

# **JAPAN 2017 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

Japan has a parliamentary government with a constitutional monarchy. Shinzo Abe, leader of the Liberal Democratic Party, became prime minister in 2012. Lower House elections in October, which returned Prime Minister Abe to office with a large majority, were considered free and fair.

Civilian authorities maintained effective control over the security forces.

There were no reports of egregious human rights abuses.

The government enforced laws prohibiting human rights abuses and prosecuted officials who committed them.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were no reports that the government or its agents committed arbitrary or unlawful killings.

#### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

#### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The law prohibits such practices, and there were no reports that government officials employed them.

The government continued to deny death-row inmates advance information about the date of execution and notified family members of executions after the fact. The government held that this policy spared prisoners the anguish of knowing when they were going to die. Some respected psychologists supported this reasoning; others demurred.

Authorities regularly also hold prisoners condemned to death in solitary confinement until their execution. Authorities allow condemned prisoners visits by family, lawyers, and others. The length of such solitary confinement varies from case to case, and may extend for several years. Prisoners accused of crimes that could lead to the death penalty were also held in solitary confinement before trial, according to a nongovernmental organization (NGO) source.

National Public Safety Commission regulations prohibit police from touching suspects (unless unavoidable), exerting force, threatening them, keeping them in fixed postures for long periods, verbally abusing them, or offering them favors in return for a confession. An NGO asserted that authorities did not adequately enforce the regulations and continued in some cases to subject detainees to long interrogation sessions. In March 2016, the Osaka District Court ordered the Osaka Prefectural Police to pay damages to a suspect (who was eventually acquitted) for forcing a confession using coercive techniques during interrogations in 2013.

Hazing, bullying, corporal punishment, and sexual harassment continued in the Japanese Self-Defense Forces (JSDF) despite defense ministry guidelines meant to address these problems. The Ministry of Defense reported it continued to impose disciplinary actions for arbitrarily punishing subordinates on JSDF members.

### **Prison and Detention Center Conditions**

Prison conditions generally met international standards, although some lacked adequate medical care and sufficient heating in the winter or cooling in the summer and some facilities were overcrowded.

Physical Conditions: The Ministry of Justice reported that as of the end of 2015 (most recent data available) three of 77 prison facilities were beyond capacity; all three were prisons for women. Authorities held juveniles under age 20 separately from adults in prisons and regular detention centers.

In most institutions, extra clothing and blankets provided instead of heating were insufficient to protect inmates against cold weather, according to some local NGOs. Foreign prisoners in the Tokyo area continued to present chilblains-affected fingers and toes of varying severity resulting from long-term exposure to cold.

From April 2016 through March 2017, independent inspection committees documented inadequate medical treatment, including for detainees and prisoners

with pre-existing medical conditions. According to the justice ministry, the number of doctors working for correctional institutions remained more than 20 percent short of the quota in 2016, despite a 2015 law designed to secure a stable and adequate number of doctors in the institutions. Police and prison authorities were slow in providing treatment for mental illness and have no protocol for offering psychiatric therapy. Foreign observers also noted that dental care was minimal, and access to palliative care was lacking.

Administration: While authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of allegations of problematic conditions, they provided the results of such investigations to prisoners in a letter offering little detail beyond a final determination. While there was no prison ombudsman, independent committees (see below, “Monitoring”) played the role of an ombudsman.

Independent Monitoring: The government generally allowed visits by NGOs and international organizations.

Prison management regulations stipulate that independent committees inspect prisons and detention centers operated by the Ministry of Justice and detention facilities operated by police. Authorities permitted the committees, which include physicians, lawyers, local municipal officials, and local citizens, to interview detainees without the presence of prison officers.

By law third-party inspection committees also inspected immigration detention facilities, and their recommendations generally were given serious consideration.

Domestic and international NGOs and international organizations continued to note that this process failed to meet international prison inspection standards. As evidence, they cited the Ministry of Justice’s provision of all logistical support for the inspection committees, the use of ministry interpreters during interviews with detainees, and a lack of transparency about the composition of the committees.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention. In previous years credible NGOs and journalists reported that police in large cities employed racial profiling to harass and sometimes arrest “foreign looking” persons, particularly dark-skinned Asians and persons of African descent, without cause.

## **Role of the Police and Security Apparatus**

The National Public Safety Commission, a cabinet-level entity, oversees the National Police Agency (NPA), and prefectural public safety commissions have responsibility for local police forces. The government had effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year. Some NGOs criticized local public safety commissions for lacking independence from or sufficient authority over police agencies.

## **Arrest Procedures and Treatment of Detainees**

Authorities apprehended persons openly with warrants based on evidence and issued by a duly authorized official and brought detainees before an independent judiciary. Foreign and domestic observers continued to claim that warrants were granted at high rates, detention sometimes occurred notwithstanding weak evidentiary grounds, and multiple repeat arrests of suspects were used to facilitate case building by police.

The law allows detainees, their families, or representatives to request that the court release an indicted detainee on bail. Bail is not available prior to indictment. NGOs stated that, although the practice is illegal, interrogators sometimes offered shortened or suspended sentences to a detainee in exchange for a confession.

