Universal Periodic Review (42nd session)

Contribution of UNESCO

Japan

I. Background and framework

Title	*Date of ratification, accession, acceptance, or succession*	*Declarations /Reservations*	*Recognition of specific competences of treaty bodies*	*Reference to the rights within UNESCO's fields of competence*
Convention against Discrimination in Education 1960	Not ratified	Reservation to this Convention shall not be permitted		Right to education
Convention concerning the Protection of the World Cultural and Natural Heritage (1972)	Ratification on 30 June 1992 Committee Member (1993-1999; 2003-2007; 2011-2015; 2021-2025)			Right to take part in cultural life
Convention for the Safeguarding of the Intangible Cultural Heritage (2003)	Ratification on 15 June 2004 Committee Member (2006-2008; 2010-2014; 2018-2022)			Right to take part in cultural life
Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)	Not ratified			Right to take part in cultural life

II. Promotion and protection of human rights on the ground

A. Education

1. The Constitution of Japan of 3 November 1946[1] provides that "All people shall have the right to receive an equal education correspondent to their ability" (article 26). It also provides a non-discrimination provision in its article 14.

2. The Basic Act on Education of 2006[2] sets in its article 4 that "The people must be given equal opportunities to receive an education suited to their abilities, and must not be subjected to discrimination in education on account of race, creed, sex, social status, economic position, or family origin". Article 5 (4) also states that "No tuition fees are charged for compulsory education in schools established by the national and local governments".

3. The School Education Law of 1947, as last amended in 2015[3], specifies in its article 49 (4) that "Compulsory education shall be nine years of study". Its article 49 (5) provides that "The compulsory education school programme is divided into the first programme of six years and the latter programme of three years" which means that the nine years of compulsory education encompasses the primary and lower secondary levels of schooling.

B. Freedom of opinion and expression

Constitutional and Legislative Framework:

4. Freedom of expression or speech and freedom of the press are protected under Article 21 of the Constitution:

   "Freedom of assembly and association as well as speech, press and all other forms of expression are guaranteed.
   No censorship shall be maintained, nor shall the secrecy of any means of communication be violated."[4]

[1] https://japan.kantei.go.jp/constitution_and_government_of_japan/constitution_e.html
[2] https://www.mext.go.jp/en/policy/education/lawandplan/title01/detail01/1373798.htm
[3] https://www.mext.go.jp/component/b_menu/other/__icsFiles/afieldfile/2015/12/18/1365413_02.pdf
[4] https://www.constituteproject.org/constitution/Japan_1946.pdf?lang=en
[5] https://www.soumu.go.jp/main_sosiki/joho_tsusin/eng/Resources/laws/pdf/090204_5.pdf

5. According to Article 4 of the Broadcasting Act[5], broadcast content "shall not harm public safety or good morals", and "shall be politically fair". Reporting of content "shall not distort the facts, and it shall clarify the points at issue from as many angles as possible where there are conflicting opinions concerning an issue".

6. Access to information is protected by the Act on Access to Information Held by Administrative Organs[6] and the Law Concerning Access to Information Held by Incorporated Administrative Agencies.[7]. Under these laws, the head of an administrative organ or the incorporated administrative agency must disclose the requested information, unless any of the information requested is classified as "non-disclosure information", such as information pertaining to national security, and a decision shall be made within thirty days upon a request for information disclosure.

7. Defamation is covered by the Civil Code[8] and Penal Code[9] of Japan. Article 230 (1) of the Penal Code establishes that "a person who defames another person by making allegations in public, regardless of whether such facts are true or false, is punished by imprisonment or imprisonment without work for not more than 3 years or a fine of not more than 500,000 yen".

8. Under the Act on the Protection of Specially Designated Secrets[10], a person that discloses a "specially designated secret" could be punished to up to ten years of imprisonment. The law grants ministers the power to designate certain information as state secrets for up to sixty years.

9. The Whistleblower Protection Act[11] "protect[s] whistleblowers to provide for nullity, etc. of dismissal of whistleblowers".

