

Citizen's Network for Japanese-Filipino Children (CNJFC)

Annual Report 2008

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III. Overview of legal advocacy on behalf of JFCs and assistance to JFCs dealing with government procedures provided by the Tokyo office

1. Procedures for case handling

In principle, a case is received directly upon counseling with a client at the Maligaya House or the Tokyo office. From two years ago for the first time, we have also handled cases received at COWDI (Center for Overseas workers in Davao). However, since the staff at COWDI is not yet used to these cases, the progress on these cases have been slow. How to handle such cases more efficiently in the future is an issue.

In moving the case forward, first of all, we investigate the location of the father and ways to contact him based on information provided by the client. Sources that are used are addresses and phone numbers provided by the client, operator-assisted number information service by NTT, etc. We may also ask assistance from lawyers.

When the father's home or office address is known, we send a letter. If we receive no response after sending three letters, we send a certified letter. If we still receive no response, we ask a volunteer to visit the home or office address. Afterwards, we begin negotiations with the father through the office, but if the negotiation faces obstacles we ask a lawyer to take the case.

If we cannot locate the father, we attempt to write, call, or visit other contacts, or parents and siblings of the father, as provided by the client on the case information sheet and ask for the father's location.

If the father cannot be located after this procedure or if we find that the father is economically incapable, etc. upon meeting him, we may decide to discontinue the case upon the decision of the attorneys' conference which is held every other month.

2. Case acceptance and status (Table 1–3)

(1) JFC Network has accepted a total of 954 cases so far, of which 83 was received during the past year (Table 1). Prior to the establishment of the Maligaya House, cases from the Philippines were based on referrals from other NGOs in that country, but after its establishment (Jan. 1998), such cases are exclusively received through that office. Two years ago, for the first time, we received a case from COWDI in Davao.

Table 1: Total Number of Cases (as of Dec. 31, 2008)

Year	Place	Total	Discontinued	Resolved	Attorney	Office
93-95	BS	49	37	10	0	2
96-97	NGO	7	7	0	0	0
96~03	TK	113	57	48	2	6
97~03	MH	479	415	53	7	4
2004	TK	14	6	7	0	1
-	MH	37	21	11	2	3
2005	TK	21	6	10	0	5
-	MH	8	4	0	0	4
2006	TK	27	9	9	4	5
-	MH	23	6	8	7	2
2007	TK	30	3	7	4	16
	MH	46	14	7	7	18
	COW	17	4	0	3	10
2008	TK	33	0	2	11	20
	MH	30	3	0	0	27
	COW	20	0	1	0	10
Total		954	592	173	47	133

Note: BS: Batis Center, MH: Maligaya House, COW: COWDI (Center for Overseas Workers in Davao)

Of the total cases received (945), 62.05% have been discontinued.

“Attorneys”, “Office” indicates cases received by the JFC Network during that year, referred to attorneys or handled by the office, and are unresolved as of the end of last year.

18.13% of the cases have been resolved.

(2) Table 2 indicates the number of cases that reached some solution among all cases accepted. For a more detailed analysis of each item, refer to the following pages.

Table 2 counts the number of people who reached the solution indicated. So, if two children of the same mother received acknowledgment of paternity, it is counted as two incidents of acknowledgment although it is a single case for the purposes of case management. Or if the same child received both acknowledgment of paternity and payment of alimony, these are counted as incidents under each category. Therefore, the number of resolved cases in Table 1 and the total number of solutions in Table 2 do not match.

Table 2: Status of all cases and cases received last year (unit: persons)

	Reported marriage to the Japanese government	Acquisition of Japanese nationality	Acknowledgement of paternity	Payment of alimony	Special permission to stay	Total
Total	57	71	71	108	41	348
Last year	3	19	10	7	3	40

(3) Of the total 954 cases that were received, 592 (31 last year) have been discontinued by the end of last year (see Table 1). Table 3 indicates the reasons for discontinuance. Cases that were discontinued because the father could not be located, including “No due as to the father’s location / lack of information” (36 cases), “Father cannot be located” (148 cases), constitutes 31.08% of the cases that were discontinued.

