

Provision of Legal Aid for Asylum-Seekers,
Refugees, and Others Forcibly Displaced in Asia

Country-Level Memorandum: Japan



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STATE-FUNDED LEGAL AID

Eligibility, Nature and Scope

Eligibility of Asylum-Seekers, Refugees and Stateless Persons¹

Asylum seekers, refugees and stateless persons are eligible for state-funded legal aid as follows:

- Legal aid for criminal matters:
 - Adults (20 years old and older): Court-appointed defense counsels are available for suspects who are charged or detained but are unable to retain defense counsel due to indigency or other reasons.²
 - Juveniles (19 years old and younger): Court-appointed attendants, who are lawyers, are available for juveniles accused of serious crimes. Serious crimes include matters where the statutory penalty is the death penalty, life imprisonment or imprisonment of three years and longer, and when the court determines the involvement of a prosecutor is necessary to establish the suspected facts.³
 - The above aid is available to accused or detained individuals described above regardless of their legal right to stay in Japan.
- Legal aid for civil matters:
 - Persons who have residential registration in Japan and can legally stay in Japan, but cannot afford legal fees, are eligible for legal aid for civil matters through Japan Legal Support Center (“JLSC” or “Houterasu”).⁴ Legal aid for civil matters includes free legal consultation, temporary payment of legal fees for document preparation, and representation by lawyers. See also, “Eligibility Criteria” below.
- Legal aid for administrative matters:
 - Persons who have residential registration in Japan and can legally stay in Japan, but are not able to fully protect their own rights due to “insufficient cognitive capacity,” are eligible for legal aid for

¹ Target Group consists of asylum seekers; refugees; and stateless persons.

² Art. 36 and Art. 37-2 of Criminal Procedural Code.

³ Article 22-3 of Juvenile Act.

⁴ Art. 30 (1) ii of Comprehensive Legal Support Act.

administrative procedural matters through JLSC.⁵ Such administrative procedures cover only applications for social welfare and appeals against rulings of relevant authorities. “Insufficient cognitive capacity” is not defined in the relevant Act. However, it would reasonably include elderly people with dementia, mentally handicapped, and intellectually disabled persons.

Scope of State Funded Legal Aid

The scope of state funded legal aid available to the Target Group⁶ depends on the matter.

For criminal matters, a defense lawyer is provided, based on the human right of the accused or detained. Their residential status in Japan does not matter. As a basic concept, criminal procedural code is covered by the Constitution, which prescribes due process as a protection of human right under the Constitution. The Constitution also prohibits discrimination based on race, religious belief, sex, and family origin.

State-funded legal aid also covers civil matters (e.g., claims for damages, divorce, children’s custody, labor disputes) if the person has residential registration in Japan and can legally stay there.

Persons who have residential registration in Japan and can legally stay in Japan, but are not able to fully protect their own rights due to insufficient cognitive capacity, are eligible for legal aid for administrative litigation against rulings of administrative authorities, in relation to the provision of social welfare.⁷ This means State-funded legal aid for administrative matters does not cover support for persons whose stay in Japan is not legally grounded.

Importantly, state-funded legal aid does not cover administrative procedures such as application for recognition of refugee status, deportation procedures, or revocation of status of residence. Therefore, JLSC, a public agency, provides legal aid for these asylum-related procedures from funds received from the Japan Federation of Bar Association (“JFBA”), as detailed below.

Eligibility Criteria under JLSC

To be eligible for legal aid by JLSC in civil matters and limited administrative matters, a person (i) must have residential registration in Japan, (ii) can legally stay in Japan, and (iii) can satisfy income criteria and asset criteria.

⁵ Art. 30 (1) ii of Comprehensive Legal Support Act.

⁶ The Target Group consists of asylum-seekers, refugees and stateless persons.

⁷ Art. 30 (1) ii of Comprehensive Legal Support Act

JLSC assesses whether an applicant meets residential criteria (subsections (i) & (ii) above) based on documentations submitted by the applicant, such as residence cards provided by Japanese government to foreign residents, or limited activities visa provided to applicants for refugee status. JLSC reviews the expiration date of such visa to evaluate whether the applicant has sufficient time remaining to stay in Japan to receive legal aid and also to repay the institute.