Suspects in pretrial detention are legally required to face interrogation. NPA guidelines limit interrogations to a maximum of eight hours and prohibit overnight interrogations. Pre-indictment detainees had access to counsel, including at least one consultation with a court-appointed attorney; counsel, however, is not allowed to be present during interrogations.

The law allows police to prohibit detainees from meeting with persons other than counsel if there is probable cause to believe that the suspect may flee or may conceal or destroy evidence (see section 1.d., “Pretrial Detention”). Many detainees, including most charged with drug offenses, were subject to this restriction before indictment, although some were permitted visits from family members in the presence of a detention officer. There is no legal connection between the type of offense and the length of time authorities may deny a detainee visits by family or others. Those detained on drug charges, however, were often denied such visits longer than other suspects, since prosecutors worried that communications with family or others could interfere with investigations.

Prosecutors' offices and police increasingly recorded entire interrogations for heinous criminal cases, cases involving suspects with intellectual or mental disabilities, and other cases on a trial basis. There was no independent oversight. Recording was not mandatory. Local NGOs continued to allege that suspects confessed under duress, mainly during unrecorded interrogations.

Police inspection offices imposed disciplinary actions against some violators of interrogation guidelines, although the NPA did not release related statistics.

Pretrial Detention: Authorities usually held suspects in police-operated detention centers for an initial 72 hours prior to indictment. By law such detention is allowed only when there is probable cause to suspect that a person has committed a crime and is likely to conceal or destroy evidence or flee, but it was used routinely. After interviewing a suspect at the end of the initial 72-hour period, a judge may extend pre-indictment custody for up to two consecutive 10-day periods. Prosecutors routinely sought and received these extensions. Prosecutors may also apply for an additional five-day extension in exceptional cases, such as insurrection, foreign aggression, or violent public assembly.

Because judges customarily granted prosecutors' requests for extensions, pretrial detention, known as daiyou kangoku (substitute prison), usually continued for 23 days. Nearly all persons detained during the year were held in daiyou kangoku. Reliable NGOs and foreign observers continued to report that access to persons other than their attorneys and, in the case of foreign arrestees, consular personnel was denied to some persons in daiyou kangoku.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: The law provides detainees the right to a prompt judicial determination of the legality of their detention.

#### **e. Denial of Fair Public Trial**

The law provides for an independent judiciary, and the government generally respected judicial independence and impartiality.

#### **Trial Procedures**

The law provides the right to a fair and public trial, and an independent judiciary generally enforced this right. Defendants are presumed innocent until proven

guilty, but credible NGOs and lawyers continued to question whether they were in fact presumed innocent during the legal process. According to NGOs, the majority of indicted detainees confessed while in police custody, although the government continued to assert that convictions were not based primarily on confessions and that interrogation guidelines stipulate that suspects may not be compelled to confess to a crime.

Defendants have the right to be informed promptly and in detail of charges. Each charged individual has the right to a trial without undue delay (though foreign observers noted that trials may be delayed indefinitely for mentally ill prisoners); to access to defense counsel, including an attorney provided at public expense if indigent; and to cross-examine witnesses. There is a lay-judge (jury) system for serious criminal cases, and defendants may not be compelled to testify against themselves. Authorities provided free interpretation services to foreign defendants in criminal cases. Foreign defendants in civil cases must pay for interpretation, although a judge may order the plaintiff to pay the charges in accordance with a court's final decision.

Defendants have the right to appoint their own counsel to prepare a defense, present evidence, and appeal. The court may assist defendants in finding an attorney through a bar association. Defendants may request a court-appointed attorney at state expense if they are unable to afford one.

According to some independent legal scholars, trial procedures favor the prosecution. Observers said a prohibition against defense counsel's use of electronic recording devices during interviews with clients undermined counsel effectiveness. The law also does not require full disclosure by prosecutors unless the defending attorney satisfies difficult disclosure procedure conditions, which could lead to the suppression of material favorable to the defense.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

There is an independent and impartial judiciary in civil matters. Individuals have access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation. There are both administrative and judicial remedies for alleged wrongs.

## **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The law prohibits such actions, and there were no reports that the government failed to respect these prohibitions.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Expression, Including for the Press**

Overall, an independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression. The constitution provides for freedom of speech and press, and the government generally respected these freedoms.

Freedom of Expression: In June the UN special rapporteur on the right to freedom of opinion and expression submitted a report on press freedoms in the country to the UN Human Rights Council that noted “significant worrying signals.” The report contended that government pressure on media outlets caused journalists to self-censor their reporting. The government vigorously contested the UN report, with a senior official telling the media: “Freedom of expression and the right to know are fully protected under the Constitution of Japan. The government has never illegally applied pressure on the media. This [allegation] is completely untrue.”