Other notable cases include cases demanding acknowledgment of paternity or inheritance after the father’s death. 19 such cases have been discontinued. Also, cases that have been discontinued because the father is incapable of paying alimony (47 cases) constituted 7.94% of the total. Further, cases where the father shows no willingness to pay alimony and discontinued due to difficulties in negotiation (97 cases) constitute 16.39% of the total (Table 3). 83 cases (14.02%) have been discontinued because the client lost contact or could not be located. For cases received in the Philippines, cases may be difficult to maintain especially due to the client’s economic situation, etc.

Table 3: Reasons for discontinued cases

Reason for discontinuance	AY 2008		1993-2008	
	Total	Proportion (%)	Total	Proportion (%)
Will be living as a family / satisfactory relationship	0	0.00	14	2.36
Alimony is already being paid / Direct payment of alimony begun	1	3.23	16	2.70
No information regarding the father / Lack of information	0	0.00	36	6.08
Father could not be located	2	6.45	148	25.00
Accepted monetary payment in the past	0	0.00	3	0.51

Request already made (recording of marriage, recording of birth, acquisition of copy of family registry)	0	0.00	2	0.34
Difficulty in negotiation / No will to pay alimony	0	0.00	97	16.39
By request of the client	8	25.81	43	7.26
Negotiation between the parents	0	0.00	18	3.04
Trouble in understanding the client's situation / Lack of trust	1	3.23	10	1.69
Client could not be located or contacted	5	16.13	83	14.02
Father incapable of payment	2	6.45	47	7.94
Could not negotiate with the father due to his detention	0	0.00	2	0.34
Referral to other organizations, individuals, attorneys	2	6.45	12	2.03
Could not assist (special permission to stay / acquisition of nationality / other)	2	6.45	8	1.35
Father deceased, could not inherit property or have paternity acknowledged/ no pension	2	6.45	19	3.21
Deportation of the mother and child	0	0.00	1	0.17
Client / JFC unwilling to pursue their cases	4	12.90	12	2.03
Payment of alimony stopped, no longer willing or capable to pay	0	0.00	6	1.01
Payment of alimony stopped and the father began directly paying it	0	0.00	1	0.17
Payment of alimony stopped and the father could not be located	0	0.00	3	0.51
Payment of alimony stopped and the client cannot be contacted	1	3.23	4	0.68
Payment of alimony stopped, loss of trust with the client, lack of will to continue the case	0	0.00	2	0.34
Mother and child disappeared while payment of alimony was in progress	1	3.23	1	0.17
Family lacks ability to raise a child	0	0.00	1	0.17
Client does not have economic resources to pursue the application procedure	0	0.00	2	0.34
The mother is not interested in the case (the father is the client)	0	0.00	1	0.17
TOTAL	31	100.00	592	100.00

3. Assistance with government procedures related to marriage (Tables 4–7)

(1) Of the total cases received (954), 374 (39.20%) involve cases where the parents were married in either Japan or Philippines as of the time the case was received. However, 51 cases (13.36%) involved bigamy. Of these, in 27 cases (Table 5: 7.22% of cases in which the parents were married when the case was received, 52.94% of cases involving bigamy), marriages with our clients were invalid because they were made during an existing marriage (Philippine Family Law Article 35, Clause 4).

Table 4: Marital status of parents as of the time the case was received

Status	Married	Unmarried	Total
Number	374	580	954
Proportion	39.20%	60.80%	100%

Table 5: Cases involving bigamy

	The marriage in question was first (valid)	The marriage in question was made during an existing marriage (invalid)	Total
Number	24	27	51
Proportion among bigamy cases(%)	47.06%	52.94%	100
Proportion among all marriages(%)	6.37%	7.16%	13.60

(2) A valid marriage in the Philippines is also valid under Japanese law, but the marriage will not be recorded in the Japanese family registry unless it is reported to the local government office in Japan where the family registry is based or to the Japanese embassy in the Philippines.

