

Universal Periodic Review
(28th session, Oct-Nov 2017)
Contribution of UNESCO to Compilation of UN information
(to Part I. A. and to Part III - F, J, K, and P)

[Japan](#)

I. Background and framework

Scope of international obligations: Human rights treaties which fall within the competence of UNESCO and international instruments adopted by UNESCO

Title	Date of ratification, accession 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 state party to this Convention	Reservations to this Convention shall not be permitted		Right to education
Convention on Technical and Vocational Education 1989	Not state party to this Convention			Right to education
Convention concerning the Protection of the World Cultural and Natural Heritage 1972	30/06/1992 Acceptance			Right to take part in cultural life
Convention for the Safeguarding of the Intangible Cultural Heritage 2003	15/06/2004 Acceptance			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

Right to education

II. Promotion and protection of human rights on the ground

1. The Constitution of Japan (1946) guarantees education and provides that “All people shall have the right to receive an equal education correspondent to their ability [...]” and that “All people shall be obligated to have all boys and girls under their protection receive ordinary education as provided for by law. Such compulsory education shall be free.” (Article 26). The Basic Act on Education (law n° 120 of 2006) stipulates the fundamental ideas and principles for education in Japan, and is meant to serve as a fundamental law for all legislation related to education.
2. In terms of **reporting to UNESCO**, Japan participated in the ongoing Ninth Consultation of Member States organized by UNESCO on the measures taken for the implementation of the Convention against Discrimination in Education (covering period 2012-2015). However, Japan did not report on measures taken for the previous Consultations. Japan reported to UNESCO on the measures taken for the implementation of the 1974 UNESCO Recommendation concerning Education for International Understanding, Co-operation and Peace and Education relating to Human Rights and Fundamental Freedoms within the framework of the Fifth Consultation of Member States.

Freedom of opinion and expression

➤ Constitutional and Legislative Framework:

3. Freedom of expression or speech and freedom of the press are protected under Article 21 of the Constitution¹. The same article provides that “no censorship shall be maintained, nor shall the secrecy of any means of communication be violated”.
4. Defamation is prosecuted under Article 230-1 of the Criminal Code² of Japan. It can either be a civil or criminal offense and it is punishable with fines reaching 500,000 yen (\$4,700) or imprisonment of up to three years.
5. Since 2003, a freedom of information law, the Law Concerning Access to Information³, has been in effect in Japan. It requires government agencies to respond to requests for information within 30 days and mandates an independent review board to control the process.
6. In December 2014, the Protection of Specially Designated Secrets Act⁴ went into effect. Under the law, whistleblowers who leak “state secrets” can face up to 10 years in prison, while journalists who publish leaked information can face up to five years in prison. The law also grants ministers the power to designate certain information as state secrets for up to 60 years.

¹ <https://www.constituteproject.org/search?lang=en&key=express>

² <http://www.japaneselawtranslation.go.jp/law/detail/?ft=2&re=02&dn=1&yo=penal+code&x=0&y=0&ky=&page=1>

³ http://www.soumu.go.jp/main_sosiki/gyoukan/kanri/low0404_2.htm

⁴ www.cas.go.jp/jp/tokuteihimitsu/gaiyou_en.pdf

➤ Implementation of legislation:

7. Japan's Broadcast Act, adopted in 1950 gives the Government direct authority to regulate the broadcast media. The government can legally suspend the TV stations' licences and networks if their programming is found to contain political bias.
8. Japan has a well-established public service broadcasting Nippon Hoso Kyokai (NHK) established under the Broadcasting Law (1950).

➤ Media Self-Regulation:

9. Nihon Shinbun Kyokai (NSK) ⁵ is an independent media organization established by the Japan Newspaper Publishers & Editors Association in 1946. It has its code of ethics, the Canon of Journalism, which aims to elevate ethical standards in reporting and protect and promote the media's common interests.

➤ Safety of journalists:

10. Since 2008, no killing of journalists has been recorded by UNESCO⁶ in Japan.

III. RECOMMENDATIONS

11. Below are the recommendations made within the framework of the 2nd cycle of the Working Group (14th session) on the Universal Periodic Review (December 2012) ⁷:

147.114. Strengthen the human rights education of the law-enforcement, agencies, public servants, especially on the rights of women and children

147.153. Take all necessary measures to ensure adequate access to water and sanitation by children with disabilities in all Japanese schools

147.154. Promote reproductive and sexual health education for adolescents in view of importance of preventive measures to fight sexually transmitted diseases including HIV/AIDS

147.157. Take further measures in order to lower or abolish education fees at the University level as well as granting scholarships in order to alleviate the financial burdens further

⁵ <http://www.pressnet.or.jp/english/>

⁶ <http://www.unesco.org/new/en/communication-and-information/freedom-of-expression/press-freedom/unesco-condemns-killing-of-journalists/lists-by-year/2016/>

⁷ <http://www.ohchr.org/EN/HRBodies/UPR/Pages/JPSession14.aspx>

147.158. Ensure that future generations continue to be informed of all aspects of their history, by taking measures such as the introduction of the topic of comfort women in textbooks for school children

147.159. Put an end to the distortion of past history and raise awareness of historical facts by amending educational curricula to reflect historical realities, including its past crimes and atrocities

147.165. Ensure the access of all migrants, without discrimination and irrespective of their legal status, to health and education