Currently, the monthly income criteria in subsection (iii) above are between JPY182,000-328,900, depending on the number of household members and area of residence. Asset criteria is between JPY1.8m-3m, depending on the number of household members.

To be eligible for legal aid in relation to criminal matters, a person must be (i) either accused or detained by criminal authorities (before an official charge), and (ii) does not have liquid assets in an amount of JPY 500,000 or more.

Structures and Procedures

Obtaining State-Funded Legal Aid

Once they are found to be eligible for legal aid, recipients of legal aid services may have certain obligations depending on the nature of the legal matter.

For criminal matters, eligible persons have no obligations as to the services provided by court-appointed defense counsels.

For civil and administrative matters, the obligations of the eligible persons are as follows:

- Submission of required documents to prove their eligibility:
 - Residence Card
 - Documents to prove that the applicant's income and assets are under the threshold set by JLSC.
- Paying back the legal fees that were initially advanced by JLSC to the attorneys, to be made in installments of affordable amounts, such as JPY 5,000 per month.
- In cases where an eligible person has insufficient cognitive capacity but has sufficient assets, after receiving legal consultation of lawyers, he/she is obligated to pay the legal consultation fee.

If a client cannot pay back the legal fees to JLSC, JLSC can waive the right to claim such fee if the client submits an application for the waiver, as well as provide sufficient supporting documents.

If the client cannot present adequate evidence that he/she legally lives in Japan, such as a residence card (which is often the case with the Target Group), legal aid by JFBA will be available as described below in “Non-State-Funded Legal Aid.”

Services Provided by State-Funded Legal Aid

Legal aid is provided by attorneys who register and contract with JLSC. The process for providing legal aid varies, depending on nature of the legal matter, as follows:

- Criminal matters:
 - Adults (20 years old and older): Court appoints defense counsels for charged suspects and detained suspects who are unable to retain defense counsel due to indigency or other reasons.⁸
 - Juveniles (19 years old and younger): Court appoints attendants (lawyers) for juveniles accused of serious crimes where the statutory penalty is the death penalty, life imprisonment, or imprisonment of three years and longer, and when the court determines the involvement of prosecutor is necessary to establish the suspected facts.
- Civil matters:
 - Free legal consultation: JLSC offers a free legal consultation to clients of the Target Group in order to prove their eligibility for legal aid.
 - Support in document preparation and representation by lawyers: Lawyers who provide eligible persons with legal consultation can apply to JLSC for attorney’s fees if he/she represents that the document preparation or the representation by the lawyer is necessary. Upon review of the application, JLSC advances the legal fee to the lawyer, and the client pays back JLSC in installments (e.g., JPY 5,000 per month).
- Administrative matters:
 - Social welfare institutes, such as local welfare centers, support institutes for persons with disabilities, nursing homes, medical institutes, children’s welfare centers, and probation offices, are also available to assist. JLSC acts as an intermediary to establish such contact with the eligible persons who are seeking assistance. In order to obtain legal aid, a person may be required to enter into an engagement letter with the attorney and the JFBA. Again, a lawyer who provides legal consultation regarding administrative matters can apply to JLSC for attorney’s fees if she/he represents that the support by lawyers for the administrative matter is necessary.

⁸ Art. 36 and Art. 37-2 of Criminal Procedural Code

Financing State-Funded Legal Aid

State-funded legal aid is financed by the Japanese government. The annual budgets for legal fees of court-appointed defense lawyers for criminal matters are about JPY 15-17 billion. Annual budgets for JLSC, which manages legal aid for civil matters and limited types of administrative matters, are about JPY 15 billion every year. However, funding for JLSC to provide legal aid on administrative matters does not come from the State, but from JFBA.

Barriers to Legal Services

Availability of Interpretation/Translation Services

Linguistic issues are the highest barrier, especially for people whose mother tongue is a rare language in Japanese society.

For criminal matters, interpretation services are available during the meetings with detained suspects and charged suspects, and also during the court proceedings. However, the quality of court-appointed interpreters is generally thought to be not very reputable.