Subtracting 27 cases in which the marriages were invalid under Philippine law because of pre-existing marriage from the 374 cases in which the parents were married when the JFC Network received the case, there are 347 cases of valid marriages. Of these, 301 cases (86.74%) were marriages in the Philippines. However, in 94 of those cases, the marriage was not reported to the Japanese government and was not entered into the family record under the husband’s name (31.22% of marriages valid under Philippine law). (Table 6, Diagram 1)

The JFC Network reported 57 of those marriages to the Japanese government after it received the cases (60.63% of the 94 non-reported cases). Of these, 1 case was reported within a year of the marriage, and 34 cases within 5 years of the marriage, constituting a majority (Table 7).

Last year, we reported 3 cases of marriage to the Japanese government. For these cases, a year and 8 months, 6 years and 2 months, 16 years and 2 months have passed since the marriage took place. Of these, two were bigamy, but since the marriages with the clients came first, they were valid and we reported them.

Table 6: Details of valid marriages (347 cases)

Type	Married in the Philippines		Married in Japan	Unknown
	Not recorded in Japan	Recorded in Japan		
Number	94	207	44	2
Proportion	26.86%	59.14%	12.57	0.57
	32.22%	68.77%	—	—
Number	301		44	2
Proportion	86.00%		12.57	0.57

Diagram 1: Details of valid marriages

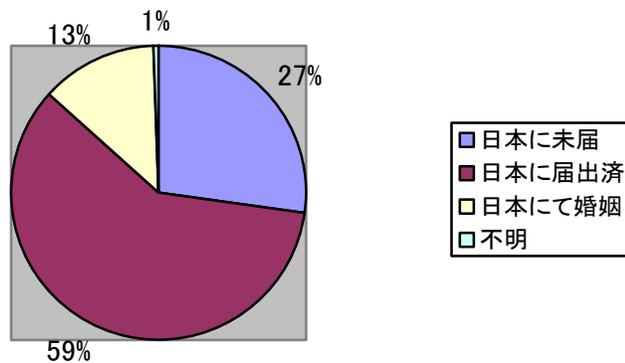


Table 7: Time elapsed between marriage in the Philippines and reporting to the Japanese government

Time elapsed	Cases
Less than a year	1
More than a year, less than 2 years	4
More than 2 years, less than 3 years	6
More than 3 years, less than 4 years	7
More than 4 years, less than 5 years	4
More than 5 years, less than 10 years	14

More than 10 years, less than 20 years	17
More than 20 years, less than 30 years	2
More than 30 years, less than 40 years	1
Unknown	1
Total	57

(3) As described in (2), there is an extremely large number of cases in which a valid marriage in the Philippines were left unreported to the Japanese government for a long time and unrecorded in the family registry of the husbands. It may be due to the lack of recognition by both the Japanese husband and the Filipino wife about the necessity of reporting to the Japanese government. In interviews with the clients at the Tokyo office and Maligaya House, most of the Filipino wives lacked knowledge about reporting to the Japanese government.

As described previously, without a report to the Japanese government, marriage remains unrecorded in the family registry of the Japanese husband. In such cases, the husband may feel less responsibility towards the wife as time passes, or bigamy may result. Also, the location of the family registry of the Japanese husband is often inaccurately recorded in marriage certificates issued in the Philippines. In such cases, we try to trace the location of the family registry from the current address. But as time passes, it becomes progressively difficult to locate the husband because of transfer of residence and business addresses. One of the reasons why we could report only 57 (60.63%) of the 94 cases in which marriages were unreported when the JFC network received the case is because the husband cannot be found after the lapse of years and it was impossible to locate his family registry.

To resolve this issue it is important for the Philippines government and the Japanese Embassy in the Philippines to inform pre-wed couples of the procedure. As we describe later, of the cases received through the Maligaya House, approximately 60% are referred by the Japanese Embassy. The Embassy therefore knows the seriousness of the problem and should provide an appropriate remedy immediately.