[5] https://www.soumu.go.jp/main_sosiki/joho_tsusin/eng/Resources/laws/pdf/090204_5.pdf
[6] https://www.cas.go.jp/jp/seisaku/hourei/data/APPIHAO.pdf
[7] https://www.soumu.go.jp/main_sosiki/gyoukan/kanri/low0404_2.htm
[8] https://www.moj.go.jp/content/000056024.pdf
[9] https://www.japaneselawtranslation.go.jp/en/laws/view/3581/en

[10] https://elaws.e-gov.go.jp/document?lawid=425AC0000000108_20220401_503AC0000000037 (English translation unavailable)
[11] https://www.cas.go.jp/jp/seisaku/hourei/data/WPA.pdf

10. The Act on the Promotion of Efforts to Eliminate Unfair Discriminatory Speech and Behavior against Persons Originating from Outside Japan[12,13] gives the national government power to implement measures to eliminate unfair discriminatory words and deeds against people from outside Japan.

Implementation of the law:

11. The Government of Japan, through the Ministry of Internal Affairs and Communications, has the authority to regulate content according to the Broadcasting Act[14] which aims to regulate broadcasting so as to conform to standards for public welfare and to facilitate the sound development of broadcasting. The Government can legally suspend the TV stations' licenses and networks if their programming is found to contain political bias.

12. The Japan Broadcasting Corporation (NHK), a government-owned public broadcaster, was established under the Broadcasting Act.

13. The Broadcasting Ethics & Program Improvement Organization (BPO), established by NHK, is a non-profit, non-governmental organization that serves to protect basic human rights and to improve the quality of broadcasting and promote higher ethical standards while ensuring freedom of speech and expression.

Safety of journalists:

14. Since 2006 when the organization began systematic monitoring, UNESCO has recorded no killings of journalists in Japan as of 16 May 2022.[15]

III. Review and specific recommendations

A. Education

Legislative, regulatory and policy framework:

[12] https://www.moj.go.jp/ENGLISH/m_jinken04_00001.html
[13] https://elaws.e-gov.go.jp/document?lawid=428AC0100000068
[14] https://www.soumu.go.jp/main_sosiki/joho_tsusin/eng/Resources/laws/pdf/090204_5.pdf

[15] https://en.unesco.org/themes/safety-journalists/observatory/country/223735

- As part of the government's "New Economic Policy Package"[16] of 2017, the state notably introduced free preschool education for all children between three and five years of age (from October 2019).[17]

- The Act Partially Amending the Civil Code (Related to Age of Majority)[18] was enacted on June 13, 2018. It reduces the age of majority in the Civil Code from 20 to 18. It also raises the minimum marriage age of women from 16 to 18 years old, setting to unify its age for both sexes.

- The Fourth Basic Plan on Measures for Providing Safe and Secure Internet Use for Young People[19] (July 2018) promotes information, morals education and awareness-raising activities at school on appropriate internet use by young people according to their development stage. It also encourages efforts to cope with cyberbullying. For this purpose, education supervisors receive training.
- The Fourth Basic Policy Directions[20] include the Fourth Basic Plan to Promote Children's Reading (April 2018) and stipulates basic principles and concrete policies for the promotion of reading activities for children during the five-year period from 2018–2022.

- The Fifth Basic Plan for Gender Equality[21] (December 2020) promotes gender equality in Science and Technology and Academic Fields. It aims to create an environment where female researchers can demonstrate their abilities to a maximum extent without being subject to discriminatory treatment. It considers that it is necessary to support schools and universities in appointing women to decision-making positions (including school principals), includes measures to encourage female students to choose careers in science and engineering as well as measures to prevent various forms of harassment and any type of violence against women.

[16] https://www5.cao.go.jp/keizai1/package/20171208_package_en.pdf
[17] https://www8.cao.go.jp/shoushi/shinseido/musyouka/about/index.html ; https://www8.cao.go.jp/shoushi/shinseido/musyouka/index.html ; https://www8.cao.go.jp/shoushi/shinseido/outline/pdf/free_ed/houshin.pdf
[18] https://www.moj.go.jp/EN/MINJI/minji07_00218.html
[19] https://www8.cao.go.jp/youth/youth-harm/suisin/pdf/dai4ji_keikaku_eng.pdf
[20] https://www.mext.go.jp/en/policy/education/lawandplan/title01/detail01/sdetail01/1373805.htm
[21] https://www.jil.go.jp/english/jli/documents/2021/033-02.pdf

Free and compulsory education

15. The Education 2030 Framework for Action requires all states to guarantee at least twelve years of free primary and secondary education, of which at least nine are compulsory. In Japan, while education is compulsory for nine years, according to the Basic Act on Education and School Education Law, only nine years of tuition free education is provided. This also does not preclude the possibility of other direct fees and charges being imposed by the Government, the local authority or the school. In addition, while pre-school has been made free since 2019, it is not compulsory.

