

2022 Country Report - Japan

1.0 Main Activities, Developments and Challenges Faced

The recent activities of the JFBA include the following:

1.1 The Rights of Foreign Nationals Living in Japan

In May 2021, a draft bill for the revision of the Immigration Control and Refugee Recognition Act was deliberated in the Diet (this draft bill was later deferred). The JFBA released an opinion and President's statements opposing such a bill for the reason of 1) not including the adoption of a maximum period of detention or opportunities for judicial review; 2) including the introduction of a reporting system that obligated supporters and lawyers to report on the adherence to conditions rendered on monitoring measures; 3) including a partial lifting of deportation suspensions for asylum-seekers, and 4) including an expulsion order system with criminal penalties for those who evaded deportation. Since the bill is likely to be debated again in the Diet, the JFBA issued the President's statement opposing the reintroduction of the proposed amendment to the law on June 1, 2022.

1.2 Abolition of the Death Penalty and Reform of the Criminal Justice System

Japan still has a large number of prisoners who have been sentenced to death, with a total of four executions carried out between October 1, 2021, and August 31, 2022. Immediately after each execution, the JFBA President publicly denounced it and strongly protested against the execution.

In October 2016, the JFBA adopted the FUKUI Declaration which called for the abolition of the death penalty by 2020 at the Convention on Protection of Human Rights. In December 2021, it also submitted a petition to the Minister of Justice requesting the abolition of the death penalty.

Also, on October 12, 2021, the JFBA held an online symposium entitled "Considering the Realization of an Abolishment of the Death Penalty 2021" and discussed the roadmap to abolishing the death penalty in Japan. Panelists included authors, editorial writers of newspapers and the like, and anyone from the general public was allowed to attend.

The JFBA will continue to appeal to the public and mass media so that they can understand our reasoning for believing the death penalty should be abolished, as we need to respect human life and the possibility of a misjudgement or false accusation can never be completely eliminated.

1.3 Pollution, Environmental Issues, and Realization of Sustainable Society

The JFBA regards the climate crisis as a serious human rights issue that could

threaten the very foundations of the existence of present and future generations, and adopted the "Declaration on Averting the Climate Crisis and Achieving a Sustainable Society" at the Convention on Protection of Human Rights in October 2021.

In the Declaration, in addition to proposing measures that the government should take with regard to climate change, it also declared that the JFBA will actively work to reduce energy consumption related to its own business activities and make maximum efforts to achieve Carbon Neutrality by 2050 in order to avoid the climate crisis and realize a sustainable society.

1.4 Introducing Information Technology in the Civil Procedure

In August 2018, the JFBA established a working group to study the computerization of civil court procedures to respond to the government's move toward introducing Information Technology (IT). The group has been providing support for attorney members attending national study groups, preparing various manuals and Q&As, issuing news, and taking other measures to disseminate information to the JFBA members.

On May 18, 2022, the Law for Partial Revision of the Code of Civil Procedure, etc., was enacted to enable online filing and online submission of other court documents, record keeping in electronic form, and online hearings, etc., in response to the current development of IT. Various provisions for the use of IT were stipulated in the revised code. The JFBA will take this opportunity to re-examine the way hearings are conducted in civil court proceedings, etc., from the viewpoint of enhancing hearings and proper and prompt dispute resolution and will continue to reform the system as well as improve its operation and other aspects.

1.5 Promoting Gender Equality

In order to raise the ratio of females among its vice presidents, the JFBA introduced a "quota system" in 2018, in which at least two vice presidents must be selected from female members. Also, from April 2021, the number of Governors of the JFBA has been increased to 75 from 71, and a quota whereby women must hold the increased 4 Governor seats has been enacted.

In June 2022, a working group on promoting diversity and inclusion was established to formulate policies and conduct necessary studies and research.

Furthermore, the JFBA will promote activities to dissolve the gender gap not only in the bar associations but also in society in general, for example, by promoting the use of female director candidate list in order to promote diversity and will continue to collaborate with Gender Equality Bureau in Cabinet Office.