4. Acquisition of nationality (Table 8 -11)

(1) Overview

① 72 children acquired Japanese nationality after their cases were received by the JFC Network. Of these, 5 were able to retain their nationality through their wedded parents reporting to the Japanese government within three months of their birth (all cases in the Philippines), 20 acquired nationality through legitimation (cases in both Philippines and Japan), 4 through acknowledgment of paternity prior to birth (cases in both Philippines and Japan), 15 through reacquisition of nationality (all cases in Japan), 13 through the provisions of the Japanese nationality law prior to 1984 (all cases in the Philippines), 3 by reporting of their births (cases in both Philippines and Japan), and 12 through acknowledgement of paternity after birth according to the Supreme Court decision of June 4, 2008. The 10 children who applied for Japanese nationality together at the Japanese Embassy in Philippines on Dec.10 is not included as the results are not yet known.

② Of those who acquired nationality through legitimation last year (6), two were siblings whose father acknowledged paternity after their birth in the Philippines and whose mother applied for their nationality while visiting Japan. Another applied for nationality at the Japanese Embassy through the Philippines after the mother and the child won a court decision regarding paternity after the father's death. In another case, the mother and child lived in the Philippines after the child was born there when the father disappeared. The two came to Japan with the assistance

of acquaintances, won a lawsuit regarding acknowledgement of paternity and thereafter applied for the child's Japanese nationality. Another was born in Japan, but both the mother and the child had overstayed their visas. Because the mother had a Filipino husband, the child was presumed to be her husband's, and the Japanese father could not acknowledge paternity on his own. After petitioning to override this presumption of paternity and a judgment in their favor, an application for the child's Japanese nationality was made. Another was born in Japan, but because both the mother and the child had overstayed their visas, the child was placed in a children's facility. After the father voluntarily acknowledged paternity, the child applied for and was granted a special permission to reside in Japan, while the mother returned to the Philippines. The 17-year old child acquired Japanese nationality after applying on own.

③ Of the 12 who acquired nationality through acknowledgement of paternity after birth, 9 were the plaintiffs of the lawsuit demanding confirmation of Japanese nationality. Of the remaining 3, one was a 15 year old that received acknowledgement from the father voluntarily and acquired Japanese nationality after applying on own. One was a 19 year old that received acknowledgement from the father but did not have a legal immigration status. This person applied for Japanese nationality before the person's 20th birthday in December and successfully acquired it. One other JFC was in the Philippines while the mother was overstaying in Japan. The father voluntarily acknowledged paternity. Afterwards, with relatives as guarantors, the child applied for a legal immigration status. A one-year residential visa was granted and the child came over to Japan, but the mother, the Filipino husband, and children born between them were arrested for overstaying their visas and given deportation orders. Currently, litigation is underway seeking to cancel the deportation order. The child (whose paternity had been acknowledged) was able to acquire Japanese nationality by immediately applying for it after the Supreme Court decision.

④ The one who was able to reacquire Japanese nationality applied for it after coming to Japan in January, prior to the 20th birthday in July. In order to reacquire Japanese nationality, there is a residence requirement which require intent to settle in Japan in the future and also require that the applicant had been living on a long-term visa for at least 6 months. This person had been in Japan for 5 months at the time of application.

⑤ The one who acquired nationality through a provision applicable to children born before the 1984 revision of the nationality law was a JFC born in March 1983 (25 years old at the time of application). The Japanese father had been deceased, the Filipino mother had lost contact, and the person acquired nationality on own after reporting to the Japanese government.

Table 8: Details of acquisition of Japanese nationality (Unit: persons)

	Retention of Japanese nationality	Legitimation	Acknowledgement of paternity		Reacquisition of Japanese nationality	Prior to revision of nationality law	By reporting birth to the Japanese government	Total
			Prior to birth	After birth				
Total	5	20	4	12	15	13	3	72
Last year	0	6	0	12	1	1	0	20

(2) Acquisition of nationality through legitimation (Article 3, Clause 1 of the Nationality Law prior to the 2008 revision)

(a) Illegitimate children may be legitimated by acknowledgement of paternity by the father followed by the marriage of the parents (Article 789, Civil Code). According to Article 3, Section 1 of the Nationality Law prior to the 2008 revision, a child who is a minor and who had been legitimated may acquire Japanese nationality by so reporting to the Japanese government (Article 3, Nationality Law).

(b) 49 JFCs (Table 9) had been legitimated (eligible for acquisition of Japanese nationality) when the JFC Network received their cases. Of these, 22 JFCs had already acquired Japanese nationality.

