



Gursewak Singh at his home in Matsudo, Japan. He has written to the justice minister and immigration officials more than 50 times seeking visas that would allow his family to live and work legally in the country. He has yet to receive a reply. **Picture by Kim Kyung-Hoon**

Japan's abuse of asylum seekers

# Living in Limbo

**BY THOMAS WILSON, MARI SAITO, MINAMI FUNAKOSHI AND AMI MIYAZAKI**

**MARCH 7 - NOVEMBER 22** TOKYO/WARABI/MATSUDO

# Japan forces a harsh choice on children of migrant families

BY MINAMI FUNAKOSHI, AMI MIYAZAKI AND THOMAS WILSON

NOVEMBER 22 MATSUDO

**G**ursewak Singh composed his first letter to Japan's justice minister when he was 10 years old. Almost seven years later, he is still writing. In all, he has written more than 50 letters.

He has yet to get a reply.

The letters, all written in Japanese, have become more eloquent as Gursewak has grown up. But the message is unchanged — a plea to the Japanese authorities to recognize him and his family as residents in a country where he and his younger twin siblings were born and his parents, natives of India, have lived since the 1990s.

“My family loves Japan,” Gursewak wrote to then-Justice Minister Keiko Chiba on March 6, 2010. “We really don’t want to go back to India. Please give us visas.”

In his most recent letter, composed in August to the immigration authorities, he wrote: “The Immigration Bureau tells us to go back to India. Why do the three of us have to go back to our parents’ country, even though we were born and raised in Japan?”

Gursewak’s parents, who are Sikhs, fled to Japan from India in the 1990s. For several years, they lived without visas under the radar of the authorities until they were put on a status known as “provisional release” in 2001. It means they can stay in Japan as long as their asylum application is under review.

But it also means they can’t work, they don’t have health insurance and they need permission to travel outside the prefecture where they live. They are also subject to unannounced inspections by immigration officers at their home and they face detention at any time. There are currently some 4,700 people with this status living in Japan.

Gursewak, who has never left Japan, has inherited his parents’ provisional release status and all the restrictions that go with it. That fate has exposed him and more than 500 other children who share his predicament to lives of perpetual uncertainty.

They can go to government-run schools, where tuition is largely free, but university is out of reach for most because they and their parents aren’t allowed to work and so can’t afford the fees. These children, many of whom are asylum seekers, will soon face a stark choice between forced unemployment and working illegally.

## “THEY ARE ILLEGAL”

“Since I was born I’ve only ever interacted with Japanese people,” said Gursewak, who is now 17, speaks the language with native fluency and considers himself Japanese. “I don’t get why Japan won’t accept me.”

The immigration authorities are unmoved.



We could grant amnesty to everyone who is already in Japan and is living illegally, and work toward setting up a proper system of accepting newcomers.



**Keiko Chiba**  
Ex-justice minister

The fact that these children were born in Japan, or arrived at a young age, doesn't afford them any special status, officials say. "They are under deportation orders, so they are illegal," said Naoaki Torisu, a Justice Ministry official overseeing immigration issues. "They have no legal right to stay in Japan."

Interviews with some two dozen children on provisional release from 11 countries, including Vietnam, Pakistan and Ghana, reveal stories that are similar to the one told by Gursewak. Their experiences highlight Japan's deep reluctance to accept foreigners, even as the country's population ages and its workforce shrinks. Earlier this year, Reuters exposed how asylum seekers on provisional release are working without permits to provide the muscle on government-funded road and infrastructure projects, even as Japan says they must leave.

While there were almost 14,000 asylum cases under review at the end of 2015, Japan accepted only 27 refugees last year. The year before that, the number was 11.

The low acceptance rate stands in stark contrast to Europe, which has seen hundreds of thousands of refugees arrive from countries such as Iraq, Syria and Eritrea. In the first half of the year, European countries ruled on 495,000 asylum applications, approving more than 293,000, according to Eurostat, the statistics office of the European Union. In addition, European countries had more than 1.1 million more cases that they had yet to decide on at the end of June.

Belgium, with a population less than a tenth the size of Japan's, decided on more than 13,000 asylum applications in the first half of the year. It had approved almost two-thirds by the end of June, of which 1,975 were minors. Germany, with a population two-thirds the size of Japan's, approved 174,230 asylum requests out of 256,715 in the first six months of the year. That included 51,185 children.

At the same time, countries in Europe and elsewhere are growing colder on immigration — not least the United States, where Donald Trump this month won the presidency on a nativist platform. Trump is vowing to deport millions of

people illegally residing in the country.

Chiba, the ex-justice minister who was in office when Gursewak wrote his first letter, says Japan's immigration policy needs to be revamped.

"There should be a proper, wider system of granting residence permits," even to those who are in Japan illegally, she told Reuters in an interview. "We could grant amnesty to everyone who is already in Japan and is living illegally, and work toward setting up a proper system of accepting newcomers."

Chiba's is a rare voice of dissent. Across the Japanese political spectrum, there is broad support for keeping immigration barriers high. Last year, Prime Minister Shinzo Abe said the solution to Japan's demographic problems was getting more women and the elderly into the workforce, not loosening the nation's immigration laws.

For at least some children, there is a path to residency. But it involves a cruel choice.

