

# Amnesty International

## annual report extracts 2004-2006

### JAPAN

#### 2006

Four people were executed in December, ending a 15-month unofficial moratorium on executions. Amendments to immigration law introduced fast-track procedures to deport "possible terrorists" that breached international human rights standards. The issue of reparations to the victims of Japan's system of sexual slavery during World War II remained unresolved.

#### Background

Prime Minister Koizumi Junichiro stepped down in September after five years in office and was succeeded by his Cabinet Secretary, Abe Shinzo.

A nuclear test by North Korea in October intensified public debate in Japan on whether to revise Article 9 of the Constitution which defines Japan as pacifist. In July all Japanese troops were withdrawn from Iraq.

The Legal Committee of the Diet (parliament) discussed a Bill that would criminalize any discussion about committing a criminal offence. It was feared that vague and broad terms contained in the law would restrict freedom of speech.

In August, the government announced that Japan would accede to the Rome Statute of the International Criminal Court in July 2007.

#### Death penalty

As a result of Justice Minister Seiken Sugiura's commitment not to sign execution orders while in office, no executions were carried out between 16 September 2005 and 25 December 2006. Following his replacement as Justice Minister by Jinen Nagase, a supporter of the death penalty, the moratorium was ended and on 25 December, four people were executed in secret by hanging - Hidaka Hiroaki in Hiroshima, Fukuoka Michio in Osaka, and Akiyama Yoshimitsu, aged 77, and Fujinami Yoshio, aged 75, in Tokyo.

At the end of 2006, 94 prisoners remained on death row. Executions are typically held in secret and prisoners are either not warned of their impending execution or are notified only on the morning of the day of execution.

#### Refugees and immigration

The number of asylum-seekers increased to more than 900, although the number of people recognized as refugees fell to 26. Lawyers, most of them Tokyo-based, faced difficulties in gaining access to asylum-seekers at detention facilities, especially when their clients were detained in immigration facilities far from Tokyo.

Amendments were introduced to the Immigration and Refugee Recognition Law that introduced fingerprinting and photographing of all visitors to Japan. They also brought in fast-track procedures to deport anyone deemed by the Justice Minister as a "possible terrorist", which had the potential to undermine the principle of non-refoulement.

Some people with valid passports who applied for asylum on arrival in Japan were reported to have been detained indefinitely at hotels near airports of entry if they were deemed likely to abscond. They were not guaranteed the right to communicate with the outside world, or to have access to adequate medical treatment and food. In addition, they did not always have prompt access to a lawyer or advice about their rights in a language they understood. As a result, they did not have adequate recourse to a judicial process.

- More than 30 asylum-seekers, including two 16-year-old Kurdish minors, were detained for about 40 days in July-August at a hotel near Narita airport soon after they sought asylum. All were charged for their accommodation at the hotel.

## **Reparations for violence against women**

Survivors of Japan's system of sexual slavery before and during World War II continued to be denied full reparations. Japanese courts have repeatedly thrown out lawsuits seeking compensation, and the government continued to argue that compensation claims were settled by post-war treaty arrangements.

- In August the Tokyo District Court refused to award damages to eight Chinese women who were victims of Japan's sexual slavery system, even though it acknowledged that the women had been kidnapped, held against their will and raped as teenagers.

## **Substitute prison system (daiyo-kangoku)**

The daiyo-kangoku system of pre-trial detention continued to allow police to hold suspects in police cells without charge for up to 23 days, a practice that facilitates the extraction of "confessions" under duress. Under the daiyo-kangoku system, suspects are solely under the control of the police; there are no rules or regulations regarding the duration of interrogation; lawyers' access to clients during questioning is restricted; and there is no electronic recording of interviews by police.

During 2006 amendments to legislation concerning daiyo-kangoku were introduced, giving the daiyo-kangoku system legal status for the first time. The amendments provide for detainees to be informed of some of their rights and for lawyers to be appointed, but only after charges have been brought. Detainees are usually charged only after they have "confessed". AI had long campaigned for abolition of the daiyo-kangoku system rather than its reform.

## **2005**

One man was executed and 78 prisoners remained on death row. The authorities continued to deny reparations to victims of Japan's system of sexual slavery during World War II. A new law governing the treatment of prisoners was adopted in May. Increased punishments for trafficking in persons came into effect in July. A Bill to establish a national human rights commission was debated but not adopted.

## **Background**

Elections in September increased the majority of the ruling party. The deployment of Japanese troops as overseas peacekeepers renewed public debate on whether to revise Article 9 of the Constitution which defines Japan as pacifist.

In November, the former President of Peru, Alberto Fujimori, left Japan for Chile where he was arrested at the request of the Peruvian authorities, pending an extradition request.

The 60th anniversary of the end of World War II, and renewed efforts by the government to secure a permanent seat on the UN Security Council, increased tensions in the east Asia region. The government was criticized for its continued failure to apologize adequately and provide full reparations for wartime crimes against humanity such as forced sexual slavery, and for the way Japanese history textbooks portray its past aggressions.

The Diet (parliament) debated but did not adopt a Bill first submitted in 2003 to establish a national human rights commission.

The government indicated that it would accede to the Rome Statute of the International Criminal Court by 2009.

## **Death penalty**

Kitagawa Susumu was executed in secret by hanging in September, while the Diet was in recess. A former police officer, Kitagawa Susumu was sentenced to death in 1994 for the

murder of two women, in 1983 and 1986. His appeal had been rejected by the Supreme Court in 2000.

The Japan Federation of Bar Associations held a joint international conference against the death penalty in December, reiterating calls for a moratorium. On his appointment in October, the Minister of Justice, Sugiura Seiken, acknowledged the worldwide trend towards abolition of the death penalty and announced that he would not personally sign any execution order. He immediately retracted this commitment.

### **Treatment of prisoners**

A new Penal Facilities and Treatment of Prisoners Law was adopted in May, replacing the 1908 law. It provides for a monitoring body to inspect prisons, improved access to the outside world for prisoners and human rights education for prison staff. It does not, however, cover conditions in pre-trial detention or for prisoners sentenced to death.

In November, two guards at Nagoya prison received suspended sentences for killing a prisoner in 2001. Otomaru Mikio was sentenced to three years in prison, suspended for four years, for aiming water from a high-pressure hose at a naked prisoner, causing internal injuries. Takami Masahiro received a 14-month prison term, suspended for three years, for assisting in the attack.

In June, a pregnant detainee in Tokyo Detention Centre was handcuffed in hospital during her delivery, and prevented from seeing her newborn baby. She had also been required by the detention centre to have the birth induced to fit the hospital schedule. In October, the Minister of Health and Labour stated that births should be induced only when a clear medical need was established by a doctor.

### **Violence against women**

Survivors of Japan's system of sexual slavery – before and during World War II – continued to be denied full reparations. Survivors were also denied a remedy in the Japanese courts. In February the Supreme Court rejected a compensation claim by seven Taiwanese survivors (the case had begun with nine but two died). A Tokyo High Court also rejected a case by Chinese survivors in March.

Courts continued to argue that compensation claims were settled by post-war treaty arrangements. Contrary to international law, some applied statutes of limitation. In June a US federal appeals court rejected, for the second time, a damages suit filed by 15 survivors. The court cited Japan's immunity from such lawsuits in the USA.

### **Trafficking in persons**

Amendments to the Criminal Code increased punishments for unlawfully detaining or buying trafficked persons. Related amendments were made to the Immigration Law and Criminal Procedure Code but none adequately addressed the protection of victims of trafficking. The government's commitment to ratify the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Palermo Protocol) was not fulfilled by the end of 2005.

### **Restrictions on freedom of expression**

The Tokyo High Court reinstated the convictions for trespass against three people detained in 2004 for distributing pamphlets within a residential military compound, opposing Japanese involvement in Iraq. They were fined between 100,000 and 200,000 yen and appealed to the Supreme Court.

### **Refugees**

Revisions to the Immigration and Refugee Recognition Law effective from May increased time limits for filing asylum claims from 60 days to six months from arrival in Japan. Revisions also established an expert committee to give confidential recommendations to the Minister of

Justice on appeals against rejected asylum claims. Appointed by the Ministry of Justice, most of the 18 members were former officials and only a few were refugee law experts.

The number of people recognized as refugees under the limited provisions of Japan's refugee law rose to at least 46. More than 40 others were granted special permission to stay for humanitarian reasons. Some individuals were released on condition they did not take up employment, but without basic livelihood assistance. Conditions in immigration centres remained harsh with inadequate medical care.

On 18 January Ahmet Kazankiran and his son, recognized as refugees by the UN High Commissioner for Refugees (UNHCR) in October 2004, were forcibly repatriated to Turkey in contravention of Japan's obligations under international law and in spite of appeals from UNHCR and human rights groups.

## **2004**

Two men were executed in 2004 in secret by hanging. At least 61 prisoners remained on death row. Refugee recognition procedures failed to meet international standards. The issue of reparations for forced sexual slavery during World War II remained unresolved.

### **Background**

Peru continued to seek the extradition of former Peruvian President Alberto Fujimori, wanted in Peru for masterminding "death squad" massacres in Peru between 1991 and 1992. Alberto Fujimori, in exile in Japan since 2000, is considered a Japanese citizen because of his Japanese parentage, and therefore not subject to extradition. Interpol issued a worldwide notice for Alberto Fujimori's arrest in March 2003. In response to a second formal extradition request from Peru in February 2004, the Japanese government asked for further information. In June, Japan stated that it would link future aid to Viet Nam with improvements in human rights. Japan halted new aid to Myanmar in 2003, and resumed only limited aid in 2004.

Japan was involved in bilateral and multilateral talks to resolve the North Korean nuclear crisis. Bilateral talks were held with North Korea to settle the issue of the alleged abduction of several hundred Japanese citizens in the 1970s and 1980s. In August the Japanese government announced that it would give North Korea food aid as well as medical aid and in November, four Japanese government officials went to North Korea to monitor its distribution.

### **Death penalty**

Japan executed two death row inmates in September. Both executions – by hanging – were carried out in secret. The prisoners were informed only a few hours before the execution and their families and lawyers were told after the executions had taken place. The executions were carried out while parliament was in recess in an attempt to avoid public debate or criticism.

Mamoru Takuma, who murdered eight schoolchildren in Osaka in 2001, was executed with unusual speed, less than a year after his death sentence had been finalized. He was reported to have a history of mental illness.

Death row inmates were kept in solitary confinement and communication with the outside world was very restricted. At least 25 prisoners whose sentences have been finalized have spent more than 10 years on death row awaiting execution. Ten per cent of death row inmates were reportedly victims of miscarriages of justice.

In August the Tokyo High Court rejected a request for retrial by Hakamada Iwao, who had spent over 38 years in detention and always protested his innocence.

### **Refugees and migrants**

The crackdown on illegal immigrants was strengthened after the government announced its security policy at the end of 2003. Businesses reportedly employing undocumented migrants were raided. The government also manipulated fear of "terrorism" to facilitate the forcible repatriation of thousands of foreign workers.

This crackdown was followed by an amendment to the Immigration Control and Refugee Recognition Law which raised the maximum fine for undocumented migrants and extended the maximum re-entry ban on deported foreigners from 5 to 10 years.

The new law scrapped the requirement that refugees apply for refugee status within 60 days of arrival. However, concerns regarding the detention of asylum-seekers remained. Mentally ill asylum-seekers continued to be detained without appropriate medical care and reports of suicide attempts continued. Some asylum-seekers were detained and thereby separated from their children. Several people were detained for years and were suddenly forcibly repatriated while their appeals were still pending. In 2004, of 426 people who applied for refugee status, only 15 were granted asylum.

In February, the Tokyo District Court upheld the decision to reject refugee status for a gay Iranian man known as Shayda, despite numerous reports of homosexuals being executed in Iran. Shayda was recognized as a refugee by the UN refugee agency UNHCR in 2001. The Tokyo Court acknowledged that under Iran's Islamic penal law, those accused of same-sex acts face punishment, including the death penalty. However, the Court stated that Shayda could live in Iran safely as long as he did not "overtly" engage in such activities and that a person could find ways to avoid persecution. Shayda's application for refugee status was rejected in 2000, and he was then detained for 19 months for overstaying his visa.

In November, a Vietnamese woman was forcibly repatriated to Viet Nam even though her husband (a refugee) and baby remained in Japan.

In August Japanese officials, assisted by the Turkish police, visited Turkey to investigate the families of those seeking asylum in Japan. Such investigations exposed asylum-seekers and their families to increased danger as information regarding individual applications was given to Turkish authorities.

### **Violence against women**

The issue of reparations for former "comfort women" – women forced into sexual slavery during World War II – remained unresolved. In February, Tokyo's High Court rejected compensation claims by seven Taiwanese former "comfort women". The women claimed that they were victims of systematic sexual abuse by the Japanese Imperial Army and suffered discrimination after the war. They had demanded compensation and an official apology from the Japanese government. There were originally nine plaintiffs, but two died during the case. In May Japan enacted a law against domestic violence providing protection not only to spouses but also to former spouses and children. The law allowed courts to order perpetrators from their homes and to stay away from spouses, former spouses and children.