For civil and administrative matters, interpretation services are also available. For civil legal consultations, the fee for interpretation is paid by the lawyer, who then applies to JLSC for reimbursement. Interpretation services for document preparation are also available. Each local office of JLSC has a list of interpreters available. The lawyers who prepare the documents select the interpreter, and the fees are paid by JLSC, subject to a fixed maximum fee. Interpretation services for client representation and for representation of administrative matters are the same as above for document preparation.

Geography and Location

The JLSC has 50 local offices in rural areas. However, legal services as well as translation services for non-Japanese people, especially for civil and administrative matters, are limited in rural areas. Such services are relatively more available in Tokyo and Osaka, the two largest cities in Japan.

Other Barriers

One of the major barriers for the Target Group to obtain state-funded legal aid in relation to civil and limited types of administrative matters is the legal requirement of having a residential registration and eligibility to legally stay in Japan. For the Target

Group, many of the asylum seekers and stateless persons do not have such registration, nor concrete legal ground to stay in Japan.

In addition, insufficient recognition and awareness of JLSC is another barrier. Many non-profit organizations (“NPOs”) and non-governmental organizations (“NGOs”), which provide support for local foreign people, point out that many of their clients are not aware of JLSC.

NON-STATE FUNDED LEGAL AID

Eligibility, Nature and Scope

Eligibility of Asylum-Seekers, Refugees and Stateless Persons

Members of the Target Group – refugees, asylum seekers, and stateless persons – have access to non-state-funded legal aid offered by NGOs.

Scope of Non-State Funded Legal Aid

The number of NGOs that provide legal aid services is rather limited in Japan. Some of the key organizations that provide legal aid services in Japan include the following:

- Japan Association for Refugees (JAR): One of the largest NGOs known for offering legal aid is JAR. Since its establishment in 1999, JAR has offered a wide range of support, including legal, social, and integration support, to over 7000 refugees. Legal aid has been provided as a part of JAR’s effort to assist individuals who seek asylum and want to be recognized as refugees.

JAR offers information on relevant laws and regulations related to refugees and asylum seekers, including guidance under the Convention Relating to the Status of Refugees. It also assists in the preparation of the application for refugee status. In addition, JAR does outreach visits to asylum seekers, refugees, and stateless persons detained at refugee detention facilities, and works to establish and strengthen relationships with lawyers and law firms that provide legal support in their pro bono activities. In fiscal year 2019, JAR offered support and counseling services on over 1000 occasions, with the cooperation of lawyers, law firms, and interpreters.

JAR’s services are focused on asylum- and immigration-related matters and there is no legal support for non-asylum- or non-immigration-related matters independently. When asked, JAR typically refers the matter to JLSC or coordinates with organizations or attorneys that are capable of offering legal services on non-asylum related matters. JAR does, however, offer support for

their clients seeking employment or education opportunities and communication support.

- RAFIQ (“FRIEND” in Persian): Established in Osaka in 2002, RAFIQ has offered a wide range of support in the Kansai region to help refugees and asylum seekers establish their right to live in Japan. Their support includes offering information, providing living expenses to those without income or financial support, and offering shelter for those in need. RAFIQ has been active in providing legal aid since its foundation. It not only provides information on laws and legal procedures, it also has a long history of helping detained foreign nationals obtain provisional release from immigration detention centers. RAFIQ also provides intensive support to asylum seekers with their application for recognition of refugee status. In particular, upon the determination by an internal committee that an individual is a potential refugee, as defined by the Convention Relating to the Status of Refugees, they work with qualified lawyers to assist refugees in all aspects of the process, such as gathering information about applicant’s country of origin, collecting evidence, participating in hearings, and having follow-up meetings with refugees to explain the status.
- Door to Asylum Nagoya (“DAN”): DAN started off as an initiative of a group of lawyers and other supporters to provide support to asylum seekers. Given the rise in the number of applications for recognition of refugee status in Nagoya, the members formally established DAN in 2012. Unlike the other NGOs, DAN shares an office with a law firm and has focused its activities on providing legal aid to asylum seekers, refugees and stateless persons around Nagoya. In particular, it provides information on laws and regulations, offers advice on how to apply for asylum and how to gather evidence to support of their case, draft personal statements, and help collect Country of Origin Information. DAN also provides translation services when necessary.
- Stateless Network: This NGO group provides stateless persons with legal counselling by providing introduction to lawyers in cases where that is necessary. Stateless Network provides wide-ranging consultation services, which are not limited to asylum-related matters. Their services include application for an acquisition of Japanese nationality or application for residential status in Japan.
- JFBA provides free telephone consultation for stateless persons who are supposed to be Japanese nationals and can communicate in Japanese, but are not registered with the family register. JFBA also provides stateless persons with wide-ranging legal aid services through JLSC described above.

