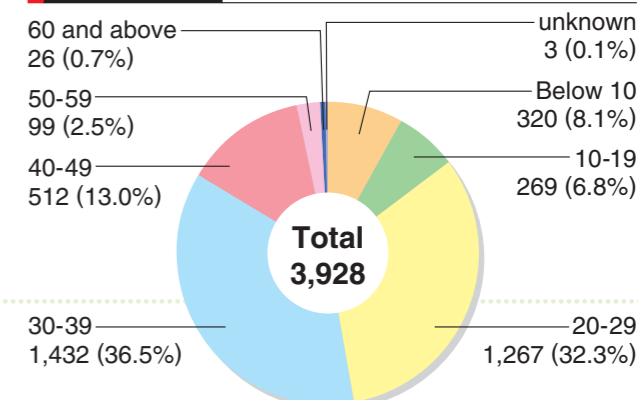
**Attachment 2** Regions of origin of the applicants



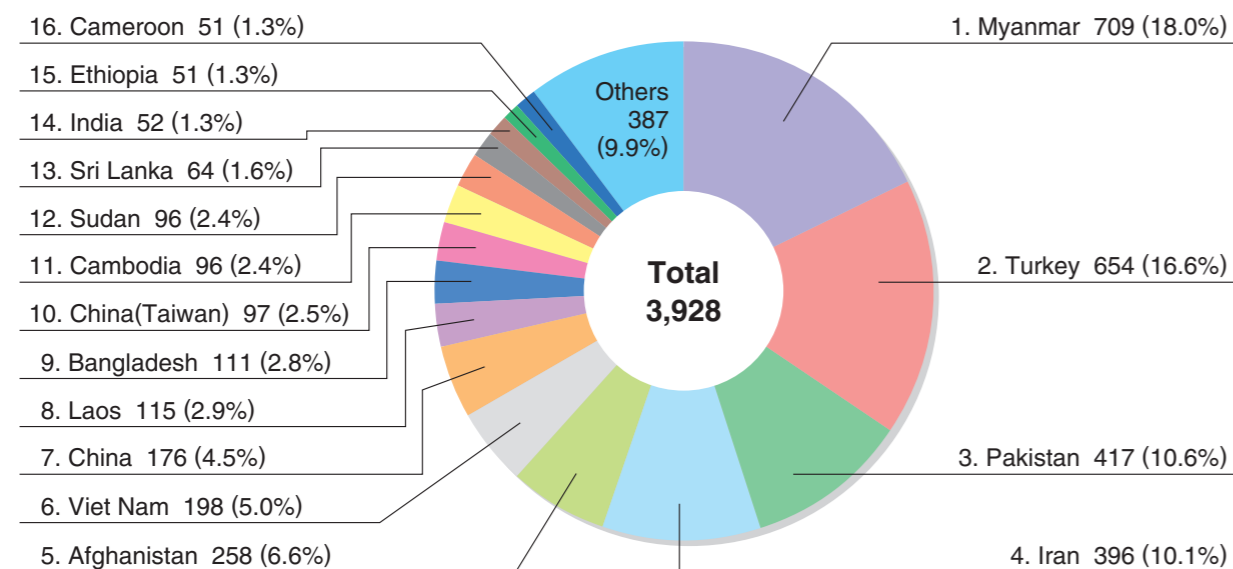
**Attachment 3** Breakdown of applicants (by sex)



**Attachment 4** Breakdown of applicants (by age)



**Attachment 1** Breakdown of applicants (by nationality)



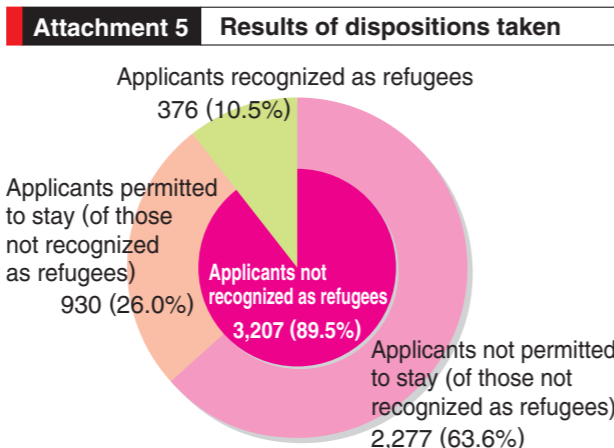
### 3. Results of Dispositions

Attachment 5 shows the results of dispositions taken for the 3,928 cases as of the end of December 2005. Of the 3,583 (Note 5) who were subject to some form of disposition, **376 (10%) (Note 6) were recognized as refugees, 930 were denied recognition (Note 7) but were allowed to stay (26%) (Note 8)**, and 2,277 (64%) were denied recognition and were not allowed to stay. Therefore, **36% of the applicants are deemed to have been given protection.**

The above breakdown is shown by nationality in Attachment 6. **Notably high is the percentage of refugee recognition or protection granted particularly to those from East Asian countries** such as Myanmar, Vietnam, Laos and Cambodia.

**Note 7:** Including applicants for whom recognition procedures were terminated because of withdrawal of the application.

**Note 8:** Indicating those applicants for whom an internal decision was taken denying recognition as a refugee but who were granted for various reasons some type of residence status (permission to obtain a status of residence, special permission for residence, permission for extension of period of stay, permission for change of the residence status). Does not include the status of residence granted for “temporary visitor” or for preparations for departure.



**Note 5:** Including applicants, who, as of the end of December 2005, had not yet been notified of the results of their disposition such as denial of recognition of refugee status, although an internal decision relating to such disposition had already been made.

**Note 6:** Including applicants who were recognized as refugees through filing an objection and ensuing procedures.

**Attachment 6 Applicants provided with protection (top 20 countries)**

	Number of cases	Applicants recognized as refugees	Rate of refugee recognition	Applicants permitted to stay	Applicants recognized as refugees or permitted to stay	Rate of applicants provided with protection
Turkey	629	0	0.0%	23	23	3.7%
Myanmar	500	117	23.4%	152	269	53.8%
Pakistan	406	3	0.7%	67	70	17.2%
Iran	381	55	14.4%	49	104	27.3%
Afghanistan	256	23	9.0%	87	110	43.0%
Viet Nam	198	59	29.8%	104	163	82.3%
China	157	3	1.9%	78	81	51.6%
Laos	115	48	41.7%	64	112	97.4%
China(Taiwan)	97	0	0.0%	75	75	77.3%
Cambodia	96	50	52.1%	46	96	100.0%
Sudan	91	0	0.0%	40	40	44.0%
Bangladesh	90	0	0.0%	13	13	14.4%
Sri Lanka	59	0	0.0%	4	4	6.8%
India	52	0	0.0%	2	2	3.8%
Cameroon	50	0	0.0%	11	11	22.0%
Ethiopia	48	2	4.2%	12	14	29.2%
Ghana	29	0	0.0%	2	2	6.9%
D. R. Congo	28	3	10.7%	9	12	42.9%
Nigeria	24	0	0.0%	5	5	20.8%
Iraq	21	6	28.6%	7	13	61.9%
Others	256	7	2.7%	80	87	34.0%
<b>Total</b>	<b>3,583</b>	<b>376</b>	<b>10.5%</b>	<b>930</b>	<b>1306</b>	<b>36.4%</b>

### 4. New applications and reapplications

#### (1) Rate of reapplication

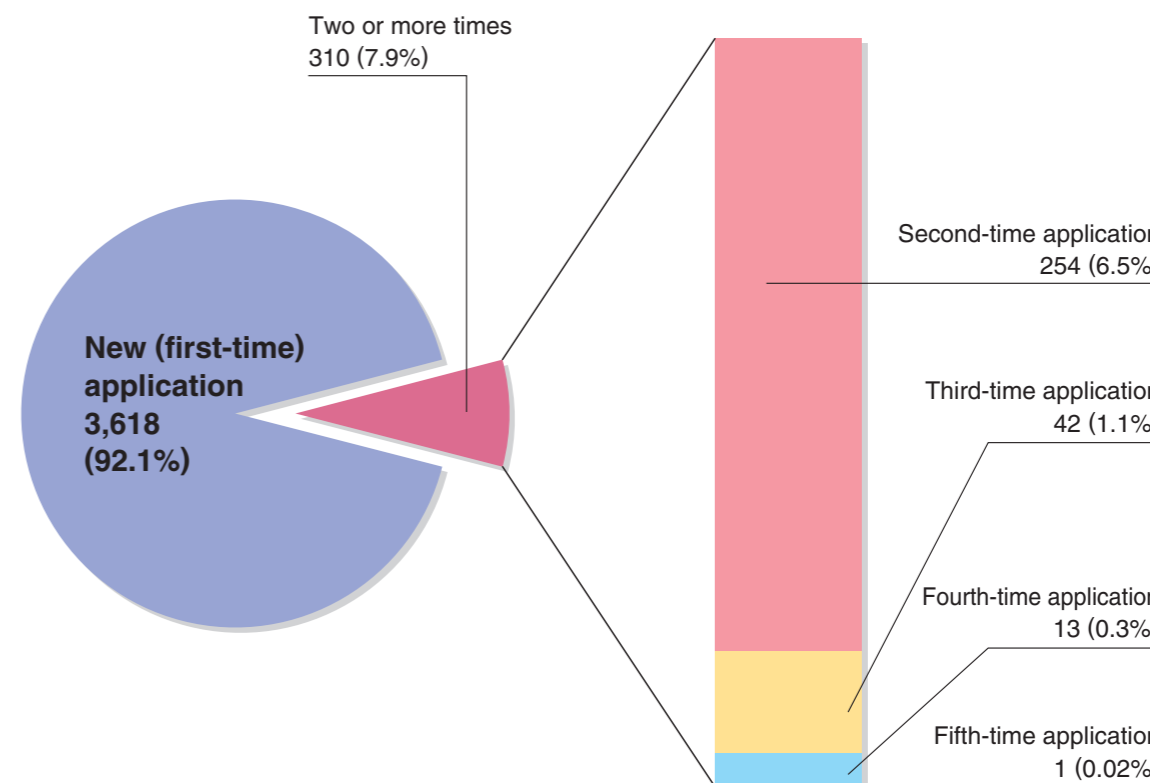
The 3,928 applications for refugee status have been broken down as shown in Attachment 7 into first-time applications (new applications) and second-time applications (reapplications) that were filed by those who had made an application in the past. The number of reapplications was 310 to 3,618 new applications, accounting for 8% of the total number of applications. These reapplications have been broken down into 254 second-time applications, 42 third-time applications, 13 fourth-time applications, and 1 fifth-time application.