Review and specific recommendations

12. During the last UPR cycle, Japan was amongst others recommended to ensure adequate access to water and sanitation by children with disabilities in all Japanese schools. No specific information on such measures could be located. However, it could be noted that Japan adopted in 2013 a new law prohibiting discrimination against persons with disabilities,⁸ which took effect in April 2016. The law is reported to explicitly ban discrimination against them and to require government bodies and private-sector businesses to pay greater attention to their needs, including by providing “reasonable accommodation”. Moreover, the law is said to have been adopted in an effort to align Japan’s domestic legal order with the obligations arising from the ratification to the Convention on the Rights of Persons with Disabilities (CRPD).
13. In that respect, special consideration should be paid to ensuring that the provisions relating to education (if any) are fully in line with Article 24 of the CRPD and with the Education 2030 Framework for Action⁹ guiding countries towards achieving SDG 4. Establishing a solid framework to guarantee non-discrimination and equality of educational opportunities is crucial to ensure that persons with disabilities are not left behind. Furthermore, greater efforts should be made in ensuring a quality inclusive education for persons with disabilities and striving to offer educational opportunities in mainstream education rather than in special education schools.
14. Concerning the matter of tuition fees, which Japan was encouraged to lower or abolish at the university level, some measures have been reported, including through the adoption of the Second Basic Plan for the Promotion of Education (2013- 2017)¹⁰. This plan includes building “safety nets for learning” to ensure learning opportunities for all who are motivated to learn (reduction of educational cost burden in each educational level and ensuring “continuous financial assistance to reduce educational cost burden throughout all learning stages”). Despite this positive commitment, more needs to be done to target more specifically university students and to assist them financially to pursue and complete their studies. Concrete action towards the reduction or abolition of tuition fees still needs to be undertaken.

⁸ Please note that, at the time of the drafting of this contribution, the law could not be accessed in English.

⁹ <http://www.uis.unesco.org/Education/Documents/incheon-framework-for-action-en.pdf>

¹⁰ “Education for All 2015 National Review Report: Japan”, pp. 13-15, accessible at: <http://unesdoc.unesco.org/images/0022/002297/229716E.pdf>

15. As regards reproductive and sexual health education for adolescents, and to the extent of our knowledge, no specific programme was implemented since the recommendation was made within the framework of the UPR. Access to reproductive and sexual health education and information seems to stay limited. Therefore, greater efforts should be made to ensure this topic is included in curricula and textbooks and that adolescent boys and girls have access to such information and education.

Specific Recommendations:

1. Japan should be strongly encouraged to ratify the 1960 UNESCO Convention against Discrimination in Education.
2. Japan should be encouraged to ensure that provisions of the new law prohibiting discrimination against persons with disabilities are fully aligned with international standards on education and that it promotes an inclusive education over the establishment or maintenance of a special education system.
3. Japan should be encouraged to tackle more actively the issue of high tuition fees at university, which may constitute major obstacles for disadvantaged students, by lowering or abolishing fees and by establishing financial assistance through scholarships and other schemes.
4. Japan could be recommended to provide access to reproductive and sexual health education and information for adolescents and to include it appropriately in curricula and textbooks.
5. Japan should be strongly encouraged to pursuing the submission of national reports for the periodic consultations of UNESCO’s education-related standard-setting instruments.
6. Japan should be encouraged to share with UNESCO all relevant information to update the country profile on UNESCO’s Global Database on the right to education.¹¹

Freedom of opinion and expression

16. Japan is recommended to decriminalize defamation and place it within a civil code that is in accordance with international standards.¹²

¹¹ <http://www.unesco.org/new/en/education/themes/leading-the-international-agenda/right-to-education/database/>

¹² 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.

17. 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.
18. 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*.
19. Rather than direct governmental regulation of broadcasting, Japan is recommended to establish an independent broadcast regulatory authority.

Cultural Rights

20. As a State Party to the Convention concerning the Protection of the World Cultural and Natural Heritage (1972)¹³ and the Convention for the Safeguarding of the Intangible Cultural Heritage (2003)¹⁴, Japan is encouraged to fully implement the relevant provisions that promote access to and participation in cultural heritage 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 give due consideration to the participation of communities, practitioners, cultural actors and NGOs from the civil society as well as vulnerable groups (minorities, indigenous peoples, migrants, refugees, young peoples and peoples with disabilities), and to ensure that equal opportunities are given to women and girls to address gender disparities.
21. Japan is also encouraged to ratify the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005) as a means to promote access to and participation in creative expressions and as such contribute to implementing the right to take part in cultural life.

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

22. In the framework of the Second Consultation on the implementation of the Recommendation on the Status of Scientific Researchers (1974) covering the period from 2013 to 2016, launched by UNESCO in December 2016 (<http://on.unesco.org/2hL0xGz>), Japan is encouraged to report to UNESCO on any legislative or other steps undertaken by it to ensure the application of this international standard-setting instrument. Japan is invited to complete the online questionnaire, which has been prepared by UNESCO to guide and assist Member States with their reporting (<http://unesdoc.unesco.org/images/0024/002468/246830E.pdf>). Further to its 2011-2012 Report, when replying to the 2013-2016 monitoring questionnaire, Japan is kindly invited to pay

¹³ Periodic Report available at: <http://whc.unesco.org/document/116967>

¹⁴ Periodic Report available at: <http://www.unesco.org/culture/ich/en/state/japan-JP?info=periodic-reporting>

particular attention to the legal provisions and regulatory frameworks, which ensure that scientific researchers have the responsibility, and the right to work in the spirit of the principles enshrined in the 1974 Recommendation.