

FOLLOW UP TO THE PREVIOUS REVIEW

1. Of the 217 recommendations made to Japan during its last review, overall Japan fully supported 145, supported eight recommendations in part, and noted 72 others.¹
2. Japan noted 23 recommendations towards abolition of the death penalty in the previous review and has continued to carry out executions since.²
3. No concrete steps have been taken by Japan to establish an independent national human rights institution, despite the 12 supported recommendations on this issue, made by 28 states.³
4. Japan supported eight recommendations to combat racial discrimination,⁴ but regrettably merely noted 14 others to adopt comprehensive anti-discrimination legislation.⁵ No anti-discrimination law has been passed. Racial discrimination particularly affects ethnic minorities in Japan, whether foreign or Japanese nationals, by putting them at risk of unequal or degrading treatment. Such treatment includes the advocacy of hatred (“hate speech”), as well as other forms of discrimination in various aspects of daily life, including education.⁶

THE NATIONAL HUMAN RIGHTS FRAMEWORK

National Human Rights Institution

5. Japan has made no meaningful progress on the establishment of a NHRI since its last review.⁷

Rights of refugees and migrants

6. The Immigration Control and Refugee Recognition Act remains in force, under which asylum seekers continue to face arbitrary detention and lack of due process in relation to their asylum claims.
7. The UN Working Group on Arbitrary Detention, when considering the detention of two asylum seekers of Turkish and Iranian origins in August 2020, also rendered the opinion that such detention was not only arbitrary, but also discriminatory based on their status as migrants, and was in contravention of Articles 2, 9 and 26 of the ICCPR.⁸
8. In February 2021, the government submitted an amendment bill to the Immigration Control and Refugee Recognition Act. The bill maintained the presumption of detention, and proposed amendments did not provide for maximum periods of detention and continued to deny due process to individuals by failing to allow for judicial review of detention orders.
9. Moreover, despite very low rates of acceptance of asylum applications – under 1% annually since 2012 – the bill included provisions that allowed the authorities to deport detained asylum seekers after a limited appeals procedure.⁹ The government withdrew the bill following domestic criticism and international pressure.

Anti-discrimination Law

10. In May 2021, “discrimination on the basis of sexual orientation and gender identity is unacceptable” was added to the anti-discrimination bill drafted by the ruling Liberal Democratic Party (LDP). However, during the LDP’s internal discussion, many discriminatory remarks were made, including one congressman’s comment that being LGBTI “goes against preservation of species.”¹⁰ Amid a public outcry over the remarks, the LDP announced that they would not submit the bill to Japan’s National Diet, the country’s legislature.¹¹

Act on Gender Identity Disorder

11. Pressure increased from civil society to remove certain requirements under the Act on Gender Identity Disorder for individuals seeking to change their legal gender. Under the Act, anyone wishing to change their legal gender is required to be unmarried, aged over 20, without minor children, and sterilized or otherwise unable to reproduce. They are also obliged to undergo surgery so that their genitalia more closely resembled that of their new legal gender and are required to undergo psychiatric assessment and receive a diagnosis.¹²

THE HUMAN RIGHTS SITUATION ON THE GROUND

The Death Penalty

12. Japan has continued to carry out executions by hanging since the last review. In 2018, Japan reported 15 executions - their highest number of executions recorded since 2008. In an unprecedented move, two sets of executions were carried out within a month.¹³
13. All 13 men executed in July 2018 were members of the Aum Shinrikyo cult and had been convicted and sentenced to death in separate trials between 2006 and 2011 for their respective roles in orchestrating and carrying out a sarin gas attack in the Tokyo subway in 1995, and other illegal activities.¹⁴ Two more men, convicted of murder, were hanged in December 2018.¹⁵
14. In 2019, three individuals were executed in Japan.¹⁶ Two Japanese men were executed on 2 August and a Chinese national was executed on 26 December. All men had been convicted of murder. Wei Wei, the Chinese national, had applied for re-trial at the time of his execution.¹⁷ This was the third year running where the authorities carried out executions while judicial appeals were pending. Two new death sentences were imposed, a figure that remained in line with the annual totals recorded for most of the previous decade.¹⁸
15. For the first time since 2011, no executions were carried out in Japan in 2020. There were, however, three men sentenced to death that year: Satoshi Uematsu, Kazuya Tsuchiya and Takahiro Shiraishi. They were all convicted in separate cases of multiple murders.¹⁹
16. The government of Japan resumed executions in 2021. Three men were executed on 21 December, after they were convicted of murder in separate cases. Two of the men had petitions for retrial pending, which is a violation of international safeguards protecting the rights of those facing the death penalty.²⁰
17. As of 31 December 2021, 109 out of the 116 people on death row had their death sentences finalized and were at risk of execution. New legal challenges highlighted Japan's harsh conditions of detention and the impact of the practice of providing notification of execution only hours in advance.²¹ Those on death row continue to be held in solitary confinement.
18. In the absence of effective safeguards or regular psychiatric evaluations, persons with mental (psycho-social) and intellectual disabilities continue to be subjected to the death penalty, in violation of international law and standards.²²