Attachment 8 shows the details of such applications and the dispositions rendered.



(Children of Afghanistan refugee camp)

**Attachment 7 Number of times applicants have applied for refugee status**



#### 4. New applications and reapplications

Of the total of new applicants, 2,958 were not recognized as refugees, of which 254 were second-time applications, making **the rate of reapplication 9%**.

Of the second-time applicants who were not recognized as refugees, **20%** applied for a third time. Of the third-time applicants who were denied refugee status, **42%** applied for a fourth time, and of the fourth-time applicants who were denied recognition as refugees, **17%** filed a fifth-time application. **The rate of reapplication is seen to generally rise with the number of times an application is made.**

A look at the rate of reapplication by country shows that the rate of second-time application stands particularly high at 21% among Turkish nationals. Compared with the 6% reapplication rate among other foreign nationals (147 out of 2,456 reapplications), the reapplication rate for Turkish nationals is about four times as high as that of others. Of the 502 first-time Turkish cases who were not recognized as refugees upon a first-time application, 25 cases, or 5%, applied multiple times (three times or more). Given that other foreign nationals who apply multiple times account for only 0.7% (17 out of 2,456), the rate of multiple-time

applications among Turkish nationals stands about seven times as high as among other foreign nationals. Further, the number of first-time applicants who were not recognized as refugees and continued applying up to a fourth-time application was 8 out of 502, or 1.6% for Turkish nationals, and 5 out of 2,456, or 0.2% for other foreign nationals. The rate of Turkish nationals going for fourth-time applications reached about 8 times as high as among other foreign nationals. Fifth-time applications were found only among Turkish nationals.

Such tendencies of Turkish nationals are also evidently notable in the ratio of reapplication. Of 310

reapplications (including multiple-time reapplications) 141, or 45%, were made by Turkish nationals. Of 56 multiple-time applications 34, or 61%, came from Turkish nationals.

#### (2) Decisions made on reapplications

Attachment 8 shows that of the 3,325 first-time applicants 367 (11%) were recognized as refugees, and of the 220 second-time applicants 8 (4%) were so recognized. Of the 32 third-time applicants 1 (3%) was granted refugee status. As of the end of December 2005 no fourth or fifth-time applicants have been given refugee status.

**Attachment 8** Details of applications filed (number of times and applicants)

	First-time applications				Second-time applications				Third-time applications				Fourth-time applications				Fifth-time applications		
	Number of applicants (ratio to total)	Recognized as refugees	Not recognized as refugees (Note)	Number of applicants (ratio to total)	Rate of reapplication	Recognized as refugees	Not recognized as refugees (Note)	Number of applicants (ratio to total)	Rate of reapplication	Recognized as refugees	Not recognized as refugees (Note)	Number of applicants (ratio to total)	Rate of reapplication	Recognized as refugees	Not recognized as refugees (Note)	Number of applicants (ratio to total)	Rate of reapplication	Not recognized as refugees (Note)	
Myanmar	669 (18.5%)	111	361	37 (14.6%)	10.2%	6	22	3 ( 7.1%)	13.6%		0								
Turkey	513 (14.2%)	0	502	107 (42.1%)	21.3%	0	100	25 (59.5%)	25.0%		23	8 (61.5%)	34.8%		4	1 (100%)	25.0%	0	
Pakistan	393 (10.9%)	3	381	19 ( 7.5%)	5.0%	0	19	4 ( 9.5%)	21.1%		2	1 ( 7.7%)	50.0%		1				
Iran	376 (10.4%)	54	316	17 ( 6.7%)	5.4%	1	9	2 ( 4.8%)	22.2%		1	1 ( 7.7%)	100.0%		0				
Afghanistan	246 ( 6.8%)	23	221	12 ( 4.7%)	5.4%	0	12												
Others	1,421 (39.3%)	176	1,177	62 (24.4%)	5.3%	1	50	8 (19.0%)	16.0%	1	5	3 (23.1%)	60.0%		1				
<b>Total</b>	<b>3,618</b>	<b>367</b>	<b>2,958</b>	<b>254</b>	<b>8.6%</b>	<b>8</b>	<b>212</b>	<b>42</b>	<b>19.8%</b>	<b>1</b>	<b>31</b>	<b>13</b>	<b>41.9%</b>	<b>0</b>	<b>6</b>	<b>1</b>	<b>16.7%</b>	<b>0</b>	

Note: Not including applicants to whom the disposition of the primary examination has not yet been rendered.

#### 4. New applications and reapplications

##### (3) Continuity of reapplications

Attachment 9 shows the number of applicants who, after being denied refugee status, continued to stay in Japan and reapplied (“continuous reapplication”), and the number of those who, upon being denied refugee status, left Japan once and afterwards reentered to re-apply for refugee status (“noncontinuous reapplication”). Of all the reapplications, 23, or **7%**, were **noncontinuous reapplications**, half of which had been filed by Turkish nationals.



(A child of a Myanmar refugee camp)  
Photo courtesy of Refugee Assistance Headquarters of the Foundation for the Welfare and Education of the Asian People

#### 5. Average period from entry into Japan to application for refugee status

Of the 3,538 applications for refugee status (3,928 applications minus the number of continuous reapplications and applications for which the entry date was unidentifiable), **the average period from entry into Japan to application for refugee status was 922 days (about 2.5 years)**. The longest period was seen with Chinese (Taiwanese) nationals, who applied for refugee status in 7,291 days (about 20 years).



(A child of a Myanmar refugee camp)  
Photo courtesy of Refugee Assistance Headquarters of the Foundation for the Welfare and Education of the Asian People

Attachment 10 shows the average period for application by nationality. Of the applicants from the principal countries of origin, Myanmar nationals take a particularly long time of 2,235 days (about 6.1 years).

**Attachment 9** Continuity of reapplications

	Cases of reapplications	Continuous reapplications	Non-continuous reapplications
Turkey	141	129	12
Myanmar	40	40	0
Pakistan	24	18	6
Iran	20	20	0
China	17	17	0
Afghanistan	12	10	2
Others	56	53	3
<b>Total</b>	<b>310</b>	<b>287</b>	<b>23</b>

**Attachment 10** Average period from entry into Japan to application for refugee status

	The average days	The longest days
Myanmar	2,235	6,691
Turkey	292	2,867
Pakistan	353	6,468
Iran	943	5,112
Afghanistan	278	5,828
Viet Nam	816	4,552
China	1,648	5,670
Laos	783	7,002
Bangladesh	577	5,538
China(Taiwan)	1,148	7,291
Cambodia	938	4,484
Sudan	589	2,324
Sri Lanka	1,429	4,983
India	197	3,149
Ethiopia	432	2,808
Cameroon	103	1,371
Others	500	6,338
<b>Total average</b>	<b>922</b>	

## 6. Applicants' Lives after the Disposition

### (1) Those who continue to live in Japan

Attachment 11 shows that of the 1,306 applicants who were recognized as refugees or permitted to stay in Japan, 1,096 were confirmed to still be in Japan as of the end of December 2005, which means that **84% are established in Japan**. Of the 1,096 people, 238 (18%) were granted the status of permanent residence while 271 (21%) became naturalized Japanese citizens.

By nationality more than **90% of Myanmar nationals and Cambodian nationals have become established while such percentage falls to 70 for Vietnamese and Afghan nationals**.

What is characteristic about Myanmar nationals is that while a large percentage have established themselves in Japan, few of them become permanent residents, and none of them have ever become naturalized. On the other hand, 70% of Cambodian nationals have already become Japanese citizens.

### (2) Those who have left Japan

Of all the applicants who applied for refugee status in Japan **1,580, about 40%, had left Japan as of the end of December 2005** as shown in Attachment 12 in detail.

Our records are not clear as to which countries they left for. Looking at the Turkish nationals who make up a large number of the foreign applicants, we have been able to confirm that of the 88 Turkish nationals who left Japan during 2005, 86 were either

deported, escorted to Turkey by our immigration control officers, or departed under permission to leave at their own expense and presented airline tickets bound for Turkey (57 for a direct flight to Turkey via Turkish Airlines). Of the remaining two Turkish nationals, one left Japan for Turkey on a direct flight according to the disembarkation card, and therefore almost all of the persons who left Japan are assumed to have returned to their home country.