Girls and women

16. As recommended in the last UPR cycle in Recommendations N°161.147, N°161.148, N°161.149 and N°161.63, Japan has taken measures to strengthen and promote the equal access of women and girls to all levels of education, especially the adoption of the Fifth Basic Plan for Gender Equality (2020) which promotes women's awareness of and access to academic science and technology fields. Raising the minimum marriage age of women is also a positive step in this direction, as girls are less likely to drop out of school due to marriage.

17. To further ensure protection from gender-based violence in educational institutions, the legislation could explicitly proscribe such violence.

People with disabilities

18. As recommended in the last UPR in Recommendation N°161. 201, Japan tried to improve access to both education and health for people with disabilities. It has in fact set up a "Triangle" project[22] which aims to strengthen collaboration and dialogue between the fields of education and social welfare, which Japan has identified as interdependent, but also with parents. Two conferences related to this project were held in 2017 and 2018. Nevertheless, according to the 2020 GEM Report, learning

[22] https://www.mext.go.jp/a_menu/shotou/tokubetu/material/1404500.htm

disability is practically unknown in Japan, which makes it difficult to assess their prevalence and anticipate their needs.[23]

Refugees

19. UNHCR-Refugee Higher Education Program (RHEP)[24] is a program implemented in 2020 by thirteen universities in Japan. It aims to provide access to higher education for refugees already living in Japan who would otherwise have difficulty completing an undergraduate or graduate degree program. This program can benefit refugees of all ages and nationalities. The students' tuition fees and other study expenses will be funded by the universities. At the discretion of the universities, additional scholarship stipends may be paid to the students monthly.

Fight against discrimination and hate speech

20. Despite the Recommendation N°161.85 in the last UPR, according to the GEM Report 2020, the curriculum still does not address the topics related to sexual orientation, gender identity and gender expression.[25] The lack of awareness and sensibilization through curricula can enhance stereotypes and discrimination against LGBTI students in everyday school life.

COVID-19 pandemic responses

21. Japan's responses to COVID-19 demonstrated clear commitment to principles of inclusion through its targeted programmes and policies on leveraging digital technology, especially for students with disabilities or those from lower-income communities. During closures, the government sped up its plans for digital transformation by subsidizing online communication costs for families in difficult financial situations, funding server and equipment maintenance and the development of computer terminals for all elementary and junior high school students, and providing large-scale financial support to improve the distance education environment

[23] https://unesdoc.unesco.org/ark:/48223/pf0000373718/PDF/373718eng.pdf.multi
[24] https://services-unhcr-org.translate.goog/opportunities/education-opportunities/unhcr-refugee-higher-education-program?_x_tr_sl=en&_x_tr_tl=fr&_x_tr_hl=fr&_x_tr_pto=sc
[25] https://unesdoc.unesco.org/ark:/48223/pf0000373718/PDF/373718eng.pdf.multi, p.117

at universities. UNESCO's Initiative on the Evolving Right to Education emphasizes the need to ensure quality education, including in the digital environment. During the present COVID recovery phase, the government has invested heavily in improving the quality of school-wide use of digital technology through high-speed networks in each school and the provision of one device per student. The government is funding research on how teachers can use ICT to improve the learning of children with disabilities, illustrating Japan's commitment to inclusive digital transformation.