On the other hand, of the 27 who did not have Japanese nationality despite having been legitimated, only 10 were able to acquire Japanese nationality after the Network received their cases. The details are as follows.

- ① Resident in Japan from the beginning of the case: 2
- ② The mother and child visited Japan and applied for Japanese nationality after the case was received in the Philippines: 4
- ③ The child visited Japan and applied for Japanese nationality after the case was received in the Philippines: 1
- ④ The mother resides in Japan while the JFC resides in the Philippines: 1
- ⑤ JFC applied for Japanese nationality at the Japanese Embassy in the Philippines: 2

(c) There are 15 cases in which the child was legitimated after their cases were received by the Network. Of these, 10 acquired Japanese nationality.

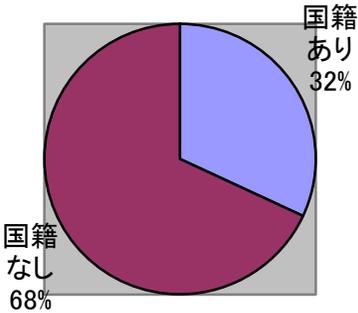
Table 9 Nationality of children who had been legitimated by the time their cases were received (unit: persons)

	Total	Has Japanese nationality	Does not have Japanese nationality
Number of JFCs	49	22	27
Proportion	100%	44.89%	55.10%

Table 10 Marital status of parents of JFCs who had been legitimated by the time their cases were received (unit: persons)

	Married		Divorced	
	Has Japanese nationality	Does not have Japanese nationality	Has Japanese nationality	Does not have Japanese nationality
Number of JFCs	15	14	7	13
Proportion	30.61%	28.57%	14.28%	26.53%
Number	29		19	
Proportion	59.18%		38.77%	
Total	49			
	100%			

Diagram 2 Loss of nationality by children born from married parents



(d) As described above, there are 27 JFCs who had not acquired Japanese nationality when the JFC Network received their cases, despite their having been legitimated. 17 of them have still not acquired Japanese nationality to this date. All of them involve cases received in the Philippines.

The reason why acquisition of Japanese nationality through legitimation remains low in cases received in the Philippines involves personal reasons such as economic situation, but also structural issues as described below.

Currently, the local branch offices of the Department of Justice require that the parents jointly apply for the acquisition of Japanese nationality by the child if the parents are married, based on the provision of the Civil Code, Article 818, Clause 3, regarding joint exercise of

parental authority. The Japanese Embassies that are in charge of receiving applications for Japanese nationality abroad also adheres to this view. But in most cases, even where the parents are married, the father resides in Japan and could not be reached or is unwilling to cooperate with the mother and child; or is unable to do so because of personal economic situation. It is impossible to gain cooperation from such fathers in applying for Japanese nationality at the Japanese Embassy in the Philippines.

Also, the 19 cases (38.77%) (Table 10) in which the parents are divorced all involve divorces recorded in Japan (there is even a case where the husband submitted the divorce form without the wife’s permission), since there is no system of divorce in the Philippines. Because a system of designating who has parental authority through a divorce agreement does not exist in the Philippines, such designation is held invalid. Thus, despite the fact that the parents are divorced, they are still required to jointly exercise parental authority. As described above, it is difficult to gain the father’s cooperation in such a situation. In order to resolve this situation by granting the mother sole parental authority, a judgment by the court becomes necessary. But the procedure is complex and time and money becomes an obstacle, making it difficult for the mother to acquire sole parental authority. (In cases received in the Philippines, if the family court renders a decision granting sole parental authority to the mother, it will be recognized as such under the Philippine law too. Thus, the mother will be able to apply for the JFC’s Japanese nationality on her own.)

Thus there is a situation in which children are eligible for Japanese nationality as a result of legitimation, but could not do so in reality because of the obstacles surrounding the joint exercise of parental authority.