**Attachment 11** Status of residence of applicants recognized as refugees and applicants permitted to stay in Japan (as of 12/31/05)

	Total number of applicants recognized as refugees or permitted to stay						
		Permanent residents	Residents with other statuses	Naturalized	Left Japan	Others (dead, missing, etc.)	Rate of applicants established in Japan
<b>Total</b>	<b>1,306</b>	<b>238</b>	<b>587</b>	<b>271</b>	<b>174</b>	<b>36</b>	<b>83.9%</b>
Myanmar	269	13	235	0	17	4	92.2%
Viet Nam	163	26	14	77	36	10	71.8%
Laos	112	25	12	62	9	4	88.4%
Afghanistan	110	30	48	1	27	4	71.8%
Iran	104	36	39	13	14	2	84.6%
Cambodia	96	20	4	66	5	1	93.8%
China	81	6	44	15	12	4	80.2%
China(Taiwan)	75	14	19	20	20	2	70.7%
Pakistan	70	25	40	0	4	1	92.9%
Sudan	40	21	16	0	3	0	92.5%
Others	186	22	116	17	27	4	83.3%

**Attachment 12** Refugee status applicants leaving Japan (out of the top 10 countries, as of December 31, 2005)

Nationality	Number of applicants who left Japan	Breakdown		
		Applicants recognized as refugees	Applicants who left Japan after being permitted to stay	Applicants who left Japan without receiving any protection
Turkey	335	0	3	332
Pakistan	247	0	4	243
Iran	242	10	4	228
Afghanistan	134	7	20	107
Myanmar	70	5	12	53
Viet Nam	68	16	20	32
China	56	0	12	44
Sudan	43	0	3	40
Bangladesh	40	0	1	39
China (Taiwan)	36	0	20	16
Others	309	7	30	272
<b>Total</b>	<b>1,580</b>	<b>45</b>	<b>129</b>	<b>1,406</b>

	Number of applicants recognized as refugees						
		Permanent residents	Residents with other statuses	Naturalized	Left Japan	Others (dead, missing, etc.)	Rate of applicants established in Japan
<b>Total</b>	<b>376</b>	<b>69</b>	<b>150</b>	<b>103</b>	<b>45</b>	<b>9</b>	<b>85.6%</b>
Myanmar	117	7	105	0	5	0	95.7%
Viet Nam	59	6	3	30	16	4	66.1%
Iran	55	21	13	10	10	1	80.0%
Cambodia	50	11	2	34	2	1	94.0%
Laos	48	18	6	19	2	3	89.6%
Afghanistan	23	3	12	1	7	0	69.6%
Others	24	3	9	9	3	0	87.5%

	Number of applicants permitted to stay						
		Permanent residents	Residents with other statuses	Naturalized	Left Japan	Others (dead, missing, etc.)	Rate of applicants established in Japan
<b>Total</b>	<b>930</b>	<b>169</b>	<b>437</b>	<b>168</b>	<b>129</b>	<b>27</b>	<b>83.2%</b>
Myanmar	152	6	130	0	12	4	89.5%
Viet Nam	104	20	11	47	20	6	75.0%
Afghanistan	87	27	36	0	20	4	72.4%
China	78	6	42	14	12	4	79.5%
China(Taiwan)	75	14	19	20	20	2	70.7%
Pakistan	67	24	38	0	4	1	92.5%
Laos	64	7	6	43	7	1	87.5%
Iran	49	15	26	3	4	1	89.8%
Cambodia	46	9	2	32	3	0	93.5%
Sudan	40	21	16	0	3	0	92.5%
Others	168	20	111	9	24	4	83.3%

Note: The number of naturalized applicants is based on data provided by the Immigration Bureau.



## 6. Applicants' Lives after the Disposition

### (3) Those who have absconded

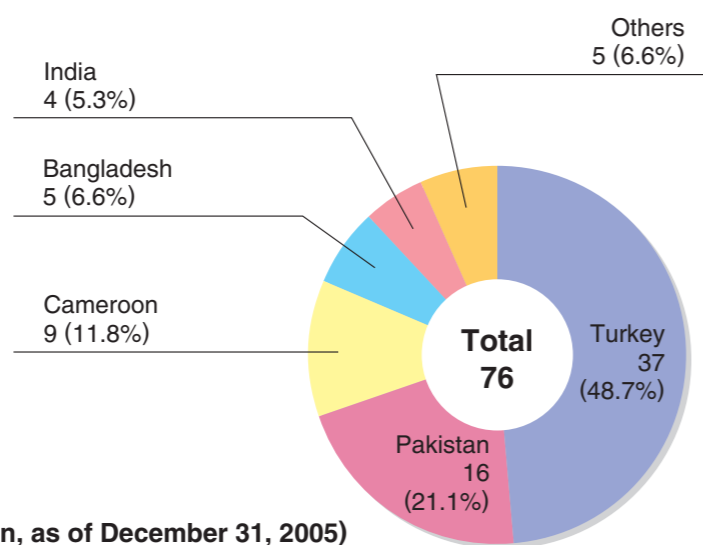
Out of all the applicants for refugee status in Japan, **76 could not be reached**, as of the end of December 2005, for notification of the results of the disposition following the internal decision made in the primary examination, while **46 petitioners** could not be notified of the decision made in the objection examination and therefore a **total of 122 applicants could not be reached for notification** because they had absconded. Attachment 13 shows that by nationality half of those who disappeared were Turkish nationals in either case. In total there were 59 Turkish nationals who had absconded as of the end of December 2005.

### (4) Analysis of applicants from principal countries staying in or departing from Japan

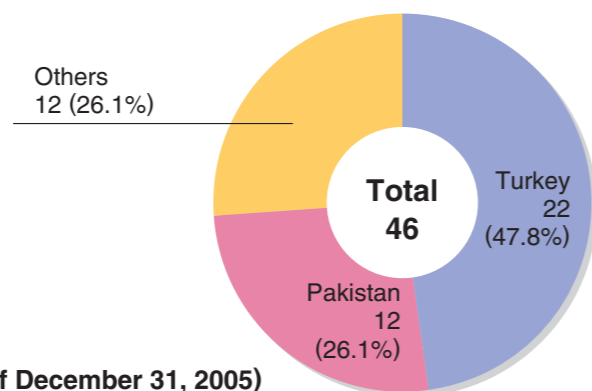
Attachment 14 shows the stay or departure of all of the applicants from the top five countries of origin (Myanmar, Turkey, Pakistan, Iran and Afghanistan) as of the end of December 2005.

The results clearly show that about 80% of Turkish nationals have absconded nationwide or have departed from Japan, in sharp contrast to the applicants of other nationalities.

**Attachment 13** Breakdown of applicants who have absconded by nationality

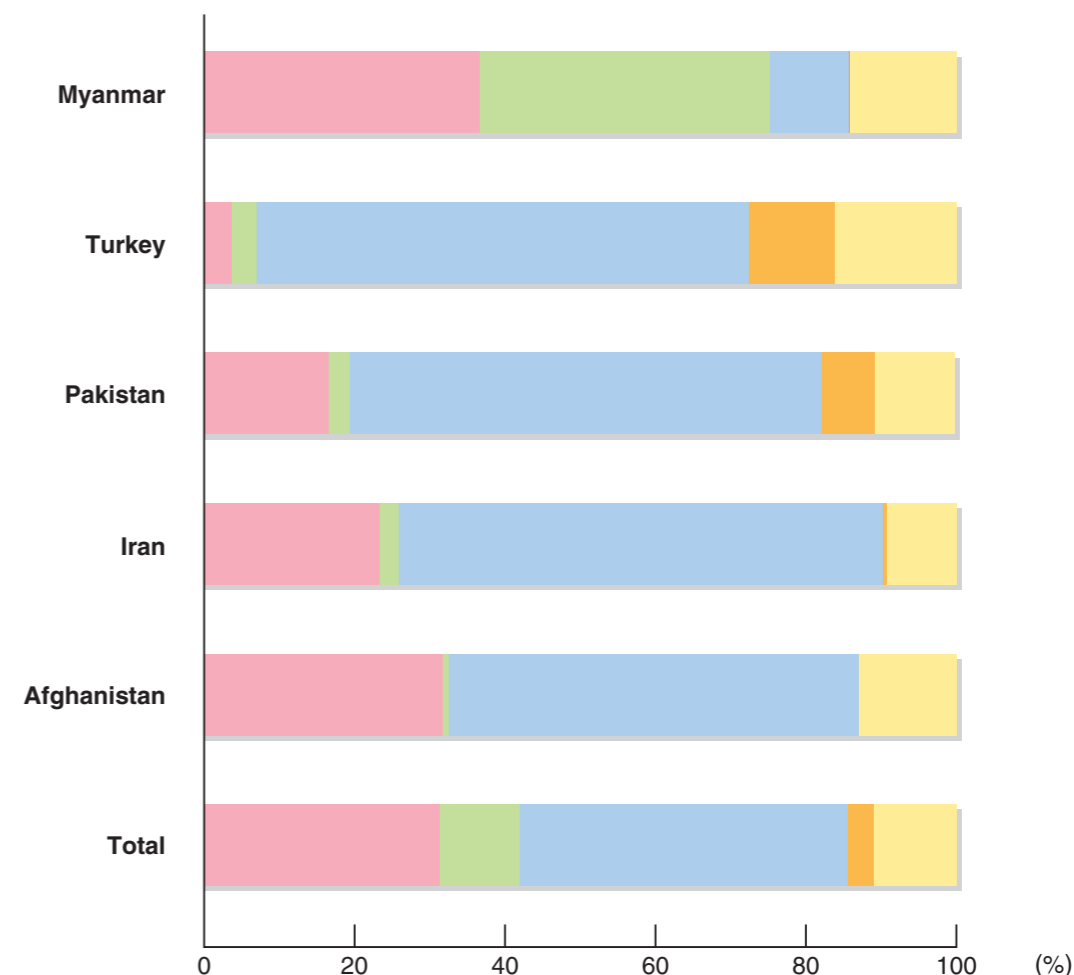


(during the primary examination, as of December 31, 2005)