Structures and Procedures

Obtaining Non-State Funded Legal Aid

- JAR / DAN / RAFIQ: JAR requires registration and RAFIQ requires in-person interviews specifically for those seeking help with their application for the recognition of refugee status, but there is no formal procedure or process required to obtain services from these organizations.

All three of these NGOs have websites that allow refugees, asylum seekers, and stateless persons to submit requests for services or reach out for assistance. They also provide legal aid either at its offices, or remotely, through telephone, email, and via the internet.

If there is reason to believe that a person is not a refugee, asylum seeker, or stateless person, or is attempting to exploit the support offered by the NGOs, NGOs may refuse to provide support; otherwise, anyone who is deemed to be a refugee, an asylum seeker or stateless person, and in need of support, is eligible to receive their support.

- Stateless Network: Stateless Network provides stateless persons with some services. However, the challenge for them is that the “necessary” support widely varies, depending on individual situations and backgrounds.

The major support that the Stateless Network provides is consultation. For this consultation, the stateless person or person with undetermined nationality can contact the Network by letter or emails, or via the contact form on their website. The Network does not require identification documents or a residential address to provide this consultation at the initial stage. Depending on the nature of the matter, Stateless Network will check documents on individual cases during the consultation process. When necessary, the Stateless Network requests a lawyer or other relevant persons/organizations to provide further assistance.

- JFBA: The actual support by JFBA is provided by JLSC, as assigned to them by JFBA. Thus, JLSC’s work is funded by both the government and JFBA. JFBA’s decision to financially support in this manner is in order to protect human rights, by assisting persons who cannot obtain state-funded support, for reasons such as lack of legally valid residential status in Japan.

Services Provided by Non-State Funded Legal Aid

Generally, under the Attorney Act, only qualified attorneys are allowed to engage in “providing legal advice or representation, handling arbitration matters, aiding in conciliation, or providing other legal services in connection with any lawsuits, non-

contentious cases, or objections, requesting for re-examination, appeals and other petitions against administrative agencies, etc., or other general legal services”.⁹ The services non-qualified lawyers are prohibited from offering, under the Attorney Act, is not crystal clear. But, generally, unpaid legal consultation by law students or NGO staff is allowed. Legal representation in court is limited to qualified attorneys under relevant statutes (e.g., Code of Civil Procedure.).

All four NGOs below work with attorneys to provide legal aid to refugees. They all have websites through which refugees, asylum seekers, and stateless persons can contact the organizations, regardless of their physical location. Legal aid is also provided through other means, depending on the needs of refugees, asylum seekers, and stateless persons, as further described below.

- JAR: JAR’s services are provided in their office in Tokyo, but they also travel to the Immigration Center in Ibaraki prefecture to offer services to asylum seekers, refugees, and stateless persons who are detained at the Immigration Center. Services are also offered by telephone, email, and internet, and that has enabled asylum seekers, refugees, and stateless persons to access JAR even during COVID-19 and regardless of their location.
- DAN: DAN offers services through in-person meetings at their office in Nagoya, telephone, or email. For those refugees who do not have phone numbers, DAN also provides services through internet apps such as WhatsApp, Viber, imo, and Line.¹⁰ DAN’s members also travel to meet with refugees in person, if necessary, including visiting detained refugees at detention centers located in Nagoya.
- RAFIQ: RAFIQ provides legal support at their office in Osaka and at the Immigration Center in Osaka. RAFIQ’s volunteers also travel to other cities and to the detention center in Kyusyu to meet with and provide support to refugees and asylum seekers, as necessary. Their services are also offered through telephone and email.
- Stateless Network: Stateless Network provides assistance through contacts and consultations via email, Zoom, and Line. Since COVID-19, Stateless Network has stopped having in-person meetings, including interviews, and has stopped accompanying individuals to the immigration bureau.