1.6 FATF's 4th Mutual Evaluation

In light of the results of the FATF (Financial Action Task Force) 4th Mutual

Evaluation Report of Japan, the JFBA will continue its activities required to uphold bar associations' autonomy.

Regarding its members, the JFBA will continue to strictly request the rules prescribed in the Regulations Concerning Verification of Client Identity and Retention of Records and its ordinance (verification of client identity, retention of records and submission of annual reports) be adhered to.

1.7 The Issue of the Proposed Revisions to the Constitution

The constitution of Japan proclaims eternal pacifism unlike any other in the world by recognizing that all peoples of the world have the right to live in peace (the preamble to the constitution), by prohibiting the threat or use of force (Article 9, Paragraph 1), and by stipulating that no forces to be maintained with the potential to wage war nor the right of belligerency of the state be recognized (Article 9, Paragraph 2).

In May 2018, at its General Assembly, the JFBA adopted “the Resolution to challenge or raise an issue against the argument to amend Article 9 from the position of adhering to constitutionalism and respecting eternal pacifism, and to call for the review of the constitutional amendment procedure law.”

In addition, on May 2, 2022, the JFBA released a Presidential statement opposing the creation of a State of the Emergency clause by revising the constitution and the extension of the term of office of members of the House of Representatives.

The JFBA will continue its efforts to help Japanese citizens understand the meaning of constitutional amendments so that the issues can be fully contemplated and debated among the public.

1.8 COVID-19-related activities

In April 2020, a COVID-19 Task Force was established. Policy proposals were made by the continuous issuances of the President's statements regarding areas such as human rights and discrimination prevention, domestic violence and abuse, criminal procedures and inmates of detention facilities, employment, the elderly and the disabled, rent issues, consumer issues, assistance for small and medium-sized enterprises and the like through the activities of the relevant committees.

Legal consultations were provided free of charge for legal issues relating to COVID-19 to ensure legal access.

JFBA introduced online conferencing to maintain its functions amid the pandemic (various meetings are held online).

2.0 The impact of COVID-19 on Bar Associations/Law Societies and Related Activities

2.1 How has the operation of your bar association/society changed as borders around the world start to open up?

Since a visa is still required for entry into Japan and the requirements for such visa are still strict, face-to-face courtesy visits are limited. However, since the new President and executives took office this April, courtesy visits and exchange of opinions have been conducted with several overseas law societies and bar councils through online conferences. Although the JFBA has gradually resumed sending its members to international conferences and other events, there is still (as of August 2022) a requirement to take a PCR test within 72 hours before entry to Japan. If members test positive, they cannot board the plane and thus have to stay in that country for several days as required in the country of destination(also until tested negative). Therefore, the members have to make their own decision whether to participate in the conference held overseas or not after considering the risk of not being able to return to Japan immediately after the conference. Due to such restrictions, our President and other executives have not yet been able to attend overseas conferences in person.

2.2 Are there any new guidelines provided to members or the public in relation to COVID-19 response?

The following guidelines are published on the JFBA website.

A) For members

- Guidelines for infection prevention during a legal consultation

Specific points requiring attention to prevent infection are listed in the guideline. This guideline has been drafted to function as a "universal design" guideline meaning that precaution required for the high-risk group such as the elderly and the disabled should be applied to other citizens as well to protect them from infection.

- Guidelines for COVID-19 infection control at law offices

B) For the general public

- "COVID-19 Assistance for Individuals / Individual Business Owners": a card summarizing the various assistance and relief measures available regarding COVID-19 visually and understandably;
- COVID-19 Q&A regarding consumer issues;
- Information to assist the business operators who are affected by COVID-19(Various advice to help business operators, the seminar videos of expert advice)
- A video entitled "Avoiding COVID-19 Related Bankruptcy! Cash Flow Management in Crisis Situations"
- A video entitled "How to avoid corporate bankruptcy for the business operators affected by COVID-19."