(during the objection procedures, as of December 31, 2005)

**Attachment 14** Applicants staying in or leaving Japan (out of the top five nationalities)



	Myanmar	Turkey	Pakistan	Iran	Afghanistan	Total
Applicants staying in Japan as recognized refugees or permitted to stay (Note 1)	245 (36.6%)	20 (3.9%)	65 (16.5%)	88 (23.4%)	78 (31.7%)	1132 (31.3%)
Under refugee recognition procedures (Note 2)	258 (38.6%)	17 (3.3%)	11 (2.8%)	9 (2.4%)	2 (0.8%)	387 (10.7%)
Left Japan	70 (10.5%)	335 (65.3%)	247 (62.8%)	242 (64.4%)	134 (54.5%)	1580 (43.7%)
Absconded	1 (0.1%)	59 (11.5%)	28 (7.1%)	2 (0.5%)	0 (0.0%)	122 (3.4%)
Others (Note 3)	95 (14.2%)	82 (16.0%)	42 (10.7%)	35 (9.3%)	32 (13.0%)	397 (11.0%)
<b>Total</b>	<b>669</b>	<b>513</b>	<b>393</b>	<b>376</b>	<b>246</b>	<b>3618</b>

Note 1: Not including applicants who have been permitted to stay but filed an objection.

Note 2: Indicating applicants under refugee recognition procedures (including the objection examination) and applicants who have been permitted to stay but filed an objection.

Note 3: Including applicants who have completed refugee recognition procedures (including the objection examination) and who have filed an administrative complaint, as well as applicants who have died.

## 7. Applicants who have absconded

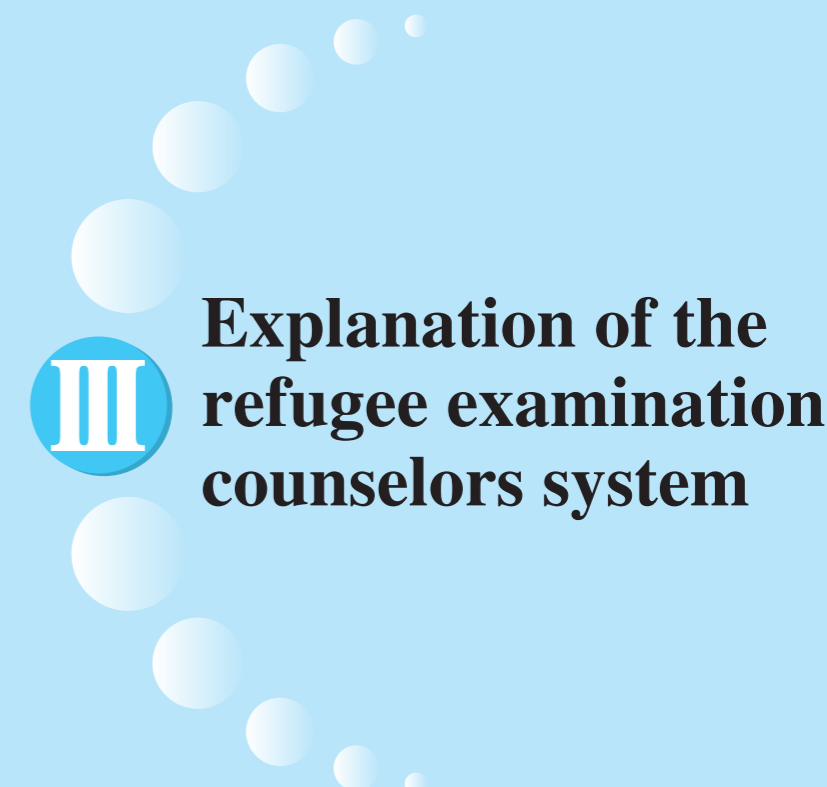
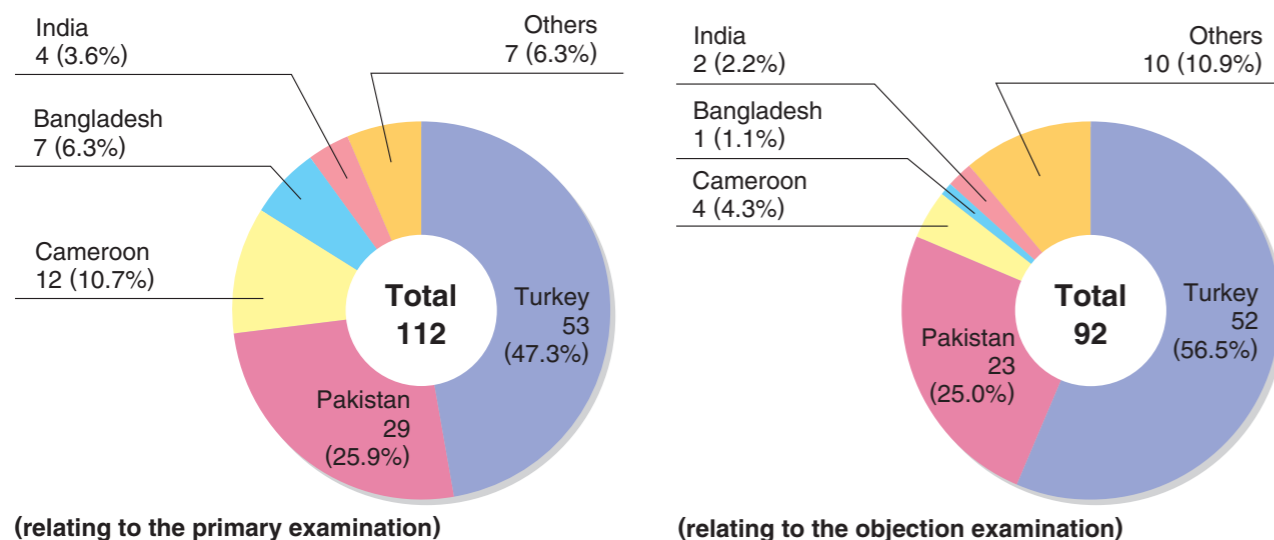
Under normal circumstances it takes one or two months to notify the applicants of the results of the disposition following our internal decision. However, such results cannot be immediately notified to applicants who cannot be located, and subsequently it can take a considerable length of time for the notification to be actually made to them following our internal decision. In view of such circumstances, in an effort to estimate the number of applicants whose whereabouts are unknown, we analyzed the number of applicants who had not been notified over the past five years (2001 through 2005), of the results of the disposition, within six months of our internal decision. The result is that in 112 cases of the primary examination and 92 cases of the objection examination, applicants or petitioners could not be notified out of the 1,479 and 871 internal decisions that had been taken in the primary and objection examinations respectively (not including applications that were withdrawn or terminated). Consequently, the rate of delayed notifications was 8% for primary examinations and 11% for objection examinations. These numbers represent only the estimated number of applicants who could not be located for notification of the results of their disposition following relevant investigations and internal decisions. Obviously, in addition to such

applicants unreachable for notification, there are a number of applicants who disappeared before a disposition was rendered or after they were notified of the results, or who, could not be located at the time of our internal decision, but were found and notified within six months afterwards. All the above leads us to assume that **some ten percent of the applicants have absconded.**

Attachment 15 shows the number of applicants who could not be located by nationality as calculated by the above method. Applicants who particularly could not be located were nationals from Turkey, Pakistan and Cameroon. Closely reviewing our records on all the applicants from these three countries, we found that 170 Turkish nationals, 75 Pakistani nationals and 19 Cameroonian nationals had absconded before they were notified of the results of the primary or objection examination.

By nationality, there were 513 Turkish applicants, 393 Pakistani applicants and 51 Cameroonian applicants. **It follows then that 33% of Turkish applicants (1 in every 3), 19% of Pakistani applicants (1 in every 5), and 37% of Cameroonian applicants (1 in every 3) absconded before finding out the results of the examination of their application.**

**Attachment 15** Breakdown by nationality of applicants to whom the results of the disposition were notified in a delayed period of six months or more over the last 5 years



## Explanation of the refugee examination counselors system

## 1. What is the refugee examination counselors system?

In the past an applicant for refugee status was permitted to file an objection with the Minister against a decision denying recognition of the applicant as a refugee or a resolution revoking refugee status. This system was the so-called objection system. However, the fairness or the neutrality of the system was questioned on occasion because the procedures were only conducted by the staff of the Immigration Bureau of the Ministry of Justice as in the case of the primary examination.