Rights of refugees and migrants

19. Authorities continued to use the Immigration Control and Refugee Recognition Act²³ to indefinitely detain undocumented foreign nationals, including irregular migrants and asylum seekers, until their deportation.²⁴
20. During the Covid-19 pandemic, detainees in immigration facilities complained of overcrowding, poor ventilation and lack of adequate social distancing measures to protect them from infection. To reduce the number of individuals in immigration detention facilities, the authorities provisionally released more than half of all detained foreign nationals scheduled for deportation starting in April 2020 but did not give them permission to work nor the means for an adequate standard of living.²⁵

21. In March 2020, a 33-year-old Sri Lankan woman, Ratnayake Liyanage Wishma Sandamali, died while in immigration detention. An investigative report released by the government's Immigration Services Agency in August admitted flaws in the medical care system.²⁶

Rights of LGBTI persons

22. In March 2021, the Sapporo District Court ruled that the government's failure to recognize same-sex marriage was unconstitutional.²⁷ However, in June 2022 the Osaka District Court rejected such claims that the ban violated the constitutional right to equality. The Tokyo metropolitan government announced it will start recognizing same-sex partnerships to ease the burdens faced by residents in their daily lives in 2022.²⁸ Same-sex couples in Tokyo would be able to get certificates to prove their partnership status, which they would be able to use when applying for government and private-sector services.²⁹ At the national level, same-sex marriage is still not officially recognized.³⁰

Discrimination against ethnic minorities

23. Long-standing discrimination continued against Japan's ethnic Korean minority, especially those perceived to be aligned with North Korea. In July 2021, the Supreme Court dismissed a claim for damages filed by a Pyongyang-connected school and some of its graduates over the government's decision to exclude such in Japan from a programme to provide tuition subsidies for high schools.³¹ Four cases on the same issue had previously been rejected by other courts.³²
24. In March 2021, the city government of Saitama excluded an ethnic Korean kindergarten from an initiative to distribute face masks to workers providing care or education to pre-school children.³³ Students at the Korea University in Tokyo were excluded from government payments designed to help students facing financial difficulties caused by the pandemic. The university is attended primarily by ethnic Koreans, some of whom are Japanese citizens.³⁴

Japan's military sexual slavery system before and during World War II

25. In 2016, two groups of South Korean survivors of the sexual slavery system had filed lawsuits in South Korea against the Japanese government demanding compensation. In January 2021, the Seoul Central District Court made a ruling ordering the Japanese government to provide compensation to the survivors of this system of sexual slavery. In April 2021, a different chamber of the Seoul Central District Court dismissed similar claims against the Japanese government to pay damages to women and girls who were forced into sexual slavery by Japan's military.
26. Japan maintains that its bilateral agreement with a previous administration in South Korea in 2015 had resolved the issue "irreversibly", and that the principle of state sovereignty shields it from such claims in foreign courts.³⁵

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Japan to:

National Human Rights Institution

27. Take immediate steps to establish a fully independent, impartial, credible and empowered national human rights institution in line with the Paris Principles, with competence to consider and act on complaints of human rights violations committed by public authorities and provide redress to victims, and with adequate financial and human resources.
28. As previously recommended, ratify the first Optional Protocol to the ICCPR.

The Death Penalty

29. Immediately introduce a formal moratorium on executions as a first step toward the abolition of the death penalty and commute all death sentences to terms of imprisonment.
30. Ratify, without reservations, the Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty.
31. Initiate an immediate independent review of all cases to identify people accused or convicted of capital crimes who may have psychosocial or intellectual disabilities and could fall within the scope of Article 479 of the Code of Criminal Procedure with a view to commuting the death sentence and diverting the cases away from the criminal justice system into a health management framework.
32. Ensure that all safeguards guaranteeing protection of the rights of those facing the death penalty are respected and that proceedings meet international law and standards at all times, including the right to prompt access to a lawyer, to regular family visits, not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment, not to be compelled to testify against themselves or to confess guilt and to have statements extracted under such treatment excluded from evidence, and that no executions are carried out until all legal or other review procedures have been completed.