Table 11 Children born of married parents and retention or loss of Japanese nationality

Children born of married parents (394)		Children born in the Philippines from married parents (278)	
Born in Japan	Born in the Philippines	Has Japanese nationality	Does not have Japanese nationality
121	278	88	188
29.95%	70.05%	31.88%	68.12%

To fundamentally resolve this issue, it is necessary for the Department of Justice, its local branch offices, and the Embassy to flexibly adapt to each case instead of insisting on the joint exercise of parental authority. As already described, given that most of the cases received in the Philippines had been referred by the Japanese Embassy, we strongly wish for a solution with the cooperation of the Japanese Embassy.

(3) Reacquisition of Japanese nationality

(a) Children born of married Japanese parent(s) outside of Japan and acquire a foreign nationality there loses Japanese nationality unless the birth is reported to the Japanese Embassy or the local government office in Japan within three months of birth (Japanese nationality law, Article 12; Family registration law, Article 104).

(b) Of the cases received, 394 were children born of married couples, of which 278 (70.05%) were born in the Philippines. Of those born in the Philippines (278), 88 (31.88%) had retained Japanese nationality while 188 (68.12%) had lost it (Table 11, Diagram 2). Among those who had lost Japanese nationality, only 15 (7.98%) have been able to reacquire Japanese nationality so far.

The reason why there are so many cases in which Japanese nationality is lost is because both the Japanese father and the Filipino mother does not know about the provision regarding loss of nationality (Nationality Law Article 12) and do not recognize the importance of reporting to the Japanese Embassy soon immediately after a child is born in the Philippines. This provision regarding loss of nationality is especially unknown and of a distinctive character. A JFC born in Japan, on the other hand, could acquire Filipino nationality by reporting to the Embassy regardless of whether the parents were married or unmarried, and regardless of time since the birth. Therefore, informational activities by the Japanese Embassy are especially important. More fundamentally, there needs to be a revision of the system of loss of nationality, an extension of the time allowed to apply for retention of nationality, or flexibility according to the case regarding such application after the cut-off date has passed.

(c) Also, a child born of married couples but who do not have Japanese nationality is not recorded in the family registry of the Japanese father. This creates an imbalance with the fact that a child born out of wedlock whose paternity has been acknowledged (even if he or she is of foreign nationality) is recorded in the father's status descriptions. Further, it defeats the purpose of the family registration which is to publicly certify status relationships, and creates real world problems such as the inability to track who is eligible for inheritance, leaving seeds of conflicts.

To eliminate such problems regarding records in the family registry, a reconsideration of the system of loss of nationality or how it is applied, or improvements in the system of family registration, such as recording all births from married Japanese parent(s) regardless of the child's nationality might be necessary.

(d) A child who has lost Japanese nationality because the parents had not applied for retention of nationality may reacquire Japanese nationality if resident in Japan (Nationality Law, Article 17, Clause 1). There are 14 cases of application for reacquisition of Japanese nationality (Table 8). In all of these cases, the mother and child came to Japan from the Philippines, entering on a short-term immigration status, and then resided in Japan after changing the status to resident status. Along with finding a job as a means of living, they petitioned the family court for the designation of the mother as having sole parental authority, and after gaining that designation applied for the reacquisition of nationality at the local branch offices of the Ministry of Justice. Attorneys and the JFC Network are involved throughout the process, with approximately a year required for the completion of the process for reacquisition of nationality. Through this we strongly felt the difficulties of reacquiring Japanese nationality.

5. Acknowledgment of paternity (Table 12)

(1) Of all the JFCs involved in the cases we received (this count is larger than the number of the cases, which is 954), if we exclude JFCs who were born of married parents (394 plus 29 children of unmarried parents who had had paternity acknowledged when we received the case), approximately 480 (50-60%) of the JFCs were in a position where they can demand that the father recognize paternity when the cases were received. Yet, of these, only 70 JFCs have been able to have paternity acknowledged by their fathers, including 28 through litigation and 6 through litigation after the death of their fathers.

(2) There are 9 cases in which the father acknowledged paternity last year (see Table 12). The breakdown is as follows.