For the above reason, a decision was taken to establish the refugee examination counselors system based on a recommendation made by an informal policy conference on immigration control (a private advisory body of the Minister of Justice), with the intention of improving the fairness and neutrality of the procedures while maintaining the basis of the objection system pursuant to the Administrative Complaint Investigation Law. This new system, which entered into effect on May 16, 2005, requires the Minister to hear opinions, when deciding about a filed objection, from refugee examination counselors made up of private-sector persons of experience or academic standing (Article 61-2-9, Paragraph 3 of the Act).

Each counselor is appointed by the Minister from among persons of reputable character who are capable of making fair judgments on a filed objection, and have an academic background in law or current international affairs (Article 61-2-10, Paragraph 2 of the Act). Each counselor is a part-time government official and treated as an individual consultative body of the Minister.

Opinions submitted by the refugee examination counselors are not legally binding, but the Minister makes a decision about the filed objection respecting their opinions.

## 2. Grouping of refugee examination counselors

The names and backgrounds of the refugee examination counselors are as shown in Attachment 16. There are 19 counselors appointed as of the end of October 2006.

Three counselors form one group and as a group they examine the applicants. Currently there are five groups in Tokyo and one in Osaka.

In order to secure an environment where the counselors are able to freely exchange opinions and shape impressions on the applicants being examined, respect has to be paid to their privacy to a maximum extent. Therefore, to ensure their privacy no information has ever been released as to which counselors are responsible for examining which applicants nor which counselors form which particular group.

### Attachment 16 List of Refugee Examination Counselors

(In order of the Japanese alphabet; Mr. and Ms. are not included.)

<b>Osamu Arakaki</b>	Associate Professor, Faculty of law, Shigakukan University
<b>Nisuke Ando</b>	Professor Emeritus, Kyoto University
<b>Yoshiaki Ishibashi</b>	Former Administration Director, Matsushita Electric Corporation of America
<b>Masashi Ichikawa</b>	Attorney at Law, affiliated with the Daiichi Tokyo Bar Association
<b>Yuji Iwasawa</b>	Professor, Faculty of law, University of Tokyo
<b>Noritake Kai</b>	Former Japanese Ambassador to Tunisia (until Aug. 31, 2006)
<b>Yuki Kawachi</b>	Former Superintending Prosecutor, Osaka High Public Prosecutors Office
<b>Ichiro Sakai</b>	Former Superintending Prosecutor, Fukuoka High Public Prosecutors Office
<b>Hiromi Sato</b>	Former Japanese Ambassador to Morocco Former Director general, the Refugee Assistance Headquarters (since Aug. 1, 2006)
<b>Motoko Shimokata</b>	Former Osaka High Court Justice
<b>Nobuyoshi Tanaka</b>	Former Senior Program Director of the NHK News Bureau
<b>Junko Torii</b>	Professor Emeritus, Seijo University
<b>Takeshi Nakayama</b>	Former General Counselor, International Dept., Tokio Marine & Fire Insurance Co., Ltd.
<b>Yukukazu Hanamizu</b>	Attorney at Law, affiliated with the Tokyo Bar Association
<b>Masako Hoshino</b>	Former President, Kanagawa Human Rights Center
<b>Susumu Matsumoto</b>	Former Commissioner of Legislation for the 3 <sup>rd</sup> Department, Legislative Bureau, the House of Representatives
<b>Shunji Maruyama</b>	Former Japanese Ambassador to the Czech and Slovak Republics
<b>Keiichi Murakami</b>	Former Tokyo High Court Justice
<b>Fusako Yanase</b>	Chairperson of the Board, Association for Aid and Relief, Japan (incorporated NPO)
<b>Kozo Yamada</b>	Editorial Bureau, Yomiuri Shimbun

## Voice of Refugee Examination Counselor ①

One year has passed since I started serving as a member of refugee examination counselors in May 2005. Underneath is my opinions based on my experience as a counselor.

The refugee examination counselors system works as follows: A foreign national within the territory of Japan may file an application to be granted a refugee status by the Japanese Government (Minister of Justice, Ministry of Justice); If the application is rejected, The foreign national may file an objection to the Government; Before deciding on the objection, the Government is required to hear the opinions of the refugee examination counselor; The counselor may endorse either the rejection of the Government or the objection of the foreign national. Or else, the counselor may adopt its own opinions. Whatever opinions it may adopt, the counselor's opinions are not legally binding on the Government, but the Government needs to have persuasive reasoning for its final decision. In any event, the foreign national can contest the final decision before courts; Thus, the work of the counselor is not of "judicial nature" but of "administrative advisory nature".

Currently, the counselor consists of nineteen individual members, which are divided into six groups, each composed of three members working together on one and the same objection. Of the six groups, five is stationed in Tokyo and one in the Kansai area, and the nineteenth member joins any of the six groups when a member of the group is absent. Each group adopts its opinions by majority and a minority member may append his/her separate opinions. I happen to belong to the Kansai group, but since the Tokyo groups are very busy, the Kansai group covers the cases of the Nagoya and the Kyushu areas. In addition, the Kansai group sometimes has to go to Tokyo to deal with pending objections.

Each group of the counselor works in accordance with the following procedure: First, the Government (Ministry of Justice or the Immigration Bureau of each region) assigns to the group an "objection", whereupon written documents concerning that objection are delivered to its three members. The documents include relevant records held by the Ministry or Immigration Bureau, evidence submitted by the objecting foreign nationals and their representative, and general media information as well as global and regional information compiled by pertinent ministries and agencies of various countries; Next, dates and places are set that suit the foreign nationals' convenience for "oral statement" and "hearing" before the group. The procedures are conducted in the Japanese language with word-by-word translation into the languages which the foreign nationals understand. Their representative is entitled to attend and speak for the objecting foreign nationals. In the oral statement the foreign nationals are allowed to make their points, after which each of the three members of the group ask questions to the foreign nationals in order to obtain necessary information; Finally, on the basis of the information obtained through studying materials prior to the oral proceedings and through the oral exchange with the foreign nationals, the group adopts its own opinions and submit them to the Government for final decision.

Looking back at my one-year experience as a member of the refugee examination counselor, I must confess that I was really surprised to find so many foreign nationals illegally working in Japan. Indeed, most of the foreign nationals, who were objecting the rejection of their application for a refugee status by the Japanese Government and who were assigned to my group, had entered Japan on a tourist (temporary visitor) visa for a

Voice of Refugee Examination Counselor ①



short period of stay. However, after the expiration of the period, they had continued to stay and had often worked without permission, thus making their stay and work illegal. When their illegal status was revealed in one way or another, they were caught by the police and sent to detention centers. It is only after their illegal status was revealed or they were sent to detention centers that they would initiate their application for a refugee status. Of course, it sometimes happens that the political situation of their home country has changed during their illegal stay and that their expulsion to home might breach the principle of non-refoulement due to probable risk of their ill-treatment by the home government. My experience indicates that such cases are very, very rare.

One might say that my experience testifies that the system of refugee examination counselor has little merits and should better be abolished, but my own opinions is different. For one thing, the system has just started and more time would be required before judging on its merits or demerits. For another, it is important that any administrative decision should be checked by a third party. No doubt, Japanese public officials and officers in charge of immigration services are performing their duties diligently and seriously. That does not guarantee, however, that their decisions are always reasonable and objective, and I see no harm to provide an opportunity for a third party checking or monitoring to any administrative decision including one on immigration services. In fact, Japan is about to introduce the *saiban-in* (lay judge) system in criminal proceedings. Needless to say, the *saiban-in* (lay judge) system is not the same with the refugee examination counselors system. The former is part of the judicial procedure, the latter of administrative procedure, and yet both imply that a decision of professionals, be it judicial or administrative, should be checked by participation of ordinary people. In my opinions, at the root of any public decision should lie the common sense of ordinary people, and the refugee examination counselors system is certainly a means to realize that proposition. (International law scholar)