Following passage of a law on hate speech in May 2016, Osaka City passed the first local ordinance to counter hate speech in July 2016. In September 2016 the Osaka District Court found the former chairman of the extremist, ultra-nationalist political organization “Zaitokukai,” Makoto Sakurai, personally liable for emotional pain suffered by Lee Shin-Hye, a freelance journalist, due to hate speech, and ordered Zaitokukai to pay 770,000 yen (\$6,900) in damages. According to the ruling, derogatory statements were delivered both online and through public loudspeaker messaging. Judge Tamami Masumori said that Sakurai and Zaitokukai maliciously insulted Lee beyond a socially tolerable level and slandered Lee’s journalistic work. Observers noted that the law on hate speech is limited to educating and raising public awareness among the general public against hate speech, and prosecutors are unable to use the law in most cases to bring charges against extremist groups that continued to stage public events near Osaka’s “Korea Town” neighborhood.

According to media and NGO reports, incidents of hate speech on the internet continued.

Censorship or Content Restrictions: Media expressed a wide variety of views without overt restriction; reporters broke a number of stories that caused members of the government embarrassment. Reporters Without Borders' World Press Freedom Index stated that "journalists have difficulty serving the public interest and fulfilling their role as democracy's watchdogs," citing government officials' hostility towards the media, and commenting that the system of "*kisha* (reporter) clubs" may encourage self-censorship. These clubs were formed in individual organizations, including ministries, and may block nonmembers, including freelance and foreign reporters, from covering the organization.

### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority. The internet was widely accessible and used.

### **Academic Freedom and Cultural Events**

The Ministry of Education's approval process for history textbooks, particularly its treatment of the country's 20th century colonial and military history, was a subject of controversy.

### **b. Freedoms of Peaceful Assembly and Association**

The law provides for freedom of assembly and association, and the government generally respected these rights.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

### **d. Freedom of Movement**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, asylum seekers, stateless persons, and other persons of concern.

### **Internally Displaced Persons**

The government generally provided adequate shelter and other protective services in the aftermath of the 2011 earthquake, tsunami, and nuclear power plant disaster in Fukushima Prefecture and sought to provide permanent relocation or reconstruction options. According to Reconstruction Agency statistics, as of May 16, approximately 97,000 evacuees remained displaced, far fewer than in 2016.

### **Protection of Refugees**

Access to Asylum: The law provides for granting asylum or refugee status, and the government has established a system for providing protection to refugees. The government, however, granted refugee status exceedingly rarely.

Refugee and asylum applicants who are minors or applicants with disabilities may ask lawyers to participate in their first round of hearings before refugee examiners. As government-funded legal support was not available for most refugee and asylum seekers requesting it, the Federation of Bar Associations continued to fund a program that provided free legal assistance to those applicants who lacked financial means.

The Ministry of Justice, the Federation of Bar Associations, and the NGO Forum for Refugees Japan worked together in implementing the Alternatives to Detention project (ATD) to provide accommodation, casework, and legal services for individuals who arrived at Narita, Haneda, Chubu, and Kansai airports, received temporary landing or provisional stay permission, and sought refugee status. Government-subsidized civil organizations and donations fund the ATD.

Freedom of Movement: Civil society groups said the detention of asylum seekers without fixing a period of detention remained a problem. The Office of the UN High Commissioner for Refugees said applicants for refugees should not be detained without due process, and children should not be detained.

Employment: Applicants for refugee status normally may not work unless they have valid short-term visas. They must apply for permission to engage in income-earning activities before the visas expire. In the interim before approval, the Refugee Assistance Headquarters, a section of the government-funded, public interest, incorporated Foundation for the Welfare and Education of the Asian People, provided small stipends to some applicants who faced financial difficulties.

Access to Basic Services: Refugees continued to face the same discrimination patterns sometimes seen by other foreigners: reduced access to housing, education, and employment. Except for those who met right-to-work conditions, individuals whose refugee applications were pending or on appeal did not have the right to receive social welfare. This status rendered them completely dependent on overcrowded government shelters, illegal employment, or NGO assistance.

Temporary Protection: In 2016 the government provided temporary protection to 97 individuals who may not qualify as refugees.

### **Section 3. Freedom to Participate in the Political Process**

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

#### **Elections and Political Participation**

Recent Elections: A snap election for the Lower House of the Diet called by the government on October 22 was regarded as free and fair. Prime Minister Abe was confirmed in office when his Liberal Democratic Party won 47.8 percent of the vote in single-seat districts and 33.2 percent of the proportional representation system, 283 seats of a total 465 seats, and a majority of seats in the Lower House.

Participation of Women and Minorities: No laws limit participation of women and minorities in the political process, and they did participate. Women held 47 of 465 seats in the Diet's Lower House and 50 of 242 seats in the Upper House after the October Lower House election. Women held two of the 20 seats in the cabinet following the August 3 cabinet shuffle but none of the three senior posts in the ruling Liberal Democratic Party. At the end of the year, there were three female governors out of 47 prefectures. The reasons for limited female participation in political life were complex and under close scrutiny by the government and academia. Yuriko Koike became the first female governor of Tokyo in 2016,

leading an ad-hoc political party, Tokyoites First, and allies to win a majority of seats in municipal elections.