Rights of refugees and migrants

33. Ensure that the Immigration Control and Refugee Recognition Act maintains that all migrants are protected against refoulement when intended for transfer to another country or jurisdiction where they would face a real risk of serious human rights violations or abuses and ensure an opportunity for effective, independent and impartial review of any decision to deport individuals, especially if there appear to be substantial grounds for believing that the individual would be refouled when facing a real risk of serious human rights violations or abuses on return.
34. Ensure that all migrants' right to personal liberty and against arbitrary detention is protected by eliminating default administrative immigration detention, including of asylum seekers and irregular migrants so that immigration detention is only utilized in the most exceptional of circumstances that are deemed lawful, necessary and proportionate, and that they are free from any inhuman or degrading treatment.
35. Ensure that all detained migrants have access to effective procedural safeguards and can challenge the reasons or lawfulness of their detention in court.

Rights of LGBTI persons

36. Enact and implement legislation to protect LGBTI persons against arbitrary or unlawful interference with their privacy, including unauthorized disclosure of their sexual orientation and gender identity by third parties.
37. Implement previously supported recommendations to officially recognize marriages between couples of the same sex, on the same basis and conferring all the same rights, as marriages between different-sex couples.
38. Implement previously supported recommendations to amend the Act on Gender Identity Disorder, including by abolishing requirements to undergo a psychiatric assessment and receive a diagnosis, other medical requirements, any requirement of single status, and other restrictions that violate human rights, for obtaining legal gender recognition.

Discrimination against ethnic minorities

39. As previously recommended, end discrimination against members of ethnic minorities, including by ceasing policies that discriminate against "Korean schools" of all levels.
40. Refrain from actions that discriminate against ethnic minorities or other marginalized groups in future responses to the Covid-19 pandemic or other public health emergencies.

Japan's military sexual slavery system before and during World War II

41. Publicly assert that survivors have a right to full and effective reparation and access justice before the courts and ensure that any measures or statements by government officials or public figures that may undermine these rights are rescinded.
42. Implement the January 2021 chamber ruling of the Seoul Central District Court ordering the Japanese government to provide compensation to the survivors in this case.
43. Work with the government of South Korea and other affected countries to ensure that effective systems are put in place to ensure that all survivors are provided with effective remedies, including full and effective reparations to address the harms they have suffered, taking into account their views and needs.
44. Refrain from invoking procedural hurdles such as state immunity, to hamper efforts of survivors and their families to obtain full and effective reparation through justice procedures in other countries.

¹ UN Human Rights Council (UNHRC), *Report of the Human Rights Council on its 37th session*, UN A Doc. A/HRC/37/2, para 876, 14 June 2018

² Japan noted 16 recommendations on ending the use of the death penalty: recommendations 161.95-110 (Cyprus, Italy, Republic of Moldova, Norway, Rwanda, Bolivarian Republic of Venezuela, New Zealand, France, Mexico, Iceland, Belgium, Sweden, Finland, Spain, Brazil, Netherlands, Denmark, Australia, United Kingdom of Great Britain and Northern Ireland, Timor-Leste, Liechtenstein, Colombia, Paraguay, Portugal, Panama, Switzerland, France, Austria, Canada). It also noted a further seven recommendations to ratify the Second Optional Protocol to the ICCPR aiming at abolition of the death penalty: recommendations 161.3-9 (Slovenia, Argentina, Montenegro, Spain, Sweden, Togo, Croatia, Germany, Mongolia, Uruguay, Guatemala), UNHRC, *Addendum to the Report of the Working Group on the Universal Periodic Review*, UN Doc. A/HRC/37/15/Add.1, 1 March 2018

³ A/HRC/37/15/Add.1, recommendations 161.37-47 and 161.49 (Georgia, Malaysia, Qatar, Bolivarian Republic of Venezuela, Australia, Philippines, Republic of Moldova, Costa Rica, Rwanda, Uganda, Ukraine, Azerbaijan, Ethiopia, India, Afghanistan, Panama, Chile, Colombia, Croatia, Finland, Sierra Leone, France, Guatemala, Kenya, Nepal, Liechtenstein, Indonesia, Kazakhstan, Sudan) (all supported). Japan also noted recommendation 161.48 (Iraq)