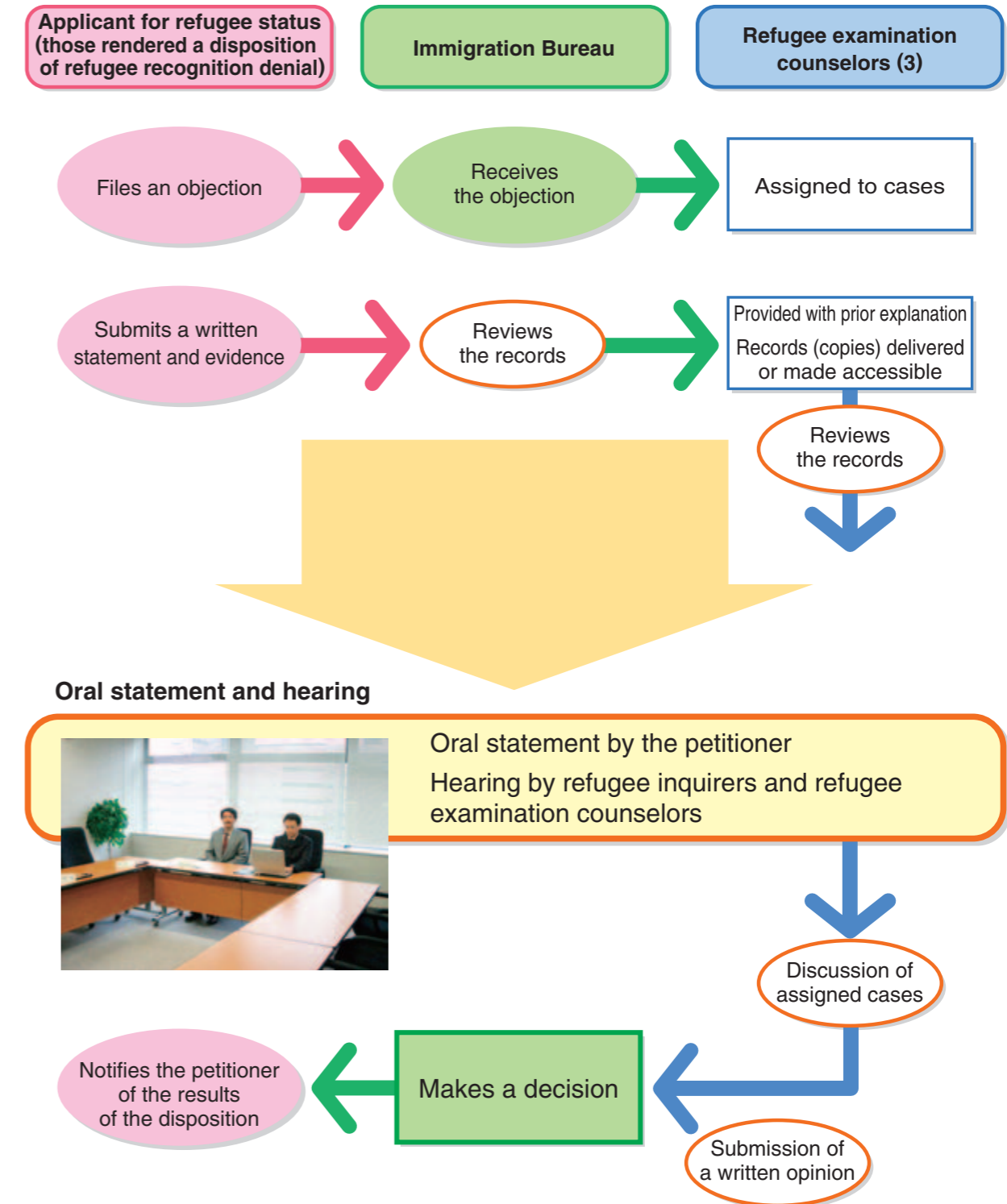


(Children of Afghanistan refugee camp)

### 3. Flow of procedures of the refugee examination counselors system

Attachment 17 shows the procedures for filing an objection under the revised Act, which are generally performed as follows:

Attachment 17 Flow of objection procedures



### 3. Flow of procedures of the refugee examination counselors system

#### (1) Filing of an objection

An applicant who was denied recognition of refugee status may file an objection within seven days of receipt of notification (Article 61-2-9, Paragraph 2 of the Act).

An applicant who has filed an objection may request an opportunity to make an oral statement in order to have his/her opinion freely heard before the refugee inquirers (Articles 48 and 25 of the Administrative Complaint Investigation Law). When requesting an opportunity to make an oral statement a written statement must be submitted in advance.

A petitioner may also submit new documentation or evidence in the objection procedures within the established time limit. In normal circumstances he/she is asked to submit such documentation or evidence within six weeks from the date of filing the objection; however, special cases such as a reapplication may be exempt from such time limit. Submission of evidence after a “hearing” is not accepted (See Article 48 and the proviso of Article 26 of the Administrative Complaint Investigation Law).

Filed objections are assigned to counselor groups according to the order in which they were filed; however, objections that relate to family unity such as between a parent and a child are assigned to the same group. The above assignment will not apply where the counselors specifically request otherwise or where the relevant petitioner has been rendered a decision on an objection previously filed (that is, he/she was examined by refugee examination counselors in the past).

#### (2) Preparations ahead of the oral statement and hearing

Prior to the dates of an oral statement and hearing on a filed objection, the refugee inquirers

concerned with the case prepare a summary of the case incorporating an outline of the primary examination, and for explanatory purposes, distribute the summary, attached with a copy of all the records relating to the case, to the refugee examination counselors in charge.

As government officials the refugee examination counselors are under a confidentiality obligation in accordance with the National Public Officers Act. Therefore, the counselors are provided with any and all documentation in the possession of the Immigration Bureau, including oral statements, records of statements and materials made or submitted by the petitioner as well as records of statements made by related persons, materials obtained from related organizations and other nonpublic materials, in order to ensure that the refugee examination counselors are able to make a full, appropriate judgment.

#### (3) Oral statement and hearing

The “oral statement” in which the petitioner freely expresses his/her opinion before refugee inquirers and the “hearing” where refugee inquirers and refugee examination counselors question the petitioner are held on such dates as are specified for these procedures.

Usually these two procedures are performed in succession on the same date. Each of the two procedures is performed behind closed doors and the place where they are held is not made public in order to protect the petitioner’s privacy.

Cases of objection for which an oral statement or hearing was held up to the end of May 2006 totaled 94 for 128 petitioners <sup>(Note 9) (Note 10)</sup>. Of the 94 cases, 61, or **about two-thirds, were related to Myanmar nationals**; 9 to Turkish nationals, 5 to Bangladeshi

nationals, and 3 to Sri Lankan nationals.

Of the 94 cases mentioned above, the procedures ended on the same day for 87 cases, or 93%; for the remaining seven cases, other dates were set for the continuation of procedures. For two of the seven cases an oral statement or hearing was conducted three times. The number of days spent for the procedures totaled 103.

The average time spent for the procedures of each case was about 47 minutes for the oral statement and 72 minutes for the hearing, or about 2 hours in total <sup>(Note 11)</sup>.

In 58 (62%) of the 94 cases above, representing counsel represented and accompanied the petitioners.

What was said by the parties present at the procedures is kept as records of the oral statement. These records are prepared by refugee inquirers and completed upon verification by the refugee examination counselors who were present at the procedures. When completed they are available to the petitioners upon request.

#### (4) Submission of written opinions by the refugee examination counselors

Upon completion of the hearing and mutual exchange of opinions, the refugee examination counselors prepare written opinions and submit them to the Minister of Justice. The refugee examination counselors are legally limited to giving their opinion on whether or not the petitioner qualifies for refugee status. If the refugee examination counselors consider it necessary to give special consideration to the petitioner, particularly for humanitarian reasons, while denying eligibility for refugee status, the counselors may add such considerations to the opinion.

Written opinions are kept nonpublic so as to allow the refugee examination counselors to freely give their opinions. From the viewpoint of fair procedures, however, the Minister is required to disclose a summary of the refugee examination counselors’ opinions when rejecting or dismissing an objection that was raised against the Minister’s prior decision not to recognize the petitioner as a refugee (Article 61-2-9, Paragraph 4 of the Act).

#### (5) Flow of procedures after submission of the written opinions

The Minister decides for a second time if the petitioner qualifies or not for refugee status in consideration of the written opinions submitted by the refugee examination counselors. Up to now there have been no instances where the Minister ordered a disposition for the petitioner which differed from the majority opinion of the refugee examination counselors.

The Minister’s judgment and his/her reasons are notified to the petitioner by delivery of the decision (a copy of the original).

**Note 9:** The 94 cases referred to herein corresponded to 128 petitioners. If two or more cases were related to the same family and therefore jointly examined, they were recorded as one on a per-family basis. Thus, the number of cases represents the number of families involved.

**Note 10:** Including cases where the petitioners or their representing counsel failed to appear.

**Note 11:** To accurately show the substantive time spent, the time spent on the days when the petitioners or their representing counsel failed to appear was excluded.

## Voice of Refugee Examination Counselor ②

The buzzer sounds at the front door, and a voice says “Courier service. From the Ministry of Justice, sir.” Materials are placed in a heap in my hands. My small study is overstuffed with materials. Wow, what a volume to read through! I’ll have to read through it all in time for the date of the refugee recognition hearing. Bleary-eyed, I read them, but they just don’t seem to sink into my brain. I try hard as if studying for a college entrance exam: very difficult to read, but actually quite enlightening. As a general rule, a hearing is held twice a month. Counselors are grouped to form teams, each one consisting of three members. Their backgrounds are different and diverse: they may be judges or prosecutors, diplomats, lawyers, journalists, employees or university professors who deal with refugee issues. Really a wide variety of able individuals?

The hearing is not a practice run. The petitioners are those who have been denied refugee status in the primary examination. They are desperate to be recognized as refugees by any means. If their application is rejected again, what awaits them is deportation. Each counselor’s judgment has a decisive influence on their lives. His or her judgment should never be made without due consideration as to whether or not the petitioner should be recognized as a refugee as defined in the Refugee Convention, or without regard to how a political refugee should be distinguished from an economic refugee. When appointed as a counselor, I wondered, “Why is the government delegating judgment to the private sector? Does the government want to transfer part of its authority to the private sector? Is the appointment of counselors from the private sector a step ahead of the *saiban-in* (lay judge) system? The primary examination is performed by refugee inquirers, i.e., the government, and the secondary examination or the objection examination by counselors, i.e., the private sector. Is the private sector’s judgment different from that of the government? It should be” — or so I thought.