Because some ethnic minority group members are of mixed heritage and did not self-identify, it was difficult to determine their numbers in the Diet, but a number were represented. At least two Diet members were naturalized Japanese citizens.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, and the government generally implemented the law effectively. Officials sometimes engaged in corrupt practices.

Independent academic experts stated that ties among politicians, bureaucrats, and businesspersons were close, and corruption remained a concern. NGOs continued to criticize the practice of retired senior public servants taking high-paying jobs with private firms that relied on government contracts. There were regular media reports of investigations into financial and accounting irregularities involving high-profile politicians and government officials.

Several government agencies were involved in combating corruption, including the NPA and the National Tax Administration Agency. In addition, the Fair Trade Commission enforces anti-monopoly law to prevent unreasonable restraint of trade and unfair business practices, such as bid rigging. The Japan Financial Intelligence Center is responsible for preventing money laundering and terrorist financing. The National Public Services Ethics Board polices public servants suspected of ethics violations. The Board of Audit monitors the accounts of corporations in which the government is a majority shareholder. Anticorruption agencies generally operated independently, effectively, and with adequate resources, although some experienced staffing shortfalls.

Corruption: While the media reported allegations that Prime Minister Abe might have attempted to influence government decisions in favor of two educational institutions, Moritomo Gakuen and Kake Gakuen, run by his or his wife's friends, the prime minister categorically denied involvement in the government's decisions.

On September 11, the Tokyo District Public Prosecutors Office indicted former Yamanashi City mayor Seiki Mochizuki for accepting bribes in exchange for forging a public document to secure a municipal job for the child of a former local education official. The prosecution also indicted the former local official and

former Yamanashi City treasurer Hakudo Takizawa on bribery charges in the same case.

Financial Disclosure: The law requires members of the Diet to disclose publicly their income and assets (except for ordinary savings), including ownership of real estate, securities, and transportation means. The law requires governors, prefectural assembly members, mayors, and assembly members of 20 major cities to disclose their incomes and assets based on their local ordinances but does not require assembly members of the remaining approximately 1,720 municipalities to do the same. There are no penalties for false disclosure. The law does not apply to nonelected officials. NGOs and media criticized the law as lax. Separately, the cabinet-approved code provides that cabinet ministers, senior vice-ministers, and parliamentary vice-ministers publicly disclose their, their spouses', and their dependent children's assets.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials usually were cooperative and responsive to their views.

Government Human Rights Bodies: The Justice Ministry's Human Rights Counseling Office had 315 offices across the country. Approximately 14,000 volunteers fielded questions in person, by telephone, or on the internet and provided confidential consultations. Counselling in a foreign language was available in several offices. These consultative offices fielded queries, but do not have authority to investigate human rights violations by individuals or public organizations, provide counsel, or mediate. Municipal governments had human rights offices that dealt with a range of human rights problems.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

### **Women**

Rape and Domestic Violence: The law criminalizes all forms of rape involving force against women. The law does not deny spousal rape, but no court has ever ruled on such a case, except in situations of marital breakdown (i.e., formal or informal separation, etc.). In June the Diet passed legislation that expanded the

definition of rape to include forced anal and oral sex with victims regardless of gender and eliminated a clause that required a victim to file a complaint to indict an offender, although the age of consent remains 13 years of age. The law mandates a minimum sentence of five years in prison. In the past, courts interpreted the law to mean that physical resistance by the victim is necessary to find that a sexual encounter was rape. Observers pointed out a lack of training for judges, prosecutors, and lawyers about sexual crimes and victims.

A 2015 Cabinet Office survey (the most recent data) showed that only 4.3 percent of women who suffered forcible sexual intercourse reported the crime to police. Observers attributed women's reluctance to report rape to a variety of factors, including a lack of victim support, potential secondary victimization through the police response, and court proceedings that lacked understanding for rape victims.

Although prohibited by law, domestic violence against women remained a serious problem, according to multiple sources. Victims of abuse by domestic partners, spouses, and former spouses could receive protection at shelters and seek restraining orders from court.

The government implemented the 2015 agreement with the Republic of Korea on World War II "comfort women" (women trafficked for sexual purposes). The agreement remained controversial with some civil society and survivor groups outside the country. In 2016 the government provided the agreed one-billion-yen (\$8.92 million) contribution to a foundation established by the Republic of Korea to provide support for the former "comfort women."

Sexual Harassment: The law does not criminalize sexual harassment but includes measures to identify companies that fail to prevent it, and prefectural labor offices and the Ministry of Health, Labor, and Welfare provided these companies with advice, guidance, and recommendations. Companies that fail to comply with government guidance may be publicly identified, and although this is extremely rare, it has begun to happen. Sexual harassment in the workplace remained widespread (see section 7.d.).

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: [www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/](http://www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/).

Discrimination: The law prohibits gender discrimination and generally provides women the same rights as men. The Gender Equality Bureau in the Cabinet Office continued to examine policies and monitor developments.

