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Japan Law and Policy Update

By **ASIAN HARM REDUCTION NETWORK & Partners**

Current situation

In comparison with other countries in Asia, Japan's drug problem appears both significantly smaller and very different in profile. Historically an isolated island nation which never experienced colonization, it recognized the devastation wrought on China by opium and implemented harsh anti-opioid laws very early. Japan has never experienced a significant opioid addiction problem. Instead, stimulants, most notably

methamphetamine, are the greatest source of drug use and addiction in the society today. Somewhere between 100,000 and 2.3 million Japanese use methamphetamines, a broad range indicating the lack of information on drug use in Japan due to its strict zero-tolerance approach.¹

Japan's approach to drug trafficking and consumption has, from its very outset, applied a stringent criminalization and punishment approach to even the smallest

¹ Harada and Shinkai p. 391, GSHR 2012
² Ministry of Foreign Affairs (www.mofa.go.jp/policy/narcotics/measure0105.html)
³ Article 25 Constitution of Japan
⁴ Recent trends of drug abuse in Japan (Yamamoto) - p. 431
⁵ New initiatives for drug abuse treatment in Japanese prisons (Harada and Sinkai) p. 392

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infractions. Viewed through a rights-based framework, many of the policies adopted by the Japanese government appear unjustifiably harsh, with no regard for the rights of the drug user.

International treaties

Japan has signed and ratified all three UN conventions relating to narcotics and psychotropic substances: The Single Convention on Narcotic Drugs (1961), the Convention on Psychotropic Substances (1971), and the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988).²

Constitution of Japan

The right to health is enshrined in Article 25 of the Constitution of Japan, which states that “All people shall have the right to maintain the minimum standards of wholesome and cultured living. 2) In all spheres of life, the State shall use its endeavors for the promotion and extension of social welfare and security, and of public health.”³

Stimulants Control Law

Due to the overwhelming use of stimulants vis-à-vis other narcotics, the *Stimulants Control Law* regulates the vast majority of drug crimes committed in Japan. Nearly 90% of drug offenses fall under its regulations.⁴ One out of eight arrests is due to a violation of the law.⁵ During World War II, large amounts of methamphetamine, known as *Philopon*, were produced and distributed to soldiers and workers to increase productivity and “inspire the fighting spirits.”⁶ The social discord following the war, combined with

a glut of the product on the market, resulted in the country’s first serious challenge with drug abuse and addiction and led to the introduction of the *Stimulants Control Law* in 1951. The law has been amended a number of times since, often to increase penalties during periods of increased drug use.

The *Stimulants Control Law* prescribes harsh punishments for anyone found either possessing or consuming banned stimulants. Both possession and use can result in prison sentences of up to ten years.⁷ Doctors who dispense banned stimulants to addicted patients under their care for treatment or alleviation face similar punishment.⁸ While few first-time offenders receive such long sentences, the length of sentences for use has been increasing, with a first-time sentence for consumption averaging roughly two years.⁹

Narcotics and Psychotropics Control Law

The *Narcotics and Psychotropics Control Law* regulates the handling of narcotic drugs and psychotropic substances, including opioids, cannabis, and cocaine. The law mandates the reporting of drug abuse. Individuals, including doctors, are obligated by law to report people who use drugs, whose information must be submitted to the prefectural government and the Ministry of Health, Labour, and Welfare.¹⁰

Drug users are further subject to compulsory hospitalization if considered at risk of abuse.¹¹ Drug treatment and de-addiction in Japan is strictly abstinence

⁶ Drug abuse and anti-drug policy in Japan (British Journal of Criminology 1995) p. 497

⁷ Stimulants Control Law Article 41-1 and 41-2.

⁸ Article 41-2

⁹ Harada and Shinkai p. 392

¹⁰ Narcotics and Psychotropics Control Law, Article 58

¹¹ Narcotics and Psychotropics Control Law, Article 58-8

¹² Narcotics and Psychotropics Control Law, Article 58-6, Drug abuse and anti-drug policy in Japan p. 514

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based, with a large emphasis on mental health. Addiction and compulsory hospitalization are based on a mental health evaluation, while mandatory hospitalization for drug addiction is further covered under the *Mental Hygiene Law*.¹²

Cannabis Control Act

The Cannabis Control Act regulates the cultivation and possession of cannabis and associated commodities, such as hemp. Consumption of marijuana is proscribed. Growing or handling cannabis requires a license from the prefectural governor. Use of marijuana or possession without necessary licenses is punishable by up to five years in prison.¹³

Opium Law

The Opium Law regulates cultivation and possession of opium and derivative products. Any consumption of opioids is strictly forbidden.¹⁴ Use of opioids is punishable with up to seven year's imprisonment.¹⁵

Drug Abuse Prevention Center

Established in 1987 by the Japanese Cabinet, the Drug Abuse Prevention Center is a nonprofit organization responsible for anti-drug messaging and educational initiatives throughout the country. The organization's message is strictly that of zero-tolerance, with advertisements - often featuring prominent young Japanese entertainment or sports stars.¹⁶

Recent developments

Laws against narcotics use remain strictly enforced in Japan, with frequent reports of arrests for the possession of relatively small amounts. An American student studying abroad in Japan was arrested in August 2011 and faced up to 10 years in prison for a box of marijuana-laced cookies sent through the mail by a friend.¹⁷ While he ultimately received a suspended sentence, the media attention and long prison sentence he faced are indicative of the sensationalization around even minor drug charges in Japan.

Drug abuse treatment in prisons

Because reporting drug abusers for registration with the government is mandatory in Japan, people who use drugs (PWUD) are largely driven underground. This, combined with the dearth of drug treatment available, leads to many PWUD having no contact with the healthcare system about substance abuse until they have come into contact with the criminal justice system.¹⁸

In 2007, the Japanese prison law was amended and expanded to include more attention on rehabilitation. Six areas of programming deemed necessary for better reintegration were identified, including drug abuse.¹⁹ A pilot program modeled after the Matrix model in the United States was introduced in four prisons in 2008.²⁰ While the initiative is a great improvement over previous prison programs - which, if available at all, were neither systematic nor evidence-based- all available treatments remain abstinence-only.

¹³ Cannabis Control Law, Article 24-2, 24-3

¹⁴ Opium Law, Article 9

¹⁵ Opium Law, Article 52-2

¹⁶ <http://www.dapc.or.jp/english/establish.htm>

¹⁷ http://blogs.westword.com/latestword/2012/02/marijuana_tim_wilson_japan_released_cheeba_chews.php

¹⁸ Harada and Shinkai p. 395

¹⁹ *ibid*

²⁰ *ibid* 399

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*Our heartfelt gratitude to our partners, colleagues, friends
and well wishers from Japan who have contributed their
valuable time, and shared priceless thoughts and opinion
while developing this document.*

*Our special thanks goes to Prof. Takayuki Harada, Mejiro
University; Prof. Hiroshi Tsutomi, University of Shizuoka;
Ms. Noriko Ishuzuka; Takeshi Kato and the staffs, PWUD
friends from DARC, Kyoto.*

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