Many of the petitioners who ask for an objection examination are Myanmar nationals. There are many Turkish nationals, too, followed by Bangladeshi nationals; some Iranian, Nepalese, and African. Most of the petitioners mention “their political opinions” as the reason for persecution. Reasons for persecution vary from one country to another.

Myanmar nationals say they will be persecuted back home “because they belong to an ethnic minority”, “because they participated in anti-military government movements back home” or “because they are known to have taken part in demonstrations staged in Japan against the Myanmar government”, and so forth. Counselors have to decide whether or not to believe what they say.

One thing that caught my attention while present at the hearing session is that many of the petitioners entered Japan using another person’s name or using a counterfeit passport; and once arrested they applied for refugee status. I wonder how such illegal entry was not detected “at the water’s edge” at immigration control. Implemented measures did not seem to be sufficient so I asked and was permitted to watch how immigration control is conducted at Narita Airport.

We had study meetings organized for us, the counselors; we had lectures given by lecturers from the Office of the U.N. High Commission for Refugees; we sought knowledge and opinions from experts on international law; and we had meetings with the examiners of the primary examination and exchanged opinions with them. All served as a useful reference, but when actually handling different cases, we feel as if we are groping blindly in the dark in each case.

Once the hearing is over, the three responsible counselors move to another room and exchange opinions as to what judgment is to be made. In some cases we three coincide in opinion; in some cases we are divided, with two in favor of one opinion and one for another. In such case, we put down two different opinions. This may be one of the merits of the system.

Ms. Sadako Ogata, former U.N. High Commissioner for Refugees, says: “I would like to request that the government maintain a little more generosity and a humanitarian way of thinking in applying the Refugee Convention to those who come for protection. Naturally we are not supposed to receive and accept every applicant as a refugee. What’s important is to provide all possible lawful acceptance in today’s environment where, as the result of globalization, a foreign national as a refugee may not be easily distinguished from another alien who is here seeking employment.” (*Asahi Shimbun evening edition* dated June 20, 2006.) I wish things would work in that way, but the reality is a bit more difficult.

When I was young, I researched and reported on Myanmar, the Indo-China War, and Indochinese refugees. I visited Iran, Bangladesh, and Nepal, too. I hope to be of some service by recalling my experiences and impressions while out in the field.

The year has flown by since I was appointed as a counselor. It has been a year full of trial and error but I feel the challenge has only just begun. (Former journalist)

## 4. Written opinions of refugee examination counselors

### (1) Form of written opinions

There is no specific form for the written opinions to be submitted by the refugee examination counselors, each of whom prepares his/her opinion in the way he/she prefers.

The refugee examination counselors do not form a collegiate body. Legally each counselor is required to provide his/her own opinion directly to the Minister, but when the three counselors coincide in opinion, they often prepare one written opinion in their joint names. If they are divided in opinion, they may separately prepare three written opinions, or write their opinions separately on one sheet. While the volume of written opinions varies depending upon the case, a lengthy one used ten A4 size pages.

### (2) Number of written opinions and their breakdown

As of the end of May 2006 the refugee examination counselors have prepared written opinions on a total of 83 cases for 112 petitioners. The majority conclusions given in the written opinions (given by two or more counselors out of three) have been broken down as follows:

#### i) Opinions in favor of refugee recognition

Given in 7 cases for 8 petitioners (8% case-wise, and 7% petitioner-wise).

#### ii) Opinions in favor of humanitarian consideration

Given in 14 cases for 21 petitioners (17% case-wise, and 19% petitioner-wise).

Consequently, the refugee examination counselors were of the opinion that **some consideration needed to be given to the petitioners in 25% of the cases, and 26% of the petitioners.**

By nationality, 6 cases for 7 petitioners out of the 7 cases for 8 petitioners, which were deemed to qualify for refugee status, corresponded to Myanmar nationals while the remaining 1 case for 1 petitioner was for an applicant from one of the African countries. Of the 21 petitioners (14 cases) who were determined to be in need of humanitarian consideration, 20 (13 cases) corresponded to Myanmar nationals while the remaining 1 petitioner (1 case) was from an East Asian country.

The rate of cases favoring refugee recognition or humanitarian consideration compares nationality-wise as follows:

#### i) Myanmar (51 cases for 63 petitioners)

Recognized as refugees were 6 cases for 7 petitioners (12% and 11%, respectively);

Determined to need humanitarian consideration were 13 cases for 20 petitioners (25% and 32%, respectively);

Total of 19 cases for 27 petitioners (37% and 43%, respectively).

#### ii) Turkey

No refugee status or humanitarian consideration was granted in 8 cases for 17 petitioners.

#### iii) Bangladesh

The same situation as in ii) above applied to 5 cases for 8 petitioners.

#### iv) Sri Lanka

The same situation as in ii) above applied to 3 cases for 6 petitioners.

A look at those of Myanmar nationality shows that of the 51 cases, 9 were examined in a combined manner as family cases <sup>(Note 12)</sup> and the remaining 42 cases were examined individually. Attachment 18 gives the breakdown of the refugee examination counselors’ opinions on family cases and individual cases. As shown by the breakdown, no difference exists between family cases and individual cases in relation to the rate of opinions in favor of refugee recognition. In contrast, the rate favoring humanitarian consideration is more than twice for family cases than for individual cases.

**Note 12:** A family case as referred to herein means a case where different applications were jointly examined because there was a parent-child relationship or a spousal relationship among them. A case where the petitioner has his/her spouse or children in Japan who are not petitioners, was classified as an individual case.

#### 4. Written opinions of refugee examination counselors

In 69 out of the 83 cases for which written opinions were prepared as of the end of May 2006, the three counselors coincided in conclusion, but in the remaining 14 cases their opinions were divided into a majority and a minority. In six of these 14 cases, their opinions were divided over the judgment itself about the petitioner’s eligibility for refugee status (two of which were accompanied with a minority opinion denying refugee eligibility against a majority opinion in favor), and in the remaining 8 cases, opinions were divided over the necessity for humanitarian consideration while unanimously denying refugee eligibility.

As a result, the rate of the three counselors coinciding in opinion stands at 93% on refugee eligibility, and at 83% if the necessity for humanitarian consideration is included.

#### (3) Other opinions

Occasionally, written opinions submitted by the refugee examination counselors contain diverse opinions that are not limited to the petitioner’s refugee eligibility. For example, in the following case, a petitioner would not agree to an interview in the primary examination, and consequently a counselor added the comment that such an attitude was not consistent with a person who was truly seeking protection, saying that what the petitioner contended lacked any claim justifying refugee eligibility, and therefore the counselor in question queried why counselors should be asked for their opinion even in such cases. In a different case of repeated application for refugee status another counselor commented that it was an abuse of the established procedures to vainly repeat the same procedures without new evidence or a new claim.

#### 5. Effect of the refugee examination counselors system

As seen above, the refugee examination counselors have provided us with frank opinions including opinions favoring refugee eligibility. Whether favoring or denying refugee eligibility, the opinions of the refugee examination counselors fully reflect the expertise and experience of the counselors. The refugee examination counselors rely on exhaustive fact-finding by judicial practitioners; analysis of situations in foreign countries by diplomats, journalists and people with many years of experience working overseas; international jurists’ understanding of international laws; and NGO people’s experiences in supporting refugees; and by also drawing on their own expertise and experience the counselors present convincing opinions, sometimes from a totally different perspective, that have never been held before by the Immigration Bureau. Furthermore, the contents of their opinions cover a wide range of matters, including, for instance, “the need to grant special permission for residence independently from refugee eligibility” and “the form of an ideal refugee recognition system”. For the purpose of securing the free expression of opinions, the counselors’ written opinions are not made wholly public, but parts of their opinions are revealed in the decision that is delivered to the petitioners.

Under the previous objection system, in many cases the notice of the decision conveyed only a brief explanation of the reasons for the decision. Under the

current system, however, we are required to disclose a summary of the refugee examination counselors’ opinions in the decision notice to be delivered to the petitioner. Consequently, efforts are made to explain the reasons for the Minister’s decision in as much detail as possible based on the detailed fact-finding conducted by the counselors (see the materials at the end of this document for specific cases).

In addition, similar to the detailed explanations on the reasons for the decision made in the objection procedures, explanations on the reasons for the decision to deny recognition of refugee status made in the primary examination are also becoming more detailed. Efforts are being made to immediately reflect in the primary examination, not only the contents of the opinions formerly presented by the refugee examination counselors, but also each valuable piece of knowledge provided by the counselors on different occasions. The changes in the reasons for the decision to deny recognition of refugee status are one of the effects caused by the refugee examination counselors system on the primary examination.

More than ever, future refugee administration will seek to rest on the basis of the truth and universally protect all those who are in need of protection, aided substantially by the cooperation of the refugee examination counselors who represent diverse fields and backgrounds.