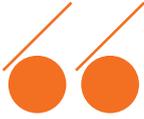
Five families on provisional release told Reuters that immigration authorities had outlined a deal to them: The children could stay in Japan legally if the parents returned to their country of origin. Immigration officials confirmed such an arrangement exists, but said the offer was only made in cases where the family first raised it.

### A DISTURBING OFFER

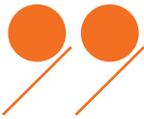
That's not how Gursewak's father tells it. It was early on a weekday in mid-2015 when Bharpoor Singh says he got a phone call from the Tokyo Regional Immigration Bureau asking him and his wife to come for an interview that same day.

The Singhs were worried. In the past, such requests had been made in writing. And only a few months earlier, their appeal against the rejection of their asylum application had been turned down by the authorities.

The first part of the meeting followed the pattern of previous engagements, Bharpoor said. Speaking through a Punjabi interpreter, an immigration official quizzed the Singhs



I said that we couldn't leave our children, because they were still small.



**Bharpoor Singh**  
Gursewak Singh's father

about their lives, in particular how they made a living. Bharpoor told the official that their only means of support were donations from a Sikh charity and individuals in the Sikh community.

Then, about an hour into the interview, Bharpoor said the officer made the Singhs an offer that left them badly shaken: He and his wife could return to India, while Gursewak and his siblings remained behind in Japan, where they might then stand a chance of getting residency.

"I said that we couldn't leave our children, because they were still small," Bharpoor recalled. "And they have religious needs such as a vegetarian diet and wearing turbans. Their mom does all of that for them. We'd never thought of separating, that would be absolutely impossible."

Gursewak was horrified when he heard about the offer. "Who would look after us?" he said. "We can't work. What would the twins do?"

Immigration officials say that they never initiate such offers but they are open to the idea if it is first broached by the family. They said they didn't know how many cases there had been in which parents agreed to separate from their children in the hope of giving them a better life in Japan.

"If the children themselves wish to stay in Japan even after their parents leave, and there are guardians who take care of them and their living expenses can be covered, then we can consider whether to grant them special residence permits," said Tadashi Shirayori, who oversees special residency permits at the Justice Ministry.

Ex-Justice Minister Chiba said several of these deals with migrant families had come across her desk during her tenure from 2009 to 2010. There was no official policy stipulating how the arrangement should work, the offer usually was not put in writing, and it was done on a case-by-case basis, she said.

"Separating the parents from their children is not how it should be," Chiba said. But it's difficult to let the parents off without punishment, she added. "So in the end, we ask the parents to go home."

Bharpoor says he can't go home. He fled

the village of Sakruli in the Indian state of Punjab in 1992 after he was persecuted as a Sikh religious leader, he said. India put down an armed revolt for a separate Sikh homeland that erupted in the late 1970s, and thousands of Sikhs were killed by angry mobs in 1984 in the days following the assassination of Prime Minister Indira Gandhi by her Sikh bodyguards.

According to court documents from two trials related to his status in Japan, Bharpoor said he was arrested by the Indian police and tortured. He pointed to a scar on his right foot that he said was the result of being given electric shocks.

## NOT GUILTY

According to the state police in Punjab, Bharpoor was arrested in March 1989 for allegedly "giving shelter to terrorists and keeping their weapons at his home." He was tried and found not guilty, and released in November that year.

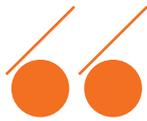
Satwinder Singh, a police officer in the Hoshiarpur district where the case was filed, said he couldn't confirm whether Bharpoor was tortured by the police but that it was "quite common to torture the Sikh youth at the time who were arrested for alleged involvement in terrorist activities."

Singh, who reviewed the old case file, said there was no case pending against Bharpoor and that he was "free to come back."

After leaving India, Bharpoor headed to Hong Kong, where he spent several months before moving to Japan. All of the family's four asylum applications have been rejected and they are now applying again. In 2010, Bharpoor said he was detained for 10 months after the third application was denied.

At the time, Gursewak's mother became ill with anemia and rheumatoid arthritis, leaving 10-year-old Gursewak to care for the family. He would go shopping for frozen food, which he would heat up for his mother, brother and sister.

"I was little and couldn't understand what was going on," recalled Gursewak, who wears a kirpan around his neck, a miniature



I'd like to say to him, 'I'm sorry.' Japan hasn't been able to set up a system that can properly respond to people like you, and made you suffer greatly as a result.



**Keiko Chiba**  
Ex-Justice Minister

ceremonial dagger carried by Sikh men as a symbol of their faith.

"My mother was crying, and my brother and sister were panicking."

It was the moment Gursewak's childhood ended. His mother barely spoke Japanese. Fluent in the language, he began calling lawyers and migrant NGOs for help. He also collected signatures from his Japanese neighbors to support his family's petition for visas.

That's also when he started writing his letters. "We are having trouble getting by because my dad's not here," he wrote to then-Justice Minister Chiba several months after his father was detained. "Please, I beg you, let my dad out soon."

Chiba doesn't recall ever seeing the letters, but says she wants to apologize to Gursewak. "I'd like to say to him, 'I'm sorry.' Japan hasn't been able to set up a system that can properly respond to people like you, and made you suffer greatly as a result," she said.

With Gursewak's parents barred from working, the family has to scrape by on donations. They have no health insurance, and medical bills have piled up.

In May, Gursewak fell ill with chronic stomach pains and nausea. Medical tests added more than \$700 to the family's existing debts. A contract with a local hospital shows the Singhs are paying back about \$50 a month.

"I'm really worried all the time," Gursewak said. "Maybe I think too much. But I have to think. College is on the horizon."

While Gursewak is not barred from attending university, his family cannot afford the fees because they can't work. Average annual tuition for government-run universities in Japan is around \$5,000, plus a one-off entrance fee of about \$3,600. The family's monthly expenses are about \$1,800.

Gursewak, who will start his final year of high school in April next year, wants to study web design. He runs a blog about Japan's Sikh community and showed off a computer in the room he shares with his twin siblings. He built it from scratch with friends using money from his school. When he went to Akihabara, Tokyo's electronics hub, to hunt for parts to build the

computer, he had to get written permission from the authorities. As part of the process, he had to supply a list of all the shops he planned to visit.

## CHERRY BLOSSOMS AND SIKH PRAYERS

The Singhs' simple home in Matsudo, a suburb east of Tokyo dotted with Shinto shrines and Buddhist temples, contains a blend of Sikh and Japanese motifs. A television beams Sikh prayers live from the Golden Temple in Amritsar, the bastion of the Sikh religion in northern India. An embroidered map of Japan decorated with cherry blossoms hangs behind it.

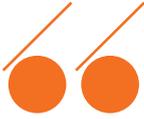
On a recent Sunday in September, Bharpoor, a religious leader in the local Sikh community, led prayers at a temple in Tokyo. Gursewak played table — traditional drums used in Sikh ceremonies — as his mother and sister sang prayers. Later, they dished out steaming plates of daal and chapatis to the 60-strong congregation.

The Singhs' lives in Japan have been peppered with legal battles against deportation orders and detention. The authorities have kept close tabs on them. Every two months, the parents and their twin children have to make a three-hour round trip to the Tokyo Regional Immigration Bureau to extend their provisional release permits. Gursewak, who must now make a separate trip because he is over 16, goes every three months.

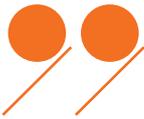
Earlier this year, immigration officials paid the Singhs a surprise visit as part of a stepped-up crackdown on the estimated 60,000 foreigners living without proper visas in Japan. The Singhs said the officials took photos of their home, including the family's prayer room and piles of laundry.

The Justice Ministry's Torisu declined to comment on the Singhs' case, but said immigration officials do make unscheduled visits to the homes of people on provisional release to ensure they are not working in violation of their status.

Immigration authorities are clamping down, detaining people working without permits as well



We do not think the provisional release system is inhumane or faulty. We have no plans to change or reform this system.



**Naoaki Torisu**  
Justice Ministry  
official

as those who have traveled outside their home prefectures without permission, according to interviews with people on provisional release and immigration activists and lawyers. An internal Justice Ministry memo from September last year reviewed by Reuters called for closer surveillance of people on provisional release.

Chiba describes provisional release as “a totally impossible, contradictory system. Working is illegal, but if so, how are you supposed to live?” she said.

When it comes to children, the provisional release system is “out of touch with reality,” she said, because it “doesn’t look at children independently of their parents. The provisional release system itself wasn’t set up to deal with people who stay in Japan for a long time. So, the fact that these people have children and their children grow up in Japan is beyond the system’s framework.”

The Justice Ministry’s Torisu describes provisional release as a “humanitarian” approach. “We do not think the provisional release system is inhumane or faulty. We have no plans to change or reform this system,” he said in an interview.

After years of writing unanswered letters, Gursewak took his plea to the doorstep of the Justice Ministry in August. Standing in the rain with his father and three other provisional release families, they chanted: “Give us visas! Let us study! Let us have our dreams!”

“I need to raise my voice,” Gursewak said, his fists clenched as he stared straight ahead. “Otherwise, no one will know what is happening to us.” <sup>R</sup>

Additional reporting by **Manoj Kumar** and **Rupam Nair** in New Delhi, and **Himanshu Ojha** in London; Editing by **Peter Hirschberg**.

# Toll mounts in Japan's detention centers as foreigners seek asylum

BY THOMAS WILSON, MARI SAITO,  
MINAMI FUNAKOSHI AND AMI MIYAZAKI

MARCH 7 TOKYO

**N**icolas Fernando died at a Tokyo immigration detention center sometime between 9:33 a.m. and 10:44 a.m. on November 22, 2014, according to the coroner.

But it wasn't until shortly after 1 p.m. that day that guards realized something was badly wrong — even though Fernando had been moved to an observation cell monitored via closed-circuit television after complaining of sharp chest pain.

An inmate had to alert the guards before they rushed into Fernando's cell and tried to revive him. They found him lying face down on a mattress stained with his urine. He was lifeless.

A devout Catholic from Sri Lanka, Fernando had come to visit his son, who lives in a Tokyo suburb where he works in a restaurant kitchen. He was the fourth person to die in Japan's immigration detention system in 13 months. In total,

12 people have died in immigration detention since 2006, including four suicides. In 2015, 14 detainees tried to kill or harm themselves at the detention center where Fernando died, according to data from the facility.

A Reuters investigation into the circumstances surrounding Fernando's death, including dozens of interviews with detainees, immigration officials and doctors, revealed serious deficiencies in the medical treatment and monitoring of Japan's immigration detention centers. Guards with scant medical training make critical decisions about detainees' health. Doctors visit some of the country's main detention centers as infrequently as once a week. And on weekends there are no medical professionals on duty at any of the immigration detention facilities, which held more than 13,600 people in 2014.

Three of the four deaths in detention between October 2013 and November 2014, including Fernando's, occurred when there were no doctors on duty. Like Fernando, another one of the detainees died while in an observation cell.

Japan's immigration system is under increasing strain. As a torrent of refugees pours into Europe, Japan also has record numbers of people landing on its shores in search of refuge. As of June last year, it had 10,830 asylum applications under review — small by Europe's standards, but a new high for Japan, a nation that has long been reluctant to take in outsiders.

## 'I WANTED TO SHOUT AT THEM'

In February, more than 40 detainees went on hunger strike at a facility in Osaka to protest their conditions. Their main complaint: Poor medical care.

The system's oversight, too, is limited. Members of the watchdog body tasked with monitoring Japan's 17 detention centers are appointed by the justice minister, who oversees the detention system. The findings of the watchdog are edited by the Justice Ministry before being made public, and the ministry has failed to act on repeated recommendations for



Nicolas Fernando's wife Magret weeps in her home in the Sri Lankan coastal town of Chilaw where she lived with her husband, who died in a Japanese detention centre in 2014.

**Picture by Dinuka Liyanawatte**

improving medical care, say its members.

"I wanted to shout at them when I heard that guards left him alone for such a long time," said Tooru Tsunoda, a doctor and vice chairman of the watchdog body that monitors the center where Fernando died. A report by the oversight group said guards "misjudged the seriousness" of Fernando's condition. By not sending him to hospital immediately, the report found, they "missed opportunities to avoid his death."

Justice Minister Mitsuhide Iwaki said the reports he received showed that in all four deaths, "appropriate medical steps" had been taken. "I do not acknowledge there were problems in the responses or the medical care provided."

Fernando, who ran a travel agency back in Sri Lanka specializing in pilgrimages, hadn't seen his son George for eight months when he reached Japan. Before he left home, he visited the many churches in his coastal hometown of Chilaw and

"prayed for 24 hours," said his wife, Magret.

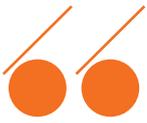
A framed picture of Fernando sits on a table in the home where he and Magret lived from the time they wed in 1983. They had fallen in love and married within a month, even though Fernando's family had initially opposed the union because Magret was nine years his elder.

The day before he died, Fernando called Magret from a payphone for inmates in the detention center. "He was not ill," she said.

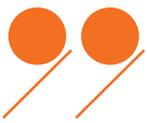
Sitting on a sofa and weeping quietly, she recalled Fernando's last words before boarding the plane for Japan: "I'll come back. Look after the children."

He never returned. In fact, Fernando never made it through immigration at Tokyo's Haneda Airport.

George and his wife waited in the arrival hall for Fernando after his plane landed at around 11 p.m. on Nov. 12. At 2 a.m. they learned Fernando had been detained by



We would have loved to hear our father's voice, but they didn't give him the chance to talk to us.



**George Fernando**  
Niculas Fernando's son

immigration officials who did not believe he was a genuine tourist.

"We would have loved to hear our father's voice, but they didn't give him the chance to talk to us," said George, 27, speaking in Sinhalese through an interpreter at his apartment.

Two days later, George got to see his father. They met in a small room at Haneda Airport, separated by a glass partition.

"We couldn't touch or hug," said George.

### **'A VERY PIOUS PERSON'**

George and his two brothers portray their father as a devoted family man who prayed daily, never drank and often took his family with him on work trips around Sri Lanka and India.

"He'd pray for at least an hour every morning, bowing down," said his eldest son, Jerad, standing outside the home of a relative in a village near Chilaw. "His knees were black from the marks made from praying."

One family photo shows Fernando playing a guitar as Catholic pilgrims dance behind him during a 2012 tour of churches in the north of Sri Lanka. George recalls his father joining a peace mission to a Tamil Tiger-controlled area in the late 1990s led by Bishop Malcolm Ranjith during Sri Lanka's civil war.

Fernando "voluntarily joined our group and went as part of our pilgrimage," Ranjith, who is now archbishop of Colombo, told Reuters. He described Fernando as "a very pious person."

Fernando also was active in one of Sri Lanka's main political parties, and that background may be key to understanding a surprising decision he made during his detention to ask for asylum.

George said his father was a supporter of the United National Party (UNP), which now heads the ruling coalition in Sri Lanka, and had been the target of political violence in the past. With speculation growing that national elections were imminent, Fernando timed his visit to Japan so he could sit out the vote and escape any potential violence, George said.

But facing deportation after his arrest at Haneda Airport, Fernando decided to seek

asylum, which would have allowed him to stay in Japan while his request was processed. He was going to return home once any election-related violence had subsided, his son said.

Elections in Sri Lanka were formally announced on Nov. 20. Fernando died two days later, before he could file the asylum papers, George said.

George and his Sri Lankan wife have been seeking asylum themselves in Japan for almost two years. A copy of his application says George faced death threats from political rivals when he worked for the UNP, which was in opposition at the time he sought asylum.

Asylum applications have jumped more than six-fold since Japan altered its immigration rules in 2010. The change allowed asylum seekers to obtain six-month renewable work permits while their applications are reviewed. But Japan is sparing when it comes to granting asylum: Only 27 people were approved in 2015.

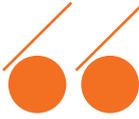
The rule change, combined with Japan's chronic labor shortage and strict immigration policy, has spawned a system of backdoor immigration, as Reuters illustrated last year in an article detailing Subaru's heavy reliance on asylum seekers who toil in the factories that supply it with car parts.

### **SHARP CHEST PAIN**

Five days after arriving, Fernando was transported from a lock-up at the airport to the Tokyo Regional Immigration Bureau, a tower block overlooking the docks and a waste-incineration plant. A one-stop shop for visa renewals, asylum interviews and deportation orders, the complex also serves as a detention center for up to 800 people.

Fernando was placed in a cell in G-Block with two other detainees, from China and Peru. Fellow detainees described him as a serious man obsessed with cleanliness.

On the Saturday morning Fernando died, James Burke, a Canadian in the adjacent cell, was awakened by the Sri Lankan's cries. It was around 7 a.m. Noise travels easily on the block and Fernando was in obvious pain,



He  
(Fernando)  
was  
begging  
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'I'm a  
Christian  
and I  
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I'm going  
to die.



**James Burke**  
Canadian in the  
adjacent cell

Burke said. "He was moaning and moaning and moaning."

Fernando's Peruvian cellmate called the guards and told them the Sri Lankan wanted to go to the hospital because his chest was hurting. The guards refused, saying the hospitals were closed on Saturdays, according to Burke and two other detainees who witnessed the events and asked not to be named.

At least two hospitals within a few miles of the detention center are open around the clock on weekends, including Saiseikai Central Hospital, where Fernando's body would be taken later that day. Naoaki Torisu, a senior Justice Ministry official who oversees immigration detention, declined to comment on what specifically the guards told Fernando.

"His symptoms didn't seem that serious," Torisu said. "If his condition had worsened, we would have called an ambulance or taken him to hospital without hesitation."

At 7:30 a.m., guards measured Fernando's pulse and blood pressure, according to an internal report by the Tokyo Regional Immigration Bureau that was reviewed by Reuters. They found no abnormality, Torisu said.

But Fernando soon called for the guards again, this time more loudly. "He's in real discomfort," recalled Burke, who was being held at the time for overstaying his visa and is now on provisional release from immigration detention. "He was begging them, 'I'm a Christian and I wouldn't lie. I need to go to hospital or I'm going to die.'"

Just before 8 a.m., guards led Fernando to a room to check his condition. A report by the national Immigration Bureau, which is part of the Justice Ministry, said the guards "could not grasp the seriousness" of the situation because another Sri Lankan detainee who was acting as an interpreter did not translate Fernando's words accurately. But the Justice Ministry's Torisu told Reuters the guards did understand what Fernando was saying.

When the Sri Lankan returned to his cell a short while later, he looked relieved, said Burke. He gathered his Bible and clothes. "You

could see it in his face — he was getting his stuff, thinking he would get help."

### HE STOPPED MOVING

But Fernando wasn't taken to hospital. At 8:16 a.m., guards moved him to an observation cell fitted with closed-circuit television for around-the-clock surveillance of detainees who are ill, unruly or have tried to harm themselves.

Around 9 a.m. Fernando again called the guards from the cell. They told him to wait until the morning roll call was over, said Burke and two other detainees.

At 9:22 a.m., Fernando washed his hands and appeared to vomit. He then lay face down on a futon, according to the Tokyo Regional Immigration Bureau report on his death. At 9:33 a.m., he stopped moving.

A few minutes later, a guard brought a television to Fernando's cell. He called out but Fernando didn't respond. Thinking the Sri Lankan was asleep, the guard didn't check to see if he was all right, the report said. For the same reason, guards did not check Fernando for the next several hours.

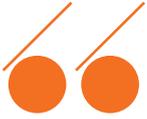
Immediately after cell doors opened at 1 p.m. to allow detainees out for the afternoon break, the Sri Lankan who had interpreted for Fernando hurried to the observation cell. Fernando's breakfast — the standard white bread, jam and boiled egg — lay untouched. Fernando wasn't moving. His body was cold.

Alerted by the detainees, guards rushed into the observation cell. It was 1:03 p.m. — three and a half hours since Fernando had last shown any signs of life.

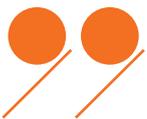
Detainees described scenes of pandemonium as inmates crowded the corridor leading to Fernando's cell. Anticipating unrest, some guards laid out helmets, shields and batons.

A guard performed CPR on Fernando, but it was too late.

An ambulance was called and his body was carried out of G-Block on a stretcher, his face uncovered, two detainees said. Two hours later, he was pronounced dead. He was 57 years old.



I can't believe that I lost my father. Japan's immigration authorities must take responsibility for my father's death.



**George Fernando**  
Niculas Fernando's son

## HUNGER STRIKE

Koichi Uemura, a coroner asked by the national Immigration Bureau to write an in-depth autopsy report on Fernando's death, told Reuters he was allowed to view the video footage of the Sri Lankan in the observation cell. He said it was possible to tell from the images that Fernando was struggling and moaning before he lay down in the cell.