22. Japan is working hard to digitally transform its higher education environment to be expand access and equity in Japanese universities. The Ministry of Education, Culture, Sports, Science and Technology (MEXT) provided large-scale financial support to improve the environment for distance and hybrid education. In the wake of the global crisis, MEXT is propelling a more permanent delivery of hybrid education that effectively combines in-person classes with remote and online education. An example of this digital transformation is the JV-Campus, a platform that enables educational resources to be shared between universities to support the diverse needs of students. This environment will provide both domestic and international learners with an online education that showcases Japan's strengths and appeal overseas. Overall, this rapid expansion of digital technology programming, coupled with investments in research of best digital practices, highlight Japan's approach to mindful and measured digital transformation to ensure high quality education for all.[26]

Specific recommendations:

23. Japan should be encouraged to:

i. Ratify the Convention against Discrimination in Education.
ii. Introduce in the law the provision of at least twelve years of free primary and secondary education and consider making pre-primary education compulsory for at least one year.
iii. Consider introducing legal protection against all forms of violence, including gender-based violence, in education settings.

[26] Information reported by Japan via survey for the drafting of the forthcoming report, *Recover Together, Recover Stronger Through Education* by the G20 Indonesian Presidency Education Working Group.

iv. Reinforce the monitoring of learning disability in education settings to ensure adequate and targeted measures can be adopted.

v. Continue to enhance the digital inclusion of learners and teachers while ensuring their protection and privacy online.

vi. Continue to submit regularly comprehensive national reports for the periodic consultations on UNESCO's education-related standard-setting instruments, and notably on the Recommendation against Discrimination in Education.

vii. Share with UNESCO any relevant information to update its country profile on online monitoring tools: UNESCO's Observatory on the Right to Education[27] and HerAtlas: Monitoring the right to education for girls and women.[28]

B. Freedom of opinion and expression

24. Japan is recommended to decriminalize defamation and place it within a civil code that is in accordance with international standards.[29]
25. Japan may wish to consider amending the Specially Designated Secrets Act to include an exception to guarantee that no individual - neither journalists nor government employees - is punished for disclosing information of public interest that does not harm national security.
26. Japan is further encouraged to establish an independent oversight board equipped with experts to serve as an oversight mechanism of the Specially Designated Secrets Act.

C. Cultural Rights

27. Japan is encouraged to ratify the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005). The UNESCO Culture Conventions promote access to and participation in cultural heritage and creative expressions and, as such, are conducive to implementing the right to take part in cultural life as defined in article 27 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights. In doing so, Japan is encouraged to facilitate the participation of communities, practitioners, cultural actors

[27] http://www.unesco.org/education/edurights/index.php?action=countries&lng=en
[28] https://en.unesco.org/education/girls-women-rights
[29] See for example, General Comments No 34. of the International Covenant on Civil and Political Rights (ICCPR), 2006 Recommendation of the 87th Session Human Rights Committee, the recommendations of the UN Special Rapporteurs on the Right to Freedom of Opinion and Expression, and Resolution 1577 (2007) of the Parliamentary Assembly of the Council of Europe.

and civil society organizations as well as groups in vulnerable situations (i.e. minorities, indigenous peoples, migrants, refugees, young peoples and persons with disabilities), and to ensure that equal opportunities are given to women and girls to address gender disparities.

D. Freedom of scientific research and the right to benefit from scientific progress and its applications

28. Japan did not submit its National Report on the implementation of the *Recommendation on Science and Scientific Researchers* (2017) for the consultation period from 2017 to 2020. Therefore, Japan is encouraged to report to UNESCO on its implementation actions, especially noting legislative or other measures adopted by it with the aim to ensure application of these norms and standards in national law, policy and practice paying a particular attention to the legal provisions and regulatory frameworks which ensure the implementation of human rights of scientific researchers themselves (rights of association, freedom of research, expression and publication, etc.) and human rights obligations related to the practice of science generally: the human rights related to access to and uses of scientific knowledge through education; the sharing of benefits of scientific progress and its applications; the principle of non-discrimination, requiring in this case active promotion of women and girls entering scientific careers; protection for the rights of human subjects of research; and promotion of the science society interface. Furthermore, Japan is encouraged to expand input on issues covered by the 2017 Recommendation in its national report to the UPR to allow further discussions thereon at the Human Rights Council and the formulation of specific recommendations. Within this framework, Japan is urged to consider expanding the scope of application of freedom of expression to include scientists and scientific researchers and also to address the relevant dimensions of the right to science in its reporting on the impact of the COVID-19 pandemic and the assessment of responses thereto.