**Attachment 18** Breakdown of the refugee examination counselors’ opinions

	Number of cases	Opinion in favor of refugee status recognition	Ratio	Opinion in favor of humanitarian consideration	Ratio
Family cases	9	1	11.1%	4	44.4%
Individual cases	42	5	11.9%	9	21.4%
<b>Total</b>	<b>51</b>	<b>6</b>	<b>11.8%</b>	<b>13</b>	<b>25.5%</b>



(Cambodian children)

### Voice of Refugee Examination Counselor ③

For two years from 1965 I taught Japanese in Vientiane, the capital of Laos, as a Japanese Overseas Cooperation member. In 1976 some of my former students went across the Mekong River into refugee camps in Thailand, and from there sent a letter to me, then living in Bangkok, pleading, “Teacher, please help me.” Right away I had clothes and food delivered to the Nong Khai refugee camp. When I asked my students, “Why are you abandoning your home country?” they cried, “Our fathers have been captured and haven’t been heard of since. There is no future for us under the new political regime because we were loyal to the former Kingdom of Laos. We want to find liberty and hope in a foreign country.” It was my first encounter with refugees. They settled down in France, Australia and some other countries.

In the spring of 1979, refugees known as the “boat people” flowed out from Vietnam, and in the autumn of the same year, hundreds of thousands of Cambodian refugees poured into Thailand, surprising the ears and eyes of the world. In February 1980, I worked together with housewives living in Bangkok and youths who came in from Japan, and we established the JVC (Japan International Volunteer Center) as a Japan-based NGO (nongovernmental organization). During the following nine years as its secretary general I was dedicated to supporting Indochinese and African refugees and activities to return them home. Throughout this time, a thought lay heavy on my mind — that we should do something to help people, who were the same human beings as ourselves, out of such harsh conditions.

After 17 years of living in a number of developing countries I returned home to Japan to find that most of the “refugee-related news” criticized Japan’s closed nature. When as a refugee examination counselor I came into contact with those who contested the denial of recognition of refugee status, I resolved, based on my past experiences, to “face governmental authorities head-on as a person coming from the perspective of NGO activities”. In reality, however, things did not always turn out that way. All cases of “clear eligibility for refugee status” were recognized in the primary examination. As a result, counselors ended up coming into contact with petitioners who had no valid credibility aside from their passion and enthusiasm for working in Japan. Our wish to help refugees who had been overlooked in their eligibility appeared to be a pointless exercise.

After ten years of illegal labor a foreign national is arrested. He or she finds no door open for employment of unskilled labor in present-day Japan, and simply runs toward application for refugee status. There are people who disappoint me with their exaggerated stories of their student activities performed a long time ago, but at the same time I cannot help feeling disconsolate and helpless when I think that it is precisely because of such people that part of the Japanese economy has been supported. I have heard that discussions are being held in many sectors and fields as to how Japan should receive and accept foreign people as residents or Japanese citizens, but what is really needed is fundamental reform.

More than anything else, we Japanese citizens should be concerned about treating all foreign residents in an indiscriminate, humane manner. I once heard an intellectual, who was formally received as a refugee, say, “After all this, I should never have come to Japan. After so many years of living in Japan I have been unable to overcome the wall of discrimination.” There is no assurance that these people or their children will not one day turn into seeds of terrorist activities. Such tragedies as occurred in London and Paris may be a presage of tomorrow’s Japan. While it is of utmost importance to have a window properly open as a national system, before that, thought should be given by each and every one of us Japanese people to have our “window of the heart” kept open.

(Former NGO member)

## IV Reference materials



## Examples of explanations given on the reasons for denying recognition of refugee status <sup>(Note 13)</sup>

**Note 13:** The examples given below are the reasons for the disposition described in the decision actually delivered to the petitioners. Certain proper nouns have been withheld for protection of personal information.

### ● Example of a past explanation given in the objection procedures on the reasons for denying recognition of refugee status

“In your objection filed against our original disposition, you express dissatisfaction with the given reason. The contents of your dissatisfaction, however, are almost identical to the claim presented in your original application. A review of all the records, including newly submitted materials, does not convince us that you have sufficient evidence to reverse our original disposition, and therefore you are not recognized as a refugee as defined in Article 1, Paragraph A (2) of the Convention Relating to the Status of Refugees or Article 1, Paragraph 2 of the Protocol Relating to the Status of Refugees.”

### ● Example of a current explanation given in the same procedures

“1 (1) You claim that you are likely to be persecuted upon return home because in 1986 you participated in the student movement of the PPP and became an executive member in 1996, and gave a speech criticizing the military.

“However, contrary to the above, you consistently stated in the Japanese criminal procedures that, ‘My entry into Japan in 1989 and 1996 was intended to make money both times. In order to make my residence in Japan easier by taking advantage of my Japanese spouse’s status of residence, I returned home once in the spring of 1999, and had a passport issued in A’s name and then entered Japan for a third time on May 14, 1999. On March 13, 2000 and January 11, 2001, I left Japan and returned to my parents’ home.’ In your statement you made no reference whatsoever to anything which might suggest a fear of persecution. In fact, according to your statement, your reason for

coming to Japan was to search for work not to flee from persecution, and you repeatedly returned home after coming to Japan in 1996.

“(2) The above statement you made in the criminal procedures is detailed and reasonable, and your exit from and entry into Japan coincides with the stamps given in the passport in A’s name in your possession, and therefore, your statement in the criminal procedures is deemed to be highly credible.

“In this regard you state that, ‘Ever since I entered Japan in 1996, I have not been home. Of the stamps given in my passport, those corresponding to my alleged return to Pakistan really correspond to the stamps given when another person went back to Pakistan using the same passport.’ Further, you allege that the records of your statement prepared by the police are pure fabrication, that you are afraid of being notified to Pakistan, and so forth.

“However, you repeatedly told the prosecutors and the court the same things that you had told the police officer. Especially when questioned in the Matsuyama District Court you explained in detail, ‘My earnings in Pakistan were very little, and since I also needed money to finance my sisters’ weddings it was very difficult to live. In order to earn money in Japan and send it home I entered Japan three times under false names. I am here again because my family’s financial conditions have become worse. I needed to make more money for my sister’s marriage and other things. My youngest sister got married three and a half years ago. It was the last marriage among my sisters, but I stayed in Japan because I wanted to save some money and return home with it. I will try to find a job back in Pakistan.’ Further, when questioned in the Takamatsu High Court, you stated, ‘I came to Japan in 1989 to make money to finance my brothers’ marriages, education and medical treatment. My father left our home and gave us no money to live.’ Your statement was made in a free atmosphere in court; furthermore, the above-mentioned appeal trial was held pursuant to your petition of appeal against a 〇-year prison sentence. Therefore you had no reason whatsoever for

particularly hiding any evident danger of persecution — such a situation would have been favorable to your appeal — or making any false statement about your motive for entering Japan. With regard to your statement that you were afraid of being notified to Pakistan, there would have been no reason for you to intentionally lie in court particularly about the time when your father left your home and disappeared.

“You allege, by submitting a response, that you went to B Hospital on January 12, 2001, and that the stamp given in the passport in B’s name proves that someone else entered and left Japan; however, the response only serves to prove that a person under the name of A went to the hospital, and in no way proves that you yourself went there in person.

“(3) Regarding all the above facts, what you claim in the present procedures is grossly irrational, because, for instance:

a. You state that your motive for coming to Japan in 1989 was your father’s suggestion because he was worried about your participation in the PPP’s student movement. Related materials indicate, however, that the PPP came into power in the November 1988 general elections, and therefore you would have had no need to flee the country immediately afterwards;

b. You state that in 1986 you joined the PPP student organization and became one of its executive members in January 1996. However you were about 16 years old in 1986 and no more than 25 in January 1996. Furthermore, you lived in Japan for about six years from January 1989 through March 1995, and you yourself said that you did not engage in any political activities during this time. If such was the case, your activities as a PPP member would have been conducted for no more than four years in total. Your statement made in the investigation procedures in Japan does not suggest that you were engaged in political activities as a high school student, and therefore, it is not believable that you were an executivemember of the PPP.

c. Regarding the stamps given in the passport in A’s name, you state that every entry into and exit from Pakistan had been made by other people and that only the entry into and exit from South

Korea relates to you. However, it is hard to believe that only some of the stamps given in the passport in your possession relate to you.

d. You stated in the oral statement and hearing that the speech you gave was directed at those who supported the same political party as you, and therefore it did not provoke any particular trouble, but if you gave a speech to incite the general public in the way mentioned above, then it is highly unlikely that the Pakistani government would have been on such heightened alert as to plan fabrication of a false charge for your persecution. According to your statement the Pakistani police were supposed to know who the responsible persons were, it is quite unbelievable that the police would issue an arrest warrant for you after waiting for more than a year.

e. You submitted documents titled ‘arrest warrant’ as evidence, but regarding the same, you stated that you had been informed of it by a lawyer back home about one month after it had been issued. It seems quite unbelievable, however, that, knowing an arrest warrant had been issued for you — assuming this to be true — that you would have been home twice and would have further expressed an intention of returning home in the presence of judges in the criminal trial in Japan. Hence it appears likely that the arrest warrant and all the other documents allegedly related to criminal procedures in your home country submitted by you were fabricated for the purpose of refugee recognition.

“(4) Other examinations made of all your statements and submitted evidence have not led us to recognize any objective danger of persecution upon your return.

“For all above-mentioned reasons you are not eligible for refugee status under Article 1, Paragraph A (2) of the Refugee Convention or under Article 1, Paragraph 2 of the Refugee Protocol. Our original disposition is therefore held to be correct.

“2. All of the refugee examination counselors, whose opinions were asked for in accordance with Article 61-2-9, Paragraph 3 of the Immigration Control and Refugee Recognition Act, state that for the above-mentioned reason you are not eligible for refugee status.” (Pending lawsuit)