Financing Non-State Funded Legal Aid

NGOs and other non-state funded legal aid providers receive their funding from a variety of sources, including donations or subsidies from other organizations.

⁹ Art 72 of the Attorney Act

¹⁰ Door to Asylum, FY2020 Business Report, https://www.door-to-asylum.jp/dan_website/2020jigyouhoukoku202103.pdf (last visited 2/22/2022).

- JAR: The majority of the funding to support JAR's services comes from donations. According to JAR's financials for fiscal year 2020,¹¹ approximately 60% of the funding came from general donations whose usage is not limited to a specific purpose, and another 9.3% came from donations made for a particular purpose. JAR also receives funding from the United Nations High Commissioner for Refugees and the Office of the High Commissioner for Human Rights.
- DAN: According to DAN's financials for fiscal year 2020,¹² approximately 86.4% of the funding came from subsidies, and 11.6 % came from donations.
- RAFIQ: According to RAFIQ's financials for fiscal year 2020,¹³ approximately 16% of the funding came from donations from individuals and organizations, and 35% came from subsidies from various funds and other organizations. RAFIQ also earned approximately 6% of their total income from business activities such as offering seminars on refugees and offering translation services.
- Stateless Network: Stateless Network is funded by an annual subscription fee, which is either JPY 10,000 or JPY 5,000, depending on the financial situation of its members. In addition, the Network receives donations, but that is not a major source of income for them. Stateless Network's staff members are not paid for their research or consultation services.
- JFBA: JFBA is mainly funded by membership fees paid by all lawyers in Japan. Current monthly membership fee is JPY 12,400. The actual support by JFBA is provided by JLSC, as assigned to them by JFBA. Thus, JLSC's work is funded by both the government and JFBA. JFBA's decision to financially support in this manner is in order to protect human rights, by assisting persons who cannot obtain state-funded support, for reasons such as lack of legally valid residential status in Japan.

Barrier to Legal Services

Availability of Interpretation/Translation Services

Language is the most significant barrier for refugees, asylum seekers, and stateless persons in order to access legal support. Over the past 20 years, NGOs have successfully built a network of interpreters, including former asylum seekers, and have

¹¹ Japan Association for Refugees, JAR Annual Report, https://www.refugee.or.jp/wp-content/uploads/2022/02/jar-ar_2020_en.pdf (last visited 2/22/2022).

¹² Door to Asylum, FY2020 Statement of Activities, https://www.door-to-asylum.jp/dan_website/2020katsudoukeisansho202103.pdf (last visited 2/22/2022).

¹³ RAFIQ, RAFIQ FY2020 Annual Report, http://rafiq.jp/pdf/activity/RAFIQ2020_report.pdf (last visited 2/22/2022).

established the means to communicate with most refugees, asylum seekers, and stateless persons using their first, second, or third language, if necessary. However, there are languages they have not been able to cover, making it difficult for some refugees and asylum seekers to understand the various procedures or to actively participate in proceedings.

Geography and Location

- JAR / DAN / RAFIQ: Most of the refugees, asylum seekers, and stateless persons are located in major cities in Japan, such as Tokyo, Nagoya, and Osaka, where NGOs have their offices. So, as a general matter, legal aid has been easily accessible to those in need. People who live in smaller cities, where public transportation is less convenient or where it costs more to travel to larger cities, may have more difficulty accessing non-state-funded legal aid compared to those in major cities. Accordingly, while NGOs are typically open and willing to travel and meet with refugees, as necessary, geography can be an obstacle for a certain group of people.
- Stateless Network: Since Stateless Network provides assistance through contacts and consultations via email, Zoom, and Line, the location of the Network itself rarely limits access to the Network. However, in some cases, it could be more difficult to assess an individual's situation without having an in-person meeting.