- ① Father voluntarily acknowledges paternity: 5
- ② Judgment recognizing paternity after application for court arbitration: 2

One was a case received in the Philippines. The Filipino mother was already deceased, but she had had a baby with a Japanese father while also in a marriage with a Filipino husband. Because paternity [of the married spouse] is assumed by law [in Japan], the Japanese father could not acknowledge paternity, but his paternity was recognized through arbitration (decision of the court). The other case was also received in the Philippines. The Japanese father was a resident in Saga prefecture, so we asked a NGO in Kagoshima for cooperation and sought court arbitration. The father showed up at the arbitration and agreed to acknowledge paternity, so based on the Family Arbitration Law, Article 23, a decision based on the agreement was rendered. The other case was received in Japan.

- ③ Acknowledgement of paternity through litigation: 1

A case received in the Philippines. The father did not show up at the arbitration and litigation was pursued.

Table 12 Details of acknowledgement of paternity (unit: persons)

	Acknowledgement of paternity	Acknowledgement through the judicial process		Voluntary acknowledgement		Report to the Japanese government
		Arbitration	Trial	Prior to birth	After birth	
Total	71	12	16	5	37	1
Last year	10	3	1	0	6	0

6. Alimony (Table 13)

There are 108 cases in which an agreement to pay alimony for the JFC was reached through negotiation with the father, of which 6 was reached during the past year (Table 13). On the other hand, there are 38 cases in which the payment of alimony had stopped subsequent to the agreement, and were discontinued because it could not be expected to resume. There are 4 cases in which payment of alimony was terminated because the children reached the age of 20.

Currently, there are 66 cases in which the father has been continuing to pay alimony, with the amount varying case-by-case, between 5000 yen and 50000 yen. But there are many cases in which the payment is not steady, and the support provided by the fathers to JFCs is not quite satisfactory.

Table 13 Status of payment of alimony

Started	Cases	Discontinued	Completed	In progress
93-97	8	2	2	4
98-03	68	33	2	34
2004	4	1		3
2005	1			1
2006	7	1		6
2007	12			12
2008	6			6
Total	103	36	4	66

7. Special permission to stay (Table 14, 15)

(1) Foreigners who are subject to deportation (Immigration Control Law, Article 24) because of lack of legal immigration status, etc., will in principle be placed in deportation proceedings and be deported (through the issuance of a deportation order). However, if the Minister of Justice finds that there is a special circumstance in which the person should be allowed to stay regardless, a special permission to stay may be granted. It is considered exceptional, acts of grace, but of the 9355 cases adjudicated after an appeal to the Minister of Justice during annual year 2007, 79% have been granted special permission to stay. (*Syutsunyukoku Kanri Toukei Nenpou, 2008*)

(2) Of the cases received in Japan at the Tokyo office, there are cases in which either or both the mother and the child do not have legal immigration status. If the child has Japanese nationality or if the child has had a Japanese father acknowledge paternity, we apply for the special permission to stay. So far the number of applications we handled is 46, with its details and the number of cases in which special permission has been granted indicated on Table 12.

In two of the 46 cases, the child had Japanese nationality and the mother was married, meaning there were two causes to apply. Therefore they are counted under both categories. In another case, one of the JFC siblings had her Japanese father recognize paternity after her birth, while the other had the same father acknowledge paternity prior to birth and therefore gained Japanese nationality, so it is counted under both categories. In yet another case, a JFC who had been living in a children's home apart from the mother had the father acknowledge paternity, while the mother married with another Japanese father. Because the reason for special permission to stay can be considered different for the JFC and the mother, it is counted under both categories. Therefore, the total number of application for special permission to stay on Table 12 is larger by 4 cases than the actual number of applications.

(3) So far, special permission to stay has been granted in 41 cases (however, as described above, in 3 cases there were two overlapping causes for the special permission to stay, so on Table 14 the total number of permissions is 45.)

Of these, 3 had been granted last year, and the details are as follows.

① A case in which the child has Japanese nationality and the parents are married: 1

Both the mother and the child had overstayed. The Japanese father could not acknowledge paternity, because the mother had a Filipino husband and was presumed to be the parent. After petitioning for arbitration regarding paternity and a judgment, the marriage between the mother and the Filipino husband was nullified and the parents married. The child acquired Japanese nationality through legitimation and received special permission to stay after acquiring Japanese nationality.