Despite these policies, NGOs continued to allege that implementation of antidiscrimination measures was insufficient, pointing to discriminatory provisions in the law, unequal treatment of women in the labor market (see section 7.d.), and low representation of women in high-level elected bodies. NGOs continued to urge the government to eliminate different age minimums for marriage depending on sex, and allow married couples a choice of surnames.

## **Children**

Birth Registration: The law grants citizenship at birth to: a child of a Japanese father who either is married to the child's mother or recognizes his paternity; a child of a Japanese mother; or, a child born in the country to parents who are both unknown or are stateless. The law requires registration within 14 days after in-country birth or within three months after birth abroad, and these deadlines were generally met. Individuals are allowed to register births after the deadline but are required to pay a fine.

The law requires birth entries in the family registry to specify whether a child was born in or out of wedlock, but the law no longer denies full inheritance rights to children born out of wedlock. The law presumes that a child born within 300 days of a divorce is the divorced man's child, resulting in the nonregistration of an unknown number of children.

Child Abuse: Reports of child abuse increased due to increased public awareness, according to the Ministry of Health, Labor, and Welfare. Sexual abuse of children by teachers was reported.

The government revised the law in May 2016 to simplify the process of inspecting homes where child abuse is suspected; require child welfare offices to have legal, psychological, and medical experts; allow more municipalities to have child welfare offices; and raise the age of eligibility for staying at public homes.

Early and Forced Marriage: The law stipulates that to marry, the male partner must be age 18 or older and the female partner, 16 or older. A person under 20 may not marry without at least one parent's approval.

Sexual Exploitation of Children: Child prostitution is illegal, with penalties including prison sentences or fines. The continued practice of enjo kosai (compensated dating) and the existence of websites for online dating, social networking, and “delivery health” (a euphemism for call-girl or escort services) facilitated the sex trafficking of children and other commercial sex industries. The government made efforts to crack down on a trend known as “JK business,” which included cafes that featured underage female servers and massage parlors staffed by high school-age girls. NGOs helping girls in “JK business” reported a link between these activities and the exploitation of children in prostitution.

Statutory rape laws criminalize sexual intercourse with a girl younger than 13, notwithstanding her consent. The penalty for statutory rape is not less than three years’ imprisonment with mandatory labor, and the law was enforced. Additionally, national law and local ordinances comprehensively address sexual abuse of minors.

The country was a site for the production of child pornography and the exploitation of children by traffickers. The possession of child pornography is a crime. The commercialization of child pornography is illegal; the penalty is imprisonment with labor for not more than three years or a fine not exceeding three million yen (\$26,800), and police continued to crack down on this crime.

NGOs reported a number of cases in which companies deceived women and in some cases men--some of whom were children--with “modeling” contracts that required performance in pornographic videos. The government in March presented measures to counter the issues of coerced appearance in pornographic videos and sexual exploitation of schoolchildren. In October a court sentenced a Japanese man to a three-year prison term with a five-year suspension and a fine for recruiting young women, including girls under 18, and compelling them to sign written consent forms to perform in pornographic videos.

No law addresses the unfettered availability of sexually explicit cartoons, comics, and video games, some of which depicted scenes of violent sexual abuse and the rape of children.

See the Department of State’s *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the

Department of State's *Annual Report on International Parental Child Abduction* at [travel.state.gov/content/childabduction/en/legal/compliance.html](http://travel.state.gov/content/childabduction/en/legal/compliance.html).

### **Anti-Semitism**

The Jewish population was approximately 2,000. There were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **Persons with Disabilities**

The Basic Act for Persons with Disabilities prohibits discrimination against persons with physical, intellectual, mental, and other disabilities affecting body and mind and bars infringement of their rights and interests on the grounds of disability in public and private sector. The Act on the Elimination of Discrimination against Persons with Disabilities, effective in April 2016, requires the public sector to provide reasonable accommodations and the private sector to make best efforts in employment, education, access to health care, or the provision of other services. Nonetheless, persons with disabilities faced limited access to some public sector services. The laws do not stipulate remedies for persons with disabilities who suffer discriminatory acts or penalties for noncompliance.

The law mandates that the government and private companies hire minimum proportions (2 percent) of persons with disabilities (including mental disabilities) or be fined. Disability rights advocates claimed that some companies preferred to pay the fine rather than hire persons with disabilities (see section 7.d.).

Accessibility laws mandate that new construction projects for public use must include provisions for persons with disabilities. The government may grant low interest loans and tax benefits to operators of hospitals, theaters, hotels, and other public facilities if they upgrade or install features to accommodate persons with disabilities.

While some schools provided inclusive education, children with disabilities generally attended specialized schools.

Mental health professionals criticized as insufficient the government's efforts to reduce the stigma of mental illness and inform the public that depression and other mental illnesses are treatable and biologically based. Abuse of persons with disabilities was a serious concern. Persons with disabilities around the country suffered abuse by family members, care facility employees, or employers. Private surveys indicated discrimination against, and sexual abuse of, women with disabilities.

### **National/Racial/Ethnic Minorities**

Minorities experienced varying degrees of societal discrimination.