Other Barriers

- Stateless Network: The most significant barrier or obstacle for stateless persons in accessing Stateless Network is the lack of knowledge regarding the Network. The Network has limited resources, with limited presence in the community. Because the status of "stateless persons" is not well recognized in Japan, many stateless people in Japanese society simply do not know there is an organization that provides support to stateless people.

Another problem is occasional difficulties in working with legal experts. Some experts do not want to inform the Stateless Network of the process after being referred to, even when the stateless person is willing to share information with the Network. It is not unusual for a stateless person to feel uncomfortable with or intimidated by the legal experts, and say "yes, I understand," even when they do not fully understand. These individuals cannot explain the details clearly. In order to help such an individual and also to accumulate knowledge for other similar inquiries, Stateless Network sometimes asks legal experts about the progress, but such an inquiry is not always well received. The number of legal experts who are familiar with stateless issues is limited. Thus, it is important to increase the number of legal experts with whom Stateless Network can work.

- While the barriers for asylum seekers to access non-state-funded legal aid may not be substantial, there are still significant hardships from which asylum seekers in Japan suffer. In 2021, there were 3,939 applications for recognition of refugee status, but the number of foreign nationals who were recognized as refugees remained as low as 47.¹⁴ According to one NGO, rejected applicants in 2021 included those from conflict zones such as Uganda, Sudan, and Ethiopia. Based on these situations, NGOs not only bemoan the Japanese government's unwillingness to actively recognize refugees, but also point out that there is insufficient social protection provided to asylum seekers in the country. For example, the financial support provided to those who were granted temporary release is scarce, and a minimum standard of living is not guaranteed without a third party's support. In addition, access to social security system, such as medicine and housing, is limited. The NGOs also point out there is no fairness in the administrative procedures regarding the recognition of refugee status, such as, interviews not being recorded, attorneys not being allowed to accompany the applicants to their interviews that take place before the administrative review, and asylum seekers being pressured to sign written statements without having a full understanding of its content. Accordingly, while there are several well-established NGOs in Japan to which refugees, asylum seekers, and stateless persons can reach out for legal aid and, while these NGOs are quite selfless and diligent in providing the necessary support, the NGOs share the view that it remains to be questioned whether sufficient aid and protection can be expected in Japan without a fundamental change in the Japanese government's policy towards refugees.

SOURCES

NGOs

Japan Association for Refugees (Mr. Susumu Tada) <https://www.refugee.or.jp/en/>

Door-to-Asylum (Ms. Maho Hadano) <https://www.door-to-asylum.jp/>

RAFIQ (Ms. Keiko Tanaka) <http://rafiq.jp/>

Stateless Network <https://stateless-network.com/>

BAR COUNCILS

Japan Federation of Bar Associations <https://www.nichibenren.or.jp/en/>

Japan Legal Support Center <https://www.houterasu.or.jp/en/index.html>

¹⁴ Immigration Service Agency of Japan, Number of refugees recognized in 2020 (Reiwa 2), https://www.isa.go.jp/en/publications/press/07_00003.html (last access 2/22/2022).



This document is part of a collaborative, multi-jurisdictional research project on the availability of legal aid to refugees in Asia for use by refugees, other displaced people, and the lawyers and organizations that work with them. It was compiled by Orrick and provides information on both state and non-state funded legal aid in Japan.

Law firms participating in this research are not liable toward third parties for the accuracy of the general information contained in this guide. The memorandum is not intended to provide, nor should it be relied on, as legal advice. Legal advice should be sought for any specific individual circumstance. If you find any inaccuracies in this document, please inform PILnet at grfpledge@pilnet.org.

If you are an individual seeking further information and contact details about legal aid providers in Japan, please see the country page for Japan on [Rights in Exile](#) or [UNHCR's Help](#) platforms.

If you are an organization seeking to be matched with free legal assistance for your organization or your refugee clients, please click [here](#) to learn more about [PILnet's Refugee Legal Assistance Matching Mechanism](#).