⁴ A/HRC/37/15/Add.1, recommendations 161.2 (Kazakhstan), 161.56-7 (Russian Federation, Madagascar), 161.76 (Ghana), 161.80-82 (Guatemala, Islamic Republic of Iran, Kyrgyzstan), 161.150 (Austria)

⁵ A/HRC/37/15/Add.1, recommendations 161.58-68 (Mexico, Netherlands, Sierra Leone, Norway, Cote D'Ivoire, Germany, Haiti, Honduras, Iraq, Kenya, Italy), 161.75 (Ireland), 161.83-4 (Botswana, Australia)

⁶ The Korea Times, *Hate speech against Koreans still active in Japan*, 24 March 2019, koreatimes.co.kr/www/nation/2019/03/120_265876.html

⁷ The Japan Federation of Bar Associations (JFBA) reiterated in its 2019 statement the importance of a NHRI that complies with the principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (The Paris Principles).

⁸ UNHRC, Opinions adopted by the Working Group on Arbitrary Detention at its eighty-eighth session, 24–28 August 2020, UN Doc. A/HRC/WGAD/2020/58

⁹ 収容・送還に関する専門部会 (Panel of experts on detention and deportation), 送還忌避・長期収容問題の解決に向けた提言 (Proposal to solve issues of deportation evaders and prolonged detention), July 2020

¹⁰ The Japan Times, *Japanese lawmaker says being LGBT goes against preservation of species*, 22 May 2021, japantimes.co.jp/news/2021/05/22/national/politics-diplomacy/ldp-lawmaker-lgbt-remark/

¹¹ Amnesty International, *Japan: Government must deliver an LGBTI bill that ensures zero tolerance of discrimination*, 2 June, 2021, [amnesty.org/en/latest/news/2021/06/japan-government-must-deliver-an-lgbti-bill-that-ensures-zero-tolerance-of-discrimination-2/](https://www.amnesty.org/en/latest/news/2021/06/japan-government-must-deliver-an-lgbti-bill-that-ensures-zero-tolerance-of-discrimination-2/)

¹² Act on Special Cases in Handling Gender Status for Persons with Gender Identity Disorder, article. 3, para. 1

¹³ Amnesty International, *Death Sentences and Executions 2018*, 10 April, 2019, [amnesty.org/en/latest/news/2019/04/death-penalty-dramatic-fall-in-global-execution-2/](https://www.amnesty.org/en/latest/news/2019/04/death-penalty-dramatic-fall-in-global-execution-2/)

¹⁴ The seven people executed on 7 July 2018 were: Chizuo Matsumoto, Tomomasa Nakagawa, Tomomitsu Niimi, Kiyohide Hayakawa, Yoshihiro Inoue, Seiichi Endo and Masami Tsuchiya. The six people executed on 27 July 2018 were: Satoru Hashimoto, Yasuo Koike (Hayashi), Kenichi Hirose, Kazuaki Okazaki (Miyamae), Toru Toyota, Masato Yokoyama. Four of those hanged had requests for a retrial pending

¹⁵ The Japan Times, *Two Japanese death row inmates executed over 1988 robbery-murders of Cosmo Research president and employee*, 27 December 2018, japantimes.co.jp/news/2018/12/27/national/crime-legal/japan-executes-two-death-row-inmates-thursday-morning-