The Act on the Elimination of Discrimination against Buraku (the descendants of feudal-era outcasts), effective as of December 2016, is the first law solely addressing discrimination against Buraku. According to the act, national and local governments will study discrimination against Buraku, implement awareness education, and enhance the counseling system. Buraku advocacy groups continued to report that, despite socioeconomic improvements achieved by many Buraku, widespread discrimination persisted in employment, marriage, housing, and property assessment. While the Buraku label was no longer officially used to identify individuals, the family registry system could be used to identify them and facilitate discriminatory practices. Buraku advocates expressed concern that employers who required family registry information from job applicants for background checks, including many government agencies, might use this information to identify and discriminate against Buraku applicants.

Despite legal safeguards against discrimination, foreign permanent residents in the country, including many who were born, raised, and educated in the country, were subjected to various forms of entrenched societal discrimination, including restricted access to housing, education, health care, and employment opportunities. Foreign nationals as well as "foreign looking" citizens reported they were prohibited entry, sometimes by signs reading "Japanese Only," to privately owned facilities serving the public, including hotels and restaurants. Although such discrimination was usually open and direct, NGOs complained of government failure to enforce laws prohibiting such restrictions.

Societal acceptance of ethnic Koreans who were permanent residents or citizens generally continued to improve. Although authorities approved most naturalization applications, advocacy groups continued to complain about excessive bureaucratic hurdles that complicated the naturalization process and a

lack of transparent criteria for approval. Ethnic Koreans who chose not to naturalize faced difficulties in terms of civil and political rights and regularly encountered discrimination in access to housing, education, and other benefits.

Senior government officials publicly repudiated the harassment of ethnic groups as inciting discrimination and reaffirmed the protection of individual rights for everyone in the country.

### **Indigenous People**

Although the Ainu enjoy the same rights as all other citizens, Ainu persons reported cases of discrimination in the workplace, schools, and public services, according to a Hokkaido Ainu Association survey of Ainu persons. The law emphasizes preservation of Ainu culture but lacks some provisions that Ainu groups have demanded, including national-level social welfare policies and educational grants, special representation in local and national governments, and a formal government apology for historical injustices. The government recognized the Ainu as an indigenous ethnic group in a unanimous Diet resolution, but the recognition has no legal ramifications.

Although the government does not recognize the Ryukyu (a term that includes residents of Okinawa and portions of Kagoshima Prefecture) as indigenous people, it officially acknowledged their unique culture and history and made efforts to preserve and show respect for those traditions.

### **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

No law prohibits discrimination based on sexual orientation or gender identity. There are no existing penalties associated with such discrimination, and no related statistics were available. The law tends to lead to lower penalties for perpetrators of male rape and greater legal ambiguity surrounding same-sex prostitution.

NGOs that advocate on behalf of LGBTI persons reported no impediments to organization but some instances of bullying, harassment, and violence. Stigma surrounding LGBTI persons remained an impediment to self-reporting of discrimination or abuse, and studies on bullying and violence in schools generally did not take into account the sexual orientation or gender identity of the persons involved. The law allows transgender individuals to change their legal gender, but only after receiving a diagnosis of sexual identity disorder.

## **HIV and AIDS Social Stigma**

No law prohibits discrimination against persons with HIV/AIDS, although nonbinding Ministry of Health, Labor, and Welfare guidelines state that firms should not terminate or fail to hire individuals based on their HIV status. Courts have awarded damages to individuals fired from positions due to that status.

Concern about discrimination against individuals with HIV/AIDS and the stigma associated with the disease, and fear of dismissal, prevented many persons from disclosing their HIV/AIDS status.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of private sector workers to form and join unions of their choice without previous authorization or excessive requirements and protects their rights to strike and bargain collectively.

The law places limitations on the right of public sector workers and employees of state-owned enterprises to form and join unions of their choice. Public sector employees do not have the right to strike; trade union leaders who incite a strike in the public sector may be dismissed and fined or imprisoned. Public sector employees may participate in public service employee unions, which may negotiate collectively with their employers on wages, hours, and other conditions of employment. Firefighting personnel and prison officers are prohibited from organizing collectively and do not possess the right to conclude a collective bargaining agreement.

Workers in sectors providing essential services, including electric power generation and transmission, transportation and railways, telecommunications, medical care and public health, and the postal service must give 10 days' advance notice to authorities before organizing a strike. Employees involved in providing essential services do not have the right to collective bargaining. The law prohibits antiunion discrimination and provides for the reinstatement of workers fired for union activities.

The government effectively enforced laws providing for freedom of association, collective bargaining, and legal strikes. Government oversight and these penalties

were generally sufficient to deter violations. In the case of a violation, a worker or union may lodge an objection with the Labor Committee, which may issue a relief order for action by the employer. A plaintiff may then take the matter to a civil court. If the court upholds the relief order and determines that a violation of that order has occurred, it may impose a fine and/or imprisonment.

The government and employers respected freedom of association and the right to collective bargaining, but increasing use of short-term contracts undermined regular employment and frustrated organizing efforts. Collective bargaining was common in the private sector, although some businesses changed their form of incorporation to a holding company structure, not legally considered employers, to circumvent employee protections under the law.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor.

The government effectively enforced the law, although there were small segments of the labor market, such as some categories of foreign workers, where violations persisted and enforcement was lacking. Legal penalties for forced labor varied depending on its form, the victim(s), and the law that prosecutors used to prosecute such offenses. Not all forms of forced or compulsory labor were clearly defined by law, nor did they all carry sufficient penalties. For example, for recruitment for forced labor, the law allows maximum punishment of a fine of 200,000 yen (\$1,784), which was not sufficient to deter violations. Some NGOs argued that the legal definition for forced labor cases was too narrow.

Reports of forced labor continued in the manufacturing, construction, and shipbuilding sectors, largely in small- and medium-size enterprises employing foreign nationals through the Technical Intern Training Program (TITP). This program allows foreign workers to enter the country and work for up to five years in a de facto guest worker program that observers assessed to be rife with vulnerabilities to trafficking and other labor abuses. Workers in these jobs experienced restrictions on freedom of movement and communication with persons outside the program, nonpayment of wages, high debts to brokers in countries of origin, and retention of identity documents. Workers were also sometimes subjected to “forced savings” that they forfeited by leaving early or being forcibly repatriated. For example, some technical interns reportedly paid up to one million yen (\$8,918) in their home countries for jobs and were reportedly employed under contracts that mandate forfeiture in their home countries of the equivalent of

thousands of dollars if workers try to leave, both of which are illegal under the TITP. Workers who entered the country illegally or who overstayed their visas were particularly vulnerable. NGOs maintained government oversight was insufficient.

In November 2016 the Diet approved a revision to the law establishing a new Supervisory Body to oversee entities receiving technical interns, and established new penalties in case of violations. The revision also extended the maximum term of participation in the TITP from three years to five years. The law went into effect on November 1.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

Children between ages 15 and 18 may perform any job that is not designated as dangerous or harmful, such as handling heavy objects or cleaning, inspecting, or repairing machinery while it is in operation. Children between ages 15 and 18 are prohibited from working late night shifts. Children between 13 and 15 may perform "light labor" only, and children under 13 may work only in the entertainment industry.

The government effectively enforced these laws. Penalties for child labor violations included fines and imprisonment and were sufficient to deter violations.

Children were subjected to commercial sexual exploitation (see section 6, "Children").

### **d. Discrimination with Respect to Employment and Occupation**

The law prohibits discrimination with respect to employment and occupation based on race, sex, personal or political beliefs, national origin or citizenship, social status or origin, disability, age, and some communicable diseases, such as leprosy. The law does not explicitly prohibit discrimination with respect to employment and occupation based on sexual orientation and/or gender identity, HIV-positive status, or language. Labor law does not explicitly prohibit discrimination based on religion. The law also mandates equal pay for men and women. The law mandates that the government and private companies hire minimum proportions (2 percent) of persons with disabilities (including mental disabilities). By law companies with

more than 200 employees that do not comply with requirements to hire minimum proportions of persons with disabilities must pay a fine per vacant position per month.

Enforcement regulations of the equal employment opportunity law also include prohibitions against policies or practices that were not adopted with discriminatory intent but which have a discriminatory effect (called “indirect discrimination” in law) for all workers in recruitment, hiring, promotion, and changes of job type. Enforcement of these provisions was generally weak.

As of January 1, revisions to leave laws offered greater flexibility in taking family care leave, for example, by allowing employees to divide their permitted leave into three separate instances. The revisions also eased fixed-term contract workers’ eligibility to take child-care leave. The revised employment law obligates employers to take measures to prevent maternity harassment. In March another legal revision made it possible to extend paternity/maternity leave by an additional six months if childcare facilities are not available, enabling parents to take leave for up to two years after a birth. The law requires national and local governments, as well as private sector companies that employ at least 301 people, to analyze women’s employment in their organizations and release action plans to promote women’s participation and advancement. The Ministry of Health, Labor, and Welfare (MHLW) releases data reported by individual firms on the state of women’s employment.

In cases of violations, the MHLW may request the employers to report the matter, and the ministry may issue advice, instructions, or corrective guidance. If the employer does not follow the ministry’s guidance, the employer’s name may be disclosed. If the employer fails to report or files a false report, the employer may be subject to a fine.

Government hotlines in prefectural labor bureau equal employment departments handled consultations concerning sexual harassment and mediated disputes when possible.

Women continued to express concern about unequal treatment in the workforce. Women’s average monthly wage was approximately 73 percent of that of men in 2016. Sexual harassment in the workplace remained widespread. In the first survey of its kind, in 2016 the ministry reported that 30 percent of women in full- and part-time employment reported being sexually harassed at work. Among full-time workers, the figure was 35 percent.

There also continued to be cases of employers forcing pregnant women to leave their jobs. The MHLW reported that the number of cases in which people sought advice from labor authorities regarding maternity harassment during fiscal year 2015, the latest year for which such data were available, increased 19 percent from the previous year.

The government increased child-care facilities, along with encouraging private companies to report gender statistics in annual financial reports.

In 2014, the latest year for which such data were available, statistics from the ministry showed that while persons with disabilities comprised approximately 2.2 to 2.3 percent of public sector employees, the private sector did not reach minimum proportions required by law; persons with disabilities comprised approximately 1.8 percent of employees. Disability rights advocates claimed that some companies preferred to pay a fine rather than hire persons with disabilities.

The MHLW said the number of employers or supervisors who abused persons with disabilities fell 13.4 percent in the Japanese fiscal year ending in March. The decrease was attributed to a wider recognition in workplaces of a 2012 law aimed at combating abuse of workers with disabilities and to enforcement efforts by labor standards inspectors.

In August 2016 the Japanese Trade Union Confederation released a survey that noted 23 percent of respondents reported they had personally experienced or observed LGBTI-related harassment at their place of employment or at work-related activities.

#### **e. Acceptable Conditions of Work**

Beginning in October 2016, the revised minimum wage ranged from 737 yen (\$6.57) to 958 yen (\$8.54) per hour (depending on the prefecture), up by an average of 25 yen (\$0.22) compared with 2015. The poverty line was 1.22 million yen (\$10,900) per year.

The law provides for a 40-hour workweek for most industries and, with exceptions, limits the number of overtime hours permitted in a fixed period. It mandates premium pay of no less than 25 percent for more than eight hours of work in a day, up to 45 overtime hours per month. For overtime between 45 and 60 hours per month, the law requires companies to “make efforts” to furnish premium pay

greater than 25 percent. It mandates premium pay of at least 50 percent for overtime that exceeds 60 hours a month.

The government sets industrial safety and health (ISH) standards. Workers may remove themselves from situations that endanger health or safety without jeopardy to their employment. The MHLW is responsible for enforcing laws and regulations governing wages, hours, and safety and health standards in most industries. The National Personnel Authority covers government officials. The Ministry of Economy, Trade, and Industry covers ISH standards for mining, and the Ministry of Land, Infrastructure, Transport, and Tourism is responsible for ISH standards in the maritime industry.

The law provides for a fine for employers who fail to pay a minimum wage, regardless of the number of employees involved or the duration of the violation. The number of labor inspectors was not sufficient to enforce compliance, although MHLW is making efforts to increase the number of inspectors and the frequency of inspections. Labor unions continued to criticize the government for failing to enforce the law regarding maximum working hours, and workers, including those in government jobs, routinely exceeded the hours outlined in the law.

In general the government effectively enforced applicable ISH law and regulations in all sectors. Penalties for ISH violations included fines and imprisonment and were generally sufficient to deter violations. While inspectors have the authority to suspend unsafe operations immediately in cases of flagrant safety violations, in lesser cases they may provide nonbinding *shidou* (guidance). MHLW officials frequently stated that their resources were inadequate to oversee more than 4.3 million firms.

Nonregular workers (which include part-time workers, fixed-term contract workers, and dispatch workers) made up approximately 38 percent of the labor force in 2016. They worked for lower wages and often with less job security and fewer benefits than career workers. Some nonregular workers qualified for various benefits, including insurance, pension, and training. Observers reported a rise in four- or five-year contracts and the termination of contracts shortly before five years--measures that could prevent workers from reaching the five-year point when they may ask their employer to make them permanent employees. Workers in academic positions, such as researchers, technical workers, and teachers in universities, were eligible for 10-year contracts.

Reports of abuses in the TITP were common, including injuries due to unsafe equipment and insufficient training, nonpayment of wages and overtime compensation, excessive and often spurious salary deductions, forced repatriation, and substandard living conditions (also see section 7.b.). In addition observers noted that a conflict of interest existed, since the inspectors who oversee the TITP working conditions were employed by two ministries that are members of the interagency group administering the TITP. Some inspectors appeared reluctant to conduct investigations that could cast a negative light on a government program that business owners favored.

There were also reports of informal employment of foreign asylum seekers on provisional release from detention who did not have work permits. Such workers were vulnerable to mistreatment and did not have access to standard labor protections or oversight.

Falls, road traffic accidents, and injuries caused by heavy machinery were the most common causes of workplace fatalities. The MHLW also continued to receive applications from family members seeking the ministry's recognition of a deceased individual as a *karoshi* (death from overwork) victim. In October a Tokyo court fined a major advertising agency 500,000 yen (\$4,460) for failing to prevent excessive overtime worked by its employees. This court decision followed the Tokyo Labor Bureau's ruling in 2016 that determined that the 2015 death of a young woman was a case of *karoshi*, after records showed the employee booked 130 hours of overtime in one month and just 10 hours of sleep per week. This finding against a major advertising agency brought renewed attention to the severe consequences of overwork. In October 2016 the government's first white paper on *karoshi* noted that, of 1,700 companies surveyed, 20 percent of them had regular full-time employees who exceeded 80 hours of overtime a month, and 11.9 percent were pushing its workers with overtime exceeding 100 hours.