② Cases in which the family was of foreign nationality: 2

(a) A case involving a Filipino father and child. The Filipino mother had left when the child was one and could not be located, and the father raised the child. Because the parents were not married it took time to register the child's birth at the Philippines Embassy, but after reporting to the Immigration Bureau, a special permission to stay was granted in about 2 years. At the time of reporting, the child was 13, or first grade in junior high school.

(b) A case involving three children born between a Filipino mother and Peruvian father (when arrested, the first daughter was 12, or sixth grade in elementary school). After the entire family was arrested, the father was detained and returned to the country. The mother had a child born in marriage with a Japanese (the child had lost Japanese nationality). Since the child was in the Philippines she attempted to bring the child to Japan, but received special permission to stay before that.

(4) As for the time it took since reporting to the Immigration Bureau until a special permission to stay was granted, the most common was between 2 and 3 years, with 15 cases (Table 15).

(5) In many cases received in Japan, the clients lack legal immigration status, and yet the child was born in Japan and growing up in Japan. If the clients continue to seek residence in Japan, it will become necessary to apply for special permission to stay. Also, since cases for JFCs residing in Japan tend to be easier than cases received in the Philippines in terms of negotiating with the father or litigation regarding paternity, etc., and applying for acquisition of Japanese nationality, the number of applications for special permission to stay may increase in the future.

Table 14 Application for special permission to stay—46 cases (41 cases)

	Application		Permission granted	
	Total	Last year	Total	Last year
Child has Japanese nationality	13		10	1
Japanese father has acknowledged paternity of the child	30		29	
Parents are married	4		3	1
Families of foreign nationality	3		3	1

Note : () is the number of cases in which special permission was granted

Table15 Time elapsed since reporting to the Immigration Bureau until special permission was granted

Time elapsed	Cases
~1 year	9
1 -2 years	9
2-3 years	15
3-4 years	2
4 years -	3
Unknown	1

8. Litigation cases (Table 16)

(1) So far, there are 131 JFC cases involving the judicial process in some manner, such as arbitration or litigation. The type of cases and procedures (arbitration or litigation) and their resolutions are indicated on Table 16.

Of these, in 57 cases the judicial process was initiated while both the mother and the child were in the Philippines, and 38 of them are still in progress.

(2) Last year, there was one case in which the client petitioned for an arbitration regarding paternity, and had paternity acknowledged by the court's decision in place of arbitration. This is a case in which the Filipino mother became pregnant with a Japanese man while married to a Filipino husband. The biological father could not acknowledge paternity because of the presumption of paternity for the JFC. Further, the mother had already been deceased and it was difficult to petition for a judgment confirming the non-existence of paternity because the husband resided in the Philippines. Therefore, the JFC residing in the Philippines initiated judicial proceedings against the biological father demanding the acknowledgement of paternity.

Table 16 Status of initiation and resolution of judicial proceedings

		Initiated	Decision/settlement/ arbitration completed	In progress	In preparatory stage	
Divorce	Arbitration	23	21	2	1	
	Litigation	8	7	1	0	
Demanding confirmation that divorce is invalid	Arbitration	4	4	0	1	
	Litigation	0				
Acknowledgement	Acknowledgement	Arbitration	17	11	6	11

of paternity	of paternity	Litigation	9	8	1	2
	Acknowledgement of paternity by judicial decree	Arbitration	4	4	0	1
		Litigation				
	Acknowledgement of paternity after father has been deceased	Litigation	6	6	0	0
Inheritance issues		Arbitration	3	2	1	0
		Litigation	0			
Demanding confirmation that paternity does not exist		Arbitration	7	6	1	2
		Litigation	5	5	0	0
Payment of alimony		Arbitration	22	16	6	25
		Litigation	3	3	0	0
Child custody		Arbitration	3	3	0	0
		Litigation	2	2	0	0
Designation of parental authority		Arbitration	9	9	0	0
		Litigation	2	1	1	0
Visitation rights		Arbitration	2	2	0	1
		Litigation	0			
Marriage expenses		Arbitration	2	1	1	0
		Litigation	0			
		Total	131	111	20	44

Note: There are cases that involve 2 or more issues.