



**Institute on Statelessness and Inclusion  
and Stateless Network Asia Pacific**

Joint Submission to the Human Rights Council  
at the 28th Session of the  
Universal Periodic Review

(Third Cycle, 6-17 November 2017)

**Japan**

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### **Japan**

#### **Introduction**

1. The Institute on Statelessness and Inclusion and the Statelessness Network Asia Pacific make this joint submission to the Universal Periodic Review (UPR) in relation to statelessness, access to nationality and human rights in Japan.
2. The Institute on Statelessness and Inclusion (ISI)<sup>1</sup> is an independent non-profit organisation committed to an integrated, human rights based response to the injustice of statelessness and exclusion through a combination of research, education, partnerships and advocacy. Established in August 2014, it is the first and only global centre committed to promoting the human rights of stateless persons and ending statelessness. Over the past two years, the Institute has made over 10 country specific UPR submissions on the human rights of stateless persons, and also compiled summaries of the key human rights challenges related to statelessness in all countries under review under the 23<sup>rd</sup> to the 27<sup>th</sup> UPR Sessions.<sup>2</sup>
3. The Statelessness Network Asia Pacific (SNAP)<sup>3</sup> is a recently formed civil society network with the goal of promoting collaboration and information sharing on addressing statelessness in Asia and the Pacific. SNAP is driven by a diverse membership and through direct engagement and contribution from its members and stakeholders, particularly formerly stateless persons, stateless persons and persons at risk of statelessness. SNAP is an independent non-profit organisation.
4. This submission focuses on children's right to a nationality, the reduction and prevention of statelessness, the identification and protection of stateless persons in Japan and the arbitrary and indefinite detention of stateless persons and persons at risk of statelessness in Japan. It draws on the

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<sup>1</sup> For more information about ISI, please see the website <http://www.institutesi.org/>.

<sup>2</sup> For more on the Institute's UPR advocacy, see <http://www.institutesi.org/ourwork/humanrights.php>

<sup>3</sup> For more information about the Statelessness Network Asia Pacific, please see the website <https://www.statelessnessnetworkasiapacific.org/>

research, advocacy and awareness raising experience and expertise of the co-submitting organisations and their partners. Among other resources, it draws extensively on two publications commissioned by the United Nations High Commissioner for Refugees: Professor Abe Kohki’s report *Overview of Statelessness: International and Japanese Context* published in April 2010,<sup>4</sup> and Professor Osamu Arakaki’s report *Statelessness Conventions and Japanese Laws: Convergence and Divergence* published in March 2015.<sup>5</sup>

## Universal Periodic Review of Japan under the First and Second cycle

5. Japan was first subjected to the UPR on at Session 8 of the First Cycle (in 2008), and subsequently at Session 22 of the Second Cycle of the UPR (in 2012).
6. Despite various ongoing concerns regarding the right to a nationality and the human rights of stateless persons in Japan, it did not receive recommendations that directly related to statelessness or the right to a nationality in the first session.
7. Various recommendations were however made during the first session relevant to a child’s right to a nationality, the reduction and prevention of statelessness, the identification and protection of stateless persons in Japan and risks that stateless persons and persons at risk of statelessness face with respect to arbitrary and indefinite detention. These included ratifying the Convention on the Rights of Persons with Disabilities and International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, addressing discrimination against persons of non-Japanese ethnicity, migrants and women from minority groups, combatting human trafficking, monitoring of immigration detention, providing legal aid to migrants, establishing an independent body to review asylum applications and involving civil society in the follow-up to the UPR process at the national level.

First Cycle Recommendation	Response of Japan
60.1. Consider ratifying the Convention on the Rights of Persons with Disabilities (Mexico); the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Peru); recognize the competence of the Committee on the Elimination of Racial Discrimination to receive and consider individual	‘Japan will consider concluding the human rights treaties listed in subparagraph 1 except for the Second Optional Protocol to the International Covenant on Civil and Political Rights, issuing “standing invitation” mentioned in subparagraph 4 (The date/duration of the visit will be arranged at the working level) and the possibility to permit

<sup>4</sup> The publication can be accessed here, <http://www.refworld.org/pdfid/4c344c252.pdf>

<sup>5</sup> The publication can be accessed here, [http://www.unhcr.or.jp/html/protect/pdf/Statelessness\\_Conventions\\_and\\_Japanese\\_Laws\\_EN.pdf](http://www.unhcr.or.jp/html/protect/pdf/Statelessness_Conventions_and_Japanese_Laws_EN.pdf)

complaints (Mexico, Brazil)	“international monitors” mentioned in subparagraph 21 with further clarification of its definition
60.6. Adapt national legislation to bring it into line with the principles of equality and non-discrimination. (Slovenia); Consider establishing legislation defining and prohibiting discrimination in all forms (Brazil); Consider introducing a definition of discrimination in its criminal law (Guatemala); Adopt, as a matter of urgency, a national law against racism, discrimination and xenophobia (Islamic Republic of Iran)	‘The Constitution of Japan stipulates that all of the people are equal under the law. Based on its Constitution and relevant domestic laws, Japan has been thriving to realize a society without any form of racial or ethnic discrimination’
60.8. Address the problems faced by women belonging to minorities (Germany)	This recommendation was ‘accepted’ by Japan
60.9 Take measures to eliminate all forms of discrimination against Koreans in Japan (Democratic People’s Republic of Korea)	‘Japan’s position is stated in the interactive dialogue as recorded in the Draft Report of the Universal Periodic Review (A/HRC/WG.6/2/L.10)’.
60.15 Continue the efforts to combat trafficking in persons with a special emphasis on women and children (Canada)	This recommendation was ‘accepted’ by Japan
60.20 Provide State legal aid for migrants who need it (Algeria)	This recommendation was ‘accepted’ by Japan
60.21 Permit international monitors to examine immigration detention centres (United States of America)	‘Japan will consider the ‘possibility to permit “international monitors” mentioned in subparagraph 21 with further clarification of its definition’
60.23 Abolish the system established to call upon citizens to denounce anonymously, on the Ministry’s website, migrants suspected of being in an irregular situation (Guatemala)	‘Japan does not have any intention to incite racial or ethnic discrimination and careful attention is paid in the operation of the system not to incite such discrimination. It is necessary for the purpose of strict law enforcement aimed at illegal immigration. Various information provided by people is valuable in performing the Immigration Bureau’s task.’

8. Under the second cycle, Slovenia recommended that Japan, *ensure equality and non-discrimination of children born out of wedlock in issues related to the acquisition of nationality, inheritance rights and birth registration*
9. Uruguay recommended that Japan, *Adopt comprehensive measures against discrimination towards children and repeal all legislation that discriminates against children born out of wedlock. Promote awareness campaigns and education programs about the human rights of all boys, girls and adolescents, particularly in relation to the acquisition of nationality, inheritance rights and the right to identity.*

10. Botswana recommended that Japan, *In line with requests by CEDAW and the CRC, review the situation of children born out of wedlock who do not enjoy nationality, inheritance and birth registration rights.* Japan accepted to follow up on this recommendation.
11. Mexico recommended that Japan, *Take the necessary measures to ensure universal birth registration, including for children born out of wedlock and regardless of the parents' immigration status*
12. Chile recommended that Japan, *Continue the efforts to review existing legislation related to the family, in particular the regime applicable to children born out of wedlock*
13. Other relevant recommendations included ratifying the Convention on the Rights of Persons with Disabilities and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, addressing indirect and direct racial discrimination, eliminating discrimination against migrants, foreigners, asylum seekers and refugees, women and children of ethnic minorities or non-Japanese nationality and children with disabilities, enhancing the promotion and protection of the rights of women, children and persons with disabilities amending the Immigration Control Act to introduce a maximum period of detention pending deportation, strengthening measures to fight human trafficking and protect the human rights of foreigners – including refugees– and prevent discrimination against them in both law and practice.

Second Cycle Recommendation	Response of Japan
147.1. Proceed with the ratification of instruments that have not yet been ratified and accelerate the process of withdrawing reservations in order to ensure the fullest enjoyment of human rights for the population (Benin)	This recommendation was partially accepted for follow up.
147.35. Implement the recommendation of the Committee on the Elimination of Racial Discrimination (CERD) to adopt specific legislation to outlaw direct and indirect racial discrimination, and guarantee access to effective protection and remedies through competent national courts (South Africa)	This recommendation was accepted for follow up.  Japan provided the following comment: "Partially accept to follow up (a) In the case of Japan, Article 14, Paragraph 1 of the Constitution stipulates that all people are equal under the law and there shall be no discrimination because of race. (b) It is obvious from the provision "by all appropriate means" in Article 2.1 of the ICERD, legislative measures are required, where appropriate and necessary. We do not recognize that the present situation of Japan is one in which discriminative acts cannot be effectively restrained by the existing legal system and in which explicit racial discriminative acts, which cannot be restrained by measures other than legislation, are

	conducted. Therefore, penalization of these acts is not considered necessary.'
147.40. Take legal measures to eliminate discrimination against children of ethnic minorities, non-Japanese nationality and children with disabilities (Iran (Islamic Republic of)	'Japan's position is stated in the interactive dialogue as recorded in the Draft Report of the UPR (para.24).'  Para 24 states: Article 14 of the Constitution of Japan provides that all people are equal under the law.
147.46. Consider amending the Immigration Control Act to introduce a maximum period of detention pending deportation (South Africa)	Japan made the following comment 'Japan's position is stated in the interactive dialogue as recorded in the Draft Report of the UPR (para.143)'.  Para 143 states: 'On immigration detention, the immigration laws are such that when there is any person detained to a written deportation orders, they had to be sent back immediately. When that was not possible, either for health or other reasons, they might flexibly be released by provisional release. In 2010, the Ministry of Justice and the Bar Association reached an agreement on detention issues to consider more favourable conditions. Japan is making efforts to reduce cases of prolonged detention'
147.91. Take measures to eliminate all forms of discrimination against Koreans (Democratic People's Republic of Korea)	Japan's position is stated in the interactive dialogue as recorded in the Draft Report of the UPR (para.137).  Para 137 states: With regard to discrimination against foreigners in Japan, through the Human Rights Organs of the Ministry of Justice various human rights promotion activities as well as consultation services were being provided. With regard to cases of suspected human rights infringements, investigations are made and appropriate measures taken
147.92. Step up its efforts to combat discrimination and intolerance, particularly towards migrants, foreigners, asylum seekers and refugees (Tunisia)	This recommendation was accepted for follow up
147.134. Strengthen measures to fight human trafficking, especially of women and children, in line with international legal standards in this area (Libyan Arab Jamahiriya)	This recommendation was accepted for follow up
147.166. Continue its efforts to protect the human rights of foreigners – including refugees– and prevent discrimination against them in both law and practice (Sudan)	This recommendation was accepted for follow up

## International obligations of Japan

14. Japan has ratified nearly all of the core international human rights treaties, except for the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.
15. Stateless persons benefit from the general application of international human rights standards found in these core treaties, including non-discrimination, adequate standard of living and equality before the law.<sup>6</sup>
16. The specific right to a nationality and/or protection of stateless persons is further reinforced by a variety of these instruments, including the International Covenant on Civil and Political Rights (ICCPR, Article 24), the Convention on the Elimination of all forms of Discrimination Against Women (Article 9), the Convention on the Rights of the Child (CRC, Article 7) and the Convention on the Rights of Persons with Disabilities (Article 18) to which Japan is a Party.
17. Japan has not acceded to the 1954 Convention relating to the Status of Stateless Persons (1954 Convention) or the 1961 Convention on the Reduction of Statelessness (1961 Convention), which oblige States Parties to take certain measures to protect persons who are stateless or at risk of statelessness. The International Law Commission has found that the definition of a stateless person pursuant to the 1954 Convention is customary international law.<sup>7</sup> Article 1(1) of the 1954 Convention defines a stateless person as someone ‘not considered as a national by any state under the operation of its law’.
18. Japan has additional international obligations to protect the liberty and security of all persons and to protect against arbitrary and unlawful detention. This obligation derives from the ICCPR (Article 9) which protect the right to liberty and security of the person and freedom from arbitrary detention. Importantly, Article 26 of the 1954 Convention additionally requires States to permit stateless persons “lawfully in” their territory to choose their place of residence and move freely within the State.<sup>8</sup>

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<sup>6</sup> There are a few exceptions under international human rights in which stateless persons are restricted. These include the right to vote or to be elected to political office.

<sup>7</sup> International Law Commission, Articles on Diplomatic Protection with commentaries, 2006, page 49 <http://www.refworld.org/docid/525e7929d.html>.

<sup>8</sup> In line with UNHCR observations the drafting history of the 1954 Convention affirms that persons who have applied to remain in a country based on their statelessness are ‘lawfully in’ that country. UNHCR, Handbook on Protection of Stateless Persons (30 June 2014, ‘UNHCR Statelessness Handbook’), para 135. Available at <http://www.refworld.org/docid/53b676aa4.html>.

## Statelessness in Japan<sup>9</sup>

19. According to statistics published by Japan's Ministry of Justice, as at 30 June 2016, there were 640 stateless persons recorded in Japan.<sup>10</sup> However, this statistic does not include stateless persons in Japan without residence status.<sup>11</sup> Additionally, the terms 'stateless person' or 'statelessness' are not defined in Japanese law,<sup>12</sup> and Japan does not have a statelessness determination procedure. Therefore, many stateless people may go unidentified or be incorrectly identified as stateless.
20. There is a gap in data and information on statelessness in Japan which undermines the ability of the state to respond to the human rights of stateless persons and ensure they are not discriminated against or denied access to basic rights.
21. For the purposes of this submission and based on initial research by academics and practitioners in Japan, the following populations that are stateless or at risk of statelessness can be highlighted:
- i. stateless asylum seekers and refugees seeking protection in Japan, particularly children born in Japan to stateless asylum seekers and refugees;
  - ii. children born to migrants without residence status (including survivors of cross-national trafficking in persons) may be at risk of statelessness if their birth is not registered;<sup>13</sup>
  - iii. populations of Korean origin who have not yet confirmed whether they are in fact entitled to confirm or acquire South or North Korean citizenship, and do not enjoy Japanese citizenship;
  - iv. persons who have revoked citizenship of another State in order to naturalise as a Japanese citizen, but have not acquired Japanese citizenship via naturalisation.<sup>14</sup>

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<sup>9</sup> The co-submitting organisations are extremely grateful to the Statelessness Research Group, Japan for providing their expertise and time with respect to the remainder of this submission.

<sup>10</sup> Portal site for Japanese Government Statistics 'e-Stat', Statistics of foreigners residing in Japan, June 2016 「表 16-06-01-1: 国籍・地域別 在留資格（在留目的）別 在留外国人 (Table 16-06-01-1: Foreigners by nationality and region, and Status of Residence)

[<http://www.e-stat.go.jp/SG1/estat/List.do?lid=000001161643>] [accessed 14 March 2017].

<sup>11</sup> There are no publicly available statistics on the number of stateless people residing in Japan without residence status.

<sup>12</sup> Article 9 of the Act on Special Provisions of the Copyright Act, Required as Consequence of the Enforcement of the Universal Copyright Convention" includes the term "stateless person", but it is not defined.

<sup>13</sup> For undocumented migrant workers the risk of arrest, detention and deportation following registration with authorities can act as a barrier to birth registration. Conversely, there is also a risk that children born to migrant workers may be incorrectly identified as stateless, given research detailed in Professor Kohki Abe's report from 2010 in which states 'According to Ministry of Justice, the Ministry registers as stateless "those who cannot confirm their nationality with their passports or other equal identification documents" – see footnote 109 of Abe Kohki, *Overview of Statelessness: International and Japanese Context*, April 2010, available at <http://www.refworld.org/pdfid/4c344c252.pdf>.

<sup>14</sup> Article 5(1)(5) of the Nationality Act states 'the Minister of Justice shall not permit the naturalisation of an alien unless he or she fulfils all of the following conditions' 'that he or she has no nationality, or the acquisition of Japanese nationality will result in the loss of foreign nationality'



## The right of every child to acquire a nationality

22. The 1961 Convention requires States to grant nationality to persons born in their territory 'who would otherwise be stateless.'<sup>15</sup> The 1961 Convention obligates that foundlings automatically acquire nationality.<sup>16</sup> The most important human rights provision related to the child's right to acquire a nationality is Article 7 of the CRC, which requires that:

*"1) The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.*

*2) States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless."*

23. International law also sets out rules and timeframes for the acquisition of nationality by children who would otherwise be stateless. The 1961 Convention sets out various criteria according to which nationality should be acquired by such children, either at birth or later in life.<sup>17</sup> Importantly, guiding principles of the CRC including the right to non-discrimination and the principle of the best interests of the child, further dictate the manner in which these provisions are to be implemented.<sup>18</sup> The current practice of Japan is assessed against these criteria in this submission.

24. Japanese law currently provides that for 'a person born in Japan, not having any nationality since the time of birth, and continuously having a domicile in Japan for three years or more since that time', 'the Minister of Justice may permit naturalization'.<sup>19</sup> Even if the child has not been recognised as a national by any State since birth and the meets the continual residence condition, the grant of naturalisation is still at the discretion of the Minister of Justice.

25. States are permitted to make the automatic conferral of citizenship pursuant to Article 1(1) of the 1961 Convention 'subject to such conditions as may be prescribed by the national law'. However, the discretionary nature of the provision in Japan means that in practice, all otherwise stateless children in Japan may not be able to exercise their right to acquire a nationality. The discretionary nature of the naturalisation process thus places Japan's law in contravention of Article 7 of the Convention on the

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<sup>15</sup> 1961 Convention, Article 1.

<sup>16</sup> 1961 Convention on the Reduction of Statelessness, Article 2.

<sup>17</sup> 1961 Convention on the Reduction of Statelessness, Article 1 (2) (a) and (b).

<sup>18</sup> 1989 Convention on the Rights of the Child, Articles 2 and 3.

<sup>19</sup> Article 8(4) Nationality Law (Revised Act No.70 of June 13, 2014).

Rights of the Child and international standards.

26. Furthermore, guidance published by the Ministry of Justice confirms that the condition of continual three years of residence requires ‘legal residence’.<sup>20</sup> The legal residence requirement in this provision is contrary to the Japan’s international obligations meaning that some children born in the country will not be able to acquire Japanese nationality, purely because their parents are without residence status (such as irregular migrants).
27. Additionally, the extent to which this provision is effectively implemented in Japan to reduce statelessness is unclear as there are no publicly available statistics which set out the number of stateless persons granted Japanese nationality under this provision.
28. Japanese law includes a provision, which if applied effectively, could contribute to the prevention of childhood statelessness in Japan with respect to children where ‘both parents are unknown’ (including foundlings) and children born to parents who ‘have no nationality’.<sup>21</sup> Article 2(3) of the Nationality Law (Revised Act No.70 of June 13, 2014) (“Nationality Law”) provides that ‘a child shall be a Japanese citizen’ ‘if born in Japan and both of the parents are unknown or are without nationality’. However, there is no definition in Japanese law or guidance publicly available as to the interpretation of the phrase “without nationality”. Additionally, as detailed above, the terms “stateless” or “statelessness” are not defined in Japanese law. Furthermore, this provision does not protect children whose parents cannot confer their nationality on them, for example, because of gender discrimination in the nationality law of the country of the mother. Therefore, the implementation of this provision may not effectively prevent childhood statelessness and ensure every child’s right to acquire a nationality.
29. Additionally, the extent to which this provision is implemented to prevent statelessness is unclear as there are no publicly available statistics as to the number of stateless children who have been granted Japanese nationality under this provision.

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<sup>20</sup> Ministry of Justice, Question and Answers on Naturalisation, <http://www.moj.go.jp/MINJI/minji78.html#a09> [accessed 30 March 2017].

<sup>21</sup> It should be noted that the Ministry of Justice changed its policy in the Ministerial Notice dated October 3, 2007 with respect of the application of article 2(3) to children born to Palestinians based on the following reasoning: ‘recent developments in the area and the virtual State status of the Palestinian National Authority, it is no longer necessary to regard Palestinians as stateless’. Government response No. 280, House of Representatives Interpellation 168 No.280 (December 11, 2007), as quoted in Abe Kohki, *Overview of Statelessness: International and Japanese Context*, April 2010 <http://www.refworld.org/pdfid/4c344c252.pdf>.

## Protection of stateless persons

30. As detailed above, Japan has not established a statelessness status determination procedure or a complementary protection mechanism to identify and protect stateless persons.<sup>22</sup>
31. Stateless persons with residence status in Japan can access the same rights as foreigners with the same residence status. However, due to societal discrimination, stateless persons in Japan with residence status may face barriers in accessing such rights. For example, by virtue of a person's stateless status, they may face discrimination in accessing rental housing, financial services and/or employment.<sup>23</sup>
32. Stateless persons in Japan with residence status may travel abroad and re-enter into Japan if granted a 'Re-entry Permit' by the Minister of Justice.<sup>24</sup> However, this document does not comply with the scope and nature of the travel document that stateless persons are entitled to pursuant to the 1954 Convention on the Status of Stateless Persons.<sup>25</sup>
33. Stateless persons who reside in Japan irregularly do not have access to public medical insurance and other social security schemes and may face barriers in accessing education.<sup>26</sup>

## The Detention of Stateless Persons

34. Stateless persons who reside in Japan irregularly are at risk of arrest, detention and deportation.<sup>27</sup>
35. Pursuant to article 50 of the Immigration Control and Refugee Recognition Law (Revised Act No. 89 of November 28, 2016), the Minister of Justice has the discretion to grant a person without residence status a 'Special Permission to Stay'. This permits foreigners living irregularly who have been subject to removal proceedings and have subsequently been released from detention, to reside in the

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<sup>22</sup> Stateless asylum seekers and refugees who are granted refugee protection in Japan receive protection pursuant the Immigration Control and Refugee Recognition Act (Cabinet Order No. 319 of October 4, 1951), which is the domestic implementation of the 1951 Convention on the Status of Refugees.

<sup>23</sup> "What is statelessness", 2013 Statelessness Network, Japan, available at: <http://statelessnessnetwork.sakura.ne.jp/wp/wp-content/uploads/2015/09/Leaflet.pdf> (Japanese version)

<sup>24</sup> Article 26(2) the Immigration Control and Refugee Recognition Act.

<sup>25</sup> Yue Fu, Conventions Relating to Statelessness and Japan's Challenges, in *Migration Policy Review 2013*, Vol.5, pp.34-50.

<sup>26</sup> Japan has acceded to the Convention on the Rights of the Child and therefore is obliged to 'make primary education compulsory and available free to all'. See article 28(a) of the Convention on the Rights of the Child. Japan has also acceded to the International Covenant on Economic, Social, and Cultural Rights (ICESCR) and therefore Japan is obliged to recognize the right of everyone to education and that 'primary education shall be compulsory and available free to all'. See article 2(a) of ICESCR.

<sup>27</sup> "What is statelessness", 2013, Statelessness Network, Japan

community for a period determined by the Minister of Justice.<sup>28</sup>

36. While stateless persons may benefit from this discretionary provision, since “statelessness” is not specified as a matter for consideration with respect to article 50 there is no guarantee that “Special Permission to Stay” will be granted to stateless persons<sup>29</sup> Furthermore, as this status is only available to those who in effect cannot be removed, it does not protect against arbitrary detention in the first instance.
37. If a stateless person without residence status, is not granted ‘Special Permission to Stay’ they will be subject to a deportation order. In such circumstances, stateless persons are at risk of indefinite and arbitrary detention as there is no time limitation prescribed for the detention of “foreigners” without residence status once a deportation order has been issued,<sup>30</sup> and there is usually no country in which a stateless person can be returned.
38. Therefore, given the discretionary nature of the provision, the ‘Special Permission to Stay’ is not an appropriate mechanism to protect stateless persons from arbitrary and indefinite detention. The effectiveness of this provision in protecting stateless persons and preventing their arbitrary and indefinite detention is also unclear as there are no publicly available statistics as to the number of stateless persons granted ‘Special Permission to Stay’ or the number of stateless persons currently detained in Japan (without residence status).

## Recommendations

39. Drawing on the information provided in this submission, the co-submitting organisations urge Member States to make the following recommendations to Japan:
  - i. Fully promote, respect, protect and fulfil its obligations towards stateless persons under international human rights law.

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<sup>28</sup> Article 50(1) and (2) of the Immigration Control and Refugee Recognition Act.

<sup>29</sup> Immigration Bureau, Ministry of Justice, ‘Guidelines on Special Permission to Stay in Japan’, Revised in July 2009, [<http://www.moj.go.jp/content/000048156.pdf>], accessed 20 March 2017.

<sup>30</sup> See article 52(5) of the Immigration Control and Refugee Recognition Act. Before issuance of the deportation order, the maximum period of detention is 60 days: see article 41(1) of the Immigration Control and Refugee Recognition Act.

- ii. Accede to and take all necessary steps to fully implement the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.
- iii. Introduce the 1954 Convention definition of “stateless person”, into Japanese law and apply this definition in practice.
- iv. Establish a statelessness determination procedure and ensure that the procedure is fair, effective and accessible to all persons in Japan regardless of their legal status. The procedure should comply with international standards of due process and follow the procedural safeguards outlined in UNHCR’s Handbook on Protection of Stateless Persons<sup>31</sup>.
- v. Revise Japan’s Nationality Law (Revised Act No.70 of June 13, 2014) to remove the requirement that a naturalisation applicant must revoke their citizenship of another State before being naturalised as a Japanese citizen, thus making them at risk of statelessness.
- vi. Revise article 8(4) of Japan’s Nationality Law (Revised Act No.70 of June 13, 2014) to ensure that all children born in Japan, who do not acquire another nationality, are automatically conferred Japanese nationality at birth, in order to ensure every child’s right to acquire a nationality.
- vii. Ensure that statelessness is considered to be a valid ground for granting “Special Permission to Stay” and ensure that all stateless persons who reside irregularly in Japan have the opportunity to regularise their status and enjoy access to all human rights
- viii. Revise Japanese law to provide protection to stateless persons and persons at risk of statelessness from arbitrary and indefinite detention, irrespective of their residence status.
- ix. End Japan’s practice of indefinite detention and ensure that detention is implemented as a last resort, only when necessary and proportionate, after all alternatives (starting with the least restrictive) have been exhausted. In order to determine if detention is necessary and proportionate, statelessness must be identified at the point of the decision to detain and on a continued basis.
- x. Engage with civil society and other key stakeholders to raise awareness of the issue of

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<sup>31</sup> UN High Commissioner for Refugees (UNHCR), *Handbook on Protection of Stateless Persons*, 30 June 2014 available at: <http://www.refworld.org/docid/53b676aa4.html> [accessed 30 March 2017]

statelessness in Japan and address discrimination against stateless persons.

- xi. Take adequate measures to quantify the scale of statelessness in Japan and assess the risk of statelessness among particularly vulnerable populations. Take special measures to publish statistics related to the reduction and prevention of statelessness, the protection of stateless persons and the number of stateless persons in detention. This includes collaborating with civil society and other key stakeholders to map the number of stateless persons in Japan (irrespective of residence status) and the legal, economic and social consequences of statelessness for relevant populations.