

# JAPAN 2019 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. Upper house elections in July, which Prime Minister Abe's Liberal Democratic Party and its coalition partner, the Komeito Party, won with a solid majority, were considered free and fair.

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. Civilian authorities maintained effective control over the security forces.

There were concerns that some laws and practices, if misused, could infringe on freedom of the press.

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.

Authorities also regularly hold prisoners condemned to death in solitary confinement until their execution but allowed visits by family, lawyers, and others. The length of such solitary confinement varied 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.

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

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

Physical Conditions: Authorities held women prisoners separately from men, and juveniles younger than age 20 separately from adults in prisons and regular detention centers.

Several independent inspection committees recommended that institutions install air conditioners and heating systems to protect inmates from hot and cold weather. The institutions reported they lacked funding to do so and instead used fans and stoves and provided cold beverages, extra clothing, and blankets to inmates. 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 2017 through March 2018, independent inspection committees documented: abusive language by prison officers toward inmates; some unmet special needs for elderly, lesbian, gay, bisexual, transgender, and intersex (LGBTI) inmates, or those with disabilities; inadequate medical treatment; insufficient sanitation, heating, and cooling supplies; and shortages of prison officers. According to the Ministry of Justice, in 2018 the number of doctors working for correctional institutions increased by 19, bringing the total to 294--approximately 90 percent of the full staffing level.

Administration: While most authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request

investigation of allegations of problematic conditions, independent inspection committees reported some facilities discouraged inmates from communicating with inspection committees by requiring inmates to ask prison officials for a form through which to submit their complaints, in effect allowing the officials to act as gatekeepers. Authorities 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, “Independent 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 received serious consideration.

NGOs and the UN Committee against Torture continued to raise concerns with this process. For instance, they cited concerns about the requirement to submit previsit notifications to facility authorities. In addition, they raised concerns with a lack of transparency about the selection of the committees’ members, and the appointment of some members without professional expertise in criminal detention.

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

The law prohibits arbitrary arrest and detention. Civil society organizations continued to urge police to end ethnic profiling and surveillance of foreign Muslims. In response to a 2018 report submitted to the UN Committee on the Elimination of Racial Discrimination, the government denied allegations of ethnic and ethnoreligious profiling or surveillance of foreign Muslims by police.

#### **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.

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 and legal experts stated bail was very difficult to obtain without a confession and that communications were restricted for detainees who would not confess. As a result, many detainees eventually confessed to qualify for bail. The Justice Ministry stated that in 2017, 99.96 percent of criminal cases ended in convictions; in most cases the suspect had confessed. The government submitted a report to the United Nations in 2014 indicating that under the code of criminal procedure, a conviction shall never be based solely on 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. Preindictment detainees have access to counsel, including at least one consultation with a court-appointed attorney, if required; counsel, however, is not allowed to be present during interrogations.

The law allows police to prohibit detainees from meeting with persons other than counsel and a consular officer (in the case of foreign detainees) if there is probable cause to believe that the suspect may flee or 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, often were denied such visits longer than other suspects because prosecutors worried that communications with family or others could interfere with investigations.

Beginning June 1, police and prosecutors must record the entire interrogation process in certain cases that are subject to lay judge trials (cases involving crimes punishable by death or imprisonment for an indefinite period, or that are punishable by imprisonment for one year or more and in which a victim has died because of an intentional criminal act) or are prosecutor-initiated investigations and arrests. In such cases, statements to police and prosecutors during an interrogation by a suspect who has been detained or arrested are in principle inadmissible without a recording, which, according to legal experts, is intended to prevent forced confessions and false charges. Another regulation that went into effect on June 1, requires police to make best efforts to record the interrogation process when suspects have a mental disability. The Japan Federation of Bar

Associations (JFBA) saw these changes as a positive development, but under the amended law, interrogations will be video recorded in only 3 percent of the nation's criminal cases, and it does not extend to non-Japanese persons. Legal experts therefore continued to express concerns about forced confessions, especially in cases involving white-collar crimes and foreign nationals.

Pretrial Detention: Authorities routinely held suspects in police-operated detention centers for an initial 72 hours prior to indictment although, 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. After interviewing a suspect at the end of the initial 72-hour period, a judge may extend preindictment custody for up to two consecutive 10-day periods. Prosecutors routinely sought and received such extensions. Prosecutors may also apply for an additional five-day extension in exceptional cases, such as insurrection, foreign aggression, or violent public assembly.

NGOs and legal experts reported the practice of detaining suspects in preindictment detention or *daiