

# 日本舊優生保護法 2024年最高法院判決

Judgments of Japan Supreme Court for the  
Former Genetic Health Act in Japan in 2024

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令和5年（受）第1323號、令和5年（受）第1319號、  
令和4年（受）第1050號、令和4年（受）第1411號、  
令和5年（才）第1341號國家賠償請求事件  
令和6年7月3日最高裁判所大法庭判決



## 摘要

舊「優生保護法」是日本戰後最大的人權侵害事件，日本政府基於優生學概念，只要本人或配偶患有遺傳性精神疾病、身體疾患或畸形，醫師認為有必要下即可強制進行絕育手術。2016年日本政府所主張除斥期間20年到期後，才陸續有受害者發聲，政府雖於2019年支付每名受害者320萬日圓的一次性賠償金，卻未以承認國家需負擔損害賠償責任為前提。受害者陸續於各地提出訴訟，主張違憲與除斥期間的適用上不符合

關鍵詞：時效抗辯（valid defense of prescription）、除斥期間（preemption）、國家賠償（state compensation）、絕育手術（sterilization）、優生學（genetics）

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公平正義原則。最高法院將札幌、仙台、東京、大阪等五案合併審理，並認為請求權如因除斥期間經過而消滅，顯然嚴重違反正義與公平的理念，因此，國家主張除斥期間之抗辯是權利濫用。

The former Genetic Health Act was the most serious violation of human rights in the post-war period in Japan. Based on genetics the Japanese government held, a necessary sterilization could be practiced according to the diagnosis of a physician if the pregnant woman and her spouse have any genetic mental illness, physical disability, or deformities. In 2016, the Japanese government argued that victims arguing for compensation had run out of preemption for 20 years. Even though the government had paid 3.2 million for each victim once and for all in 2019, this payment was not titled with state compensation, not being recognized as the state's responsibility for the damages. The victims filed lawsuits in various regions, claiming that the application of the exclusionary period was unconstitutional and did not comply with the principles of fairness and justice. The Supreme Court consulted five cases, including Sapporo, Sendai, Tokyo, and Osaka, and held that if the right to claim damages is extinguished due to the passage of the preemption, it is obviously a serious violation of the concepts of justice and fairness, and therefore the defense of the preemption is an abuse of the State's right.

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## 壹、事實概要

### 一、事件概要

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