Uemura said he was asked to compile a report after the Immigration Bureau had investigated Fernando's death and found that "there was quite a high possibility that (the detention center) did not provide adequate medical care, and that his illness got worse because he was left unattended." A doctor at the Tokyo Medical and Dental University who performs autopsies for the police and courts, Uemura stopped short of saying that Fernando's death could have been avoided if guards had taken him to hospital.

The Justice Ministry rejected a public disclosure request by Reuters to view the video footage of the observation cell, citing privacy reasons.

Since 2010, the Immigration Detention Facilities Visiting Committee — the watchdog body — has repeatedly called for improvements to medical care at detention facilities. Six current and former members of the 20-person oversight body told Reuters that key recommendations have not been implemented.

Inmates voice a similar grievance. In two handwritten letters, the hunger strikers at the detention center in Osaka complained about limited access to doctors and said guards without medical training were making judgment calls about the health of detainees.

Their protest didn't impress the authorities. Tomohisa Takayama, a spokesman for the Osaka Regional Immigration Bureau, said there was no "rational reason" for the complaints, and that the hunger strike ended after five days.

In May, a former member of the watchdog wrote to then-Justice Minister Yoko Kamikawa calling for full-time doctors at detention

facilities, better monitoring of detainees who are unwell and improved psychiatric care.

But the watchdog lacks teeth. It doesn't perform surprise inspections. Its visits to detention centers are pre-arranged, and its members are escorted by immigration officials.

## REDACTED REPORT

There has been little change since the deaths. Guards have been given "fresh instructions to call ambulances" in situations where they are having trouble "making judgments," said the Justice Ministry's Torisu. And two guards are being trained as assistant nurses in the entire detention system, which on Nov. 1 last year was holding 1,070 inmates.

It is "probably insufficient" that there are no doctors on duty at weekends, but that doesn't mean medical care is lax, said Torisu.

On Nov. 22, the day Fernando died, George got a call from a family friend. "He asked me to calm down, to sit down," George recalled, his eyes filling with tears. "He told us my father had passed away... I asked God why he took my father."

The next day, George tracked Fernando's body to a police station near the detention center. Officers there tried to stop him from opening the white body bag that contained his father's body.

"But I opened the bag," he said. "I asked them if they were investigating my father's death. They said they were, and when they had the report they'd tell me."

George has never received any of the reports on his father's death. On Dec. 19, almost a month after he lost his father, George received the death certificate. It didn't contain the answer he'd been seeking: Cause "unknown," it said.

That same day, Fernando was cremated about three miles from the detention center where he died. His family had hoped for a Catholic burial in Chilaw, but could not afford to fly his body home. His third son, Jude, who traveled to Japan for the funeral, is also now seeking asylum.

It would be another three months before Fernando's family learned from Sri Lanka's Foreign Ministry that he had died of a heart attack.

"I can't believe that I lost my father," said George. "Japan's immigration authorities must take responsibility for my father's death."

The Justice Ministry has not made public the findings of the investigation into the case nor released them to Fernando's family.

In response to a public disclosure request, Reuters received a copy of the national Immigration Bureau's report from March last year. It was heavily redacted. Under a section titled "Problems," every line had been blacked out. 

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Additional reporting by **Shihar Aneez** in Chilaw and **Antoni Slodkowski** in Tokyo; Editing by **Peter Hirschberg**.

# Banned from working, asylum seekers are building Japan's roads

BY THOMAS WILSON, MARI SAITO,  
MINAMI FUNAKOSHI AND AMI MIYAZAKI

AUGUST 8 WARABI

**M**azlum Balibay paves Japan's roads, digs its sewers and lays its water pipes — all for a country that doesn't want him.

Balibay, 24, is a Kurdish asylum seeker who fled to Japan more than eight years ago after he said his family was persecuted by Turkish security forces who tortured his father. He has since been on provisional release from immigration detention, which means he is barred from working while the immigration authorities consider his application for asylum and

could be detained again at any time.

But the ban hasn't stopped Balibay from providing the muscle on a slew of public works projects funded by a government that refers to people like him as "undesirable."

"Japan bans us from working, but everyone knows that without foreigners this country's in trouble," said Balibay. "Construction jobs won't get done. There aren't enough workers and young Japanese can't do these jobs. The government knows that better than anyone."

Two of Balibay's brothers have also worked without permits on government projects around Tokyo, laying asphalt and digging sewers. Reuters also spoke to more than 30 Kurds on provisional release who are working illegally on private sector projects, mainly in demolition.

Japan's deep reluctance to take in migrant workers is now clashing with the reality of a shrinking population and the nation's worst labor shortage in more than two decades. In a country that jealously guards its cultural uniformity, politicians are loath to consider lowering the barriers to immigration even as the proportion of retirees grows and the working-age population declines.

Prime Minister Shinzo Abe told reporters at the United Nations in September that Japan should address its demographic problems by putting women and the elderly to work before considering immigration.

Masahiko Shibayama, a lawmaker and special adviser to Abe, told Reuters that there's "an allergy towards the word 'immigration'" in Japan. "People are worried about public security. They worry that foreign workers would eat up Japanese jobs," he said.

But the combination of strict immigration laws and a shrinking work pool has spawned a black market in labor, especially in the construction sector where Balibay and his brothers work. In manufacturing, it has also created a growing dependence on asylum seekers: Reuters reported last year how the maker of Subaru cars was enjoying a boom driven in part by its reliance on cheap laborers from Asia and Africa who were seeking refugee status in Japan.



Japan wants to expel 24-year-old Kurdish asylum seeker Mazlum Balibay, seen here with his sister Suzan in their apartment in Kawaguchi, north of Tokyo. Balibay has been working on building sites since he came to Japan seeking refuge in his early teens.

Picture by  
Thomas Peter

Japanese business leaders want the government to rethink its immigration policy. Of 259 major Japanese companies that responded to a Reuters poll in October, 76 percent said they support opening up the country to blue-collar migrants.

With work getting underway for the 2020 Tokyo Olympics, demand for labor is set to jump further, according to Hitoshi Ito, an executive at Kajima Corp., Japan's second largest construction firm by sales. That's why the industry "desperately wants" foreign workers, he said.

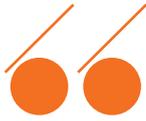
### AN AGONIZING CHOICE

Balibay is part of a community of some 1,200 Kurds who live in Warabi and Kawaguchi, drab blue-collar suburbs north of Tokyo where cast iron foundries dot the streets and gang-related crime is prevalent. The area has been dubbed "Warabistan" by locals because of the high

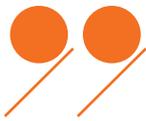
number of Kurdish immigrants living there, nearly all of whom are asylum seekers. They inhabit a legal twilight zone, locked in lengthy struggles with an immigration system that recognized just 27 people as refugees last year.

As of December, Japan had 13,831 asylum applications under review. That is small by the standards of Europe, where there were more than a million asylum applications pending at the end of April, as refugees sought haven from troubled lands such as Syria and Eritrea. But it's a record number for insular Japan. According to the latest available data, at the end of 2015 there were 4,701 people on provisional release in Japan. Of those, community groups estimate about 400 are Kurds living in the Warabi area.

Justice Minister Mitsuhide Iwaki, who last week stepped down as part of a cabinet reshuffle, declined to answer questions about Reuters' findings that asylum seekers on



I wanted to go to school, but we didn't have the money.



**Mazlum Balibay**  
Kurdish asylum seeker

provisional release are working on government projects. Naoaki Torisu, a Justice Ministry official overseeing work permits for foreigners, told Reuters: "Regardless of whether it's a public works project or not, it's undesirable for people on provisional release to take part in prohibited activities. We want them to stop doing that."

Most Kurds on provisional release work without contracts, are paid in cash and can be laid off without warning. They don't have national health insurance, often leaving them with an agonizing choice when they or family members fall ill — go into debt or forego medical treatment.

Balibay is the main breadwinner in an extended family that includes his mother, two of his four brothers, a sister and her husband, and their infant son. He earns about \$2,500 a month — not enough to cover the family's expenses.

The family says its unpaid medical bills amount to several thousand dollars. Last year, Balibay's seven-year-old brother Deniz was hospitalized with pneumonia. That cost \$5,500.

### 'I STILL DREAM ABOUT IT'

Balibay was in his early teens when he first picked up a shovel on a building site. "I wanted to go to school, but we didn't have the money," he said, speaking in fluent Japanese. "I'd be standing in a ditch and see the kids going to school. I thought it would be great to have money, to be able to have fun like them."

He traces his family's decision to leave Turkey to his father's arrest in 1999 on charges of aiding members of the outlawed Kurdistan Workers Party (PKK), including transferring funds collected in Japan to the group. (Turkey, the European Union and the United States consider the PKK to be a terrorist organization.)

Court documents reviewed by Reuters show that Mustafa Balibay and five other Kurdish men arrested along with him were acquitted in 2000.

"When I was seven, soldiers tortured my father before my eyes," Mazlum told a refugee adjudicator last March, according to interview

transcripts. "I still dream about it."

That experience ultimately led his family to seek refuge in Japan. Over several years, Balibay's parents and five of his siblings left Turkey.

A Japanese psychiatrist diagnosed Mustafa Balibay in 2008 with post-traumatic stress disorder and depression caused by torture, according to a medical opinion submitted as part of Mustafa's asylum application. For years, he took anti-depressants, sedatives and painkillers. The walls inside the family's apartment are pockmarked from where Mustafa lashed out during his frequent nightmares.

His mental state deteriorated last year as violence flared between Turkish security forces and the PKK in Turkey's southeast. On December 27, Mustafa went to a park near his home, tied a rope around his neck and hanged himself from a tree.

"He'd been ill for a long time and his condition suddenly got worse," said Balibay, his voice trailing off. "I was at work and got a call. They said a man had found him."

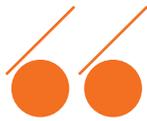
Turkey's Interior Ministry and Gendarmerie did not respond to questions from Reuters about Mustafa Balibay's case.

### ELECTION BRAWL

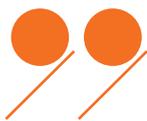
The family's asylum claims have all been rejected, and their time in Japan has been peppered with legal battles against deportation orders and detention. Balibay has submitted four asylum applications, including one in August last year. According to Japanese law, asylum seekers can't be deported while their claims are pending.

Immigration activists say Japan has never granted refugee status to a Turkish Kurd. Government officials would not say if any of the 3,463 Turkish nationals who have applied for asylum since 2008 had been granted refugee status.

The absence of a work permit hasn't stopped Balibay, two of his brothers and a cousin from working on taxpayer funded projects in the past few years. Balibay flicks through photos on his mobile phone, stopping at images of a



I just  
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Rikuzen-  
takata.  
I knew  
immigration  
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give me  
a visa.



**Mahmut Colak**  
Kurdish asylum seeker

road project he worked on last year in Warabi.

Interviews with the Balibays and a review of their paystips show they worked for a company that was contracted to carry out road building, sewage works and demolition by local governments, including Kawaguchi city and Saitama prefecture. The Balibays asked that the name of the company not be made public.

Almost all of Warabi's Kurds are from villages around Gaziantep, an industrial city in southern Turkey. Starting in the 1990s, they entered Japan on tourist visas, fleeing poverty and violent clashes between the Turkish state and the PKK.

Like Balibay, who has the word "Kurdistan" tattooed on the inside of his right wrist, many Kurds still harbor strong ties to their homeland. Every year in March, the community gathers under cherry trees in a Kawaguchi park to celebrate Newroz, the Kurdish new year.

And while they may be far from the conflict between Turkey and Kurdish militants, which resumed last year after the collapse of a ceasefire that lasted two-and-a-half years, the bitter emotions have been imported to the streets of Tokyo. Last October, Balibay and two of his brothers were injured in a brawl with a group of Turkish migrants that erupted outside the Turkish embassy as Kurds and Turks waited to vote in the country's parliamentary elections. Balibay suffered a broken nose and cracked ribs. That added more than \$2,000 to his medical debts, he said.

Asked how asylum seekers on provisional release, who are barred from working, are supposed to pay for food and shelter, Japanese government officials say that friends, relatives or NGOs should help out. But once out of detention, the reality is that migrants are left largely to fend for themselves. That's why people like Balibay look for work even at the risk it will land them back behind bars.

Unlike many officials, Kawaguchi mayor Nobuo Okunoki isn't willing to play policeman. "I'm not going to tell these people they can't work. Everyone needs to live and they have families to support," he said.

People on provisional release cannot legally

rent apartments, open bank accounts or sign up for mobile phone contracts in their names. They navigate this phantom status by borrowing the names and personal details of relatives and friends with residency permits.

### NIGHTLY ESCAPE

They also need official permission to leave their prefecture. The Japanese authorities granted that approval when they needed the Kurds' help after the earthquake and tsunami that devastated the country's northeast on March 11, 2011. A group of Kurdish men, some on provisional release, who volunteered to help with disaster relief were given official clearance to make the journey to the worst-hit areas, according to the Japan Association for Refugees.

The Kurdish volunteers — many with construction and demolition experience — headed to Rikuzentakata, one of the hardest-hit areas. The coastal village was swallowed by a 15-meter wave that killed 1,700 people and swept away thousands of buildings.

The volunteers, who were housed in tents, cleared rubble from roads and rice fields, and cleaned up damaged homes, according to the refugee association, which organized the volunteer trips after being inundated with offers of help from asylum seekers.

"I didn't go there to get anything," said Mahmut Colak, a Kurdish asylum seeker on provisional release. "I just felt sorry for the people in Rikuzentakata. I knew immigration wouldn't give me a visa."

Akinobu Kinoshita, who runs Tokyo-based International Construction Consulting, says there are several dozen Kurdish asylum seekers working on private demolition jobs across the capital that are being run by his company. Most have six-month renewable work permits, but Reuters spoke to several who are on provisional release. Kinoshita said he allows them to work "out of compassion" because they need to make a living.

If workers are caught on his building sites without permits, Kinoshita faces a fine that could run to nearly \$30,000 and a maximum



I can't  
think about  
tomorrow.



**Mazlum Balibay**  
Kurdish asylum  
seeker

jail sentence of three years. The Japanese government said it did not have data on how many employers had been punished for using illegal labor.

Desperate to attract Japanese workers to building sites, the labor ministry has partnered with construction firms to set up a promotional website aimed at persuading young Japanese to work in the industry. The website shows a group of smiling young women in hardhats under a headline that reads: "Women who work in the construction industry are COOL."

Officials at the ministry concede that the outreach has done little to make the industry more attractive. And with Abe struggling to boost the economy, the ruling Liberal Democratic Party published a proposal on its website in May to establish a system for attracting foreign workers to sectors including nursing and agriculture. But the party gave few details and buried the proposal deep in its manifesto.

The Justice Ministry's Torisu said there were "no plans" to change the system of provisional release. "People being on provisional release doesn't change our stance that they should go home," he said.

Nearly a decade after arriving in Japan, Balibay has little hope he will ever be recognized as a refugee by his adopted country. After 10-hour days on construction sites, he escapes into a world far away, spending his nights watching YouTube videos of young Kurdish men like himself fighting Islamic State in Syria.

"I can't think about tomorrow," he says. 

Additional reporting by **Melih Aslan** in Istanbul;  
Editing by **Peter Hirschberg**.