sources/

- ¹⁶ Amnesty International, *Death Sentences and Executions 2019*, 21 April 2020, [amnesty.org/en/documents/act50/1847/2020/en/](https://www.amnesty.org/en/documents/act50/1847/2020/en/)
- ¹⁷ BBC, *Japan hangs Chinese man in rare execution of foreigner*, 26 December 2019, [bbc.com/news/world-asia-50916494](https://www.bbc.com/news/world-asia-50916494)
- ¹⁸ Amnesty International, *Japan: Execution a shameful stain on human rights record of Olympic hosts*, December 26, 2019, [amnesty.org/en/latest/news/2019/12/japan-execution-a-shameful-stain-on-human-rights-record-of-olympic-hosts/](https://www.amnesty.org/en/latest/news/2019/12/japan-execution-a-shameful-stain-on-human-rights-record-of-olympic-hosts/)
- ¹⁹ Amnesty International, *Death Sentences and Executions 2020*, 21 April, 2021, <https://www.amnesty.org/en/latest/news/2021/04/death-penalty-2020-despite-covid-19-some-countries-ruthlessly-pursued-death-sentences-and-executions-2/>
- ²⁰ Amnesty International, *Japan: Abhorrent executions crush hopes of progress under new prime minister*, December 21, 2021, [amnesty.org/en/latest/news/2021/12/japan-abhorrent-executions-crush-hopes-of-progress-under-new-prime-minister/](https://www.amnesty.org/en/latest/news/2021/12/japan-abhorrent-executions-crush-hopes-of-progress-under-new-prime-minister/)
- ²¹ Amnesty International, *Death Sentences and Executions 2021*, 24 May 2022, [amnesty.org/en/documents/act50/5418/2022/en/](https://www.amnesty.org/en/documents/act50/5418/2022/en/)
- ²² Amnesty International, *Death Sentences and Executions 2021*, 24 May 2022, [amnesty.org/en/documents/act50/5418/2022/en/](https://www.amnesty.org/en/documents/act50/5418/2022/en/)
- ²³ Immigration Control and Refugee Recognition Act (Cabinet Order No. 319 of 1951), cas.go.jp/jp/seisaku/hourei/data/icrra.pdf
- ²⁴ Same as above
- ²⁵ Amnesty International *Annual Report 2020/21*, [amnesty.org/en/latest/news/2021/04/annual-report-covid19-decades-of-oppression-inequality-abuse-2/](https://www.amnesty.org/en/latest/news/2021/04/annual-report-covid19-decades-of-oppression-inequality-abuse-2/)
- ²⁶ NHK, *Death at immigration facility raises questions about medical care*, 15 April 2021, [nhk.or.jp/nhkworld/en/news/backstories/1597/](https://www.nhk.or.jp/nhkworld/en/news/backstories/1597/)
- ²⁷ Amnesty International, *Japan: Judicial ruling marks groundbreaking step towards equality*, 17 March 2021, [amnesty.org/en/latest/news/2021/03/japan-first-judicial-ruling-on-marriage-equality-groundbreaking-step/](https://www.amnesty.org/en/latest/news/2021/03/japan-first-judicial-ruling-on-marriage-equality-groundbreaking-step/)
- ²⁸ The Japan Times, *Tokyo to introduce a same-sex partner system*, December 7 2022, [japantimes.co.jp/news/2021/12/07/national/social-issues/yuriko-koike-tokyo-lgbt/](https://www.japantimes.co.jp/news/2021/12/07/national/social-issues/yuriko-koike-tokyo-lgbt/)
- ²⁹ The Mainichi, *Tokyo gov't plans to start same-sex partnership system in November*, 10 May 2022, [mainichi.jp/english/articles/20220510/p2a/00m/0na/021000c](https://www.mainichi.jp/english/articles/20220510/p2a/00m/0na/021000c)
- ³⁰ Amnesty International, *Japan: Government must deliver an LGBTI bill that ensures zero tolerance of discrimination*, 2 June 2021, [amnesty.org/en/latest/news/2021/06/japan-government-must-deliver-an-lgbti-bill-that-ensures-zero-tolerance-of-discrimination-2/](https://www.amnesty.org/en/latest/news/2021/06/japan-government-must-deliver-an-lgbti-bill-that-ensures-zero-tolerance-of-discrimination-2/)
- ³¹ UN CRC (CRC/C/JPN/4-5, para. 39) and CERD (CERD/C/JPN/CO/7-9, para. 19) raised concerned on the government decision to exclude Pyongyang-connected schools from a tuition waiver programme
- ³² Amnesty International *Annual Report 2021/2022*, [amnesty.org/en/latest/research/2022/03/annual-report-202122/](https://www.amnesty.org/en/latest/research/2022/03/annual-report-202122/)
- ³³ The Asahi Shimbun, *朝鮮学校の幼稚園、マスク配布対象外にさいたま市 (Korean kindergartens excluded for mask distributions in Saitama city)*, 11 March, 2020, [asahi.com/articles/ASN3C7RH3N3CUTNB00C.html](https://www.asahi.com/articles/ASN3C7RH3N3CUTNB00C.html)
- ³⁴ The Asahi Shimbun, *Top court rules to exclude Korean schools from free tuition program*, 29 August 2020, [asahi.com/ajw/articles/13629826](https://www.asahi.com/ajw/articles/13629826)
- ³⁵ Amnesty International, *South Korea: Disappointing Japan ruling fails to deliver justice to 'comfort women'*, 21 April 2021, [amnesty.org/en/latest/news/2021/04/south-korea-disappointing-japan-ruling-fails-to-deliver-justice-to-comfort-women-2/](https://www.amnesty.org/en/latest/news/2021/04/south-korea-disappointing-japan-ruling-fails-to-deliver-justice-to-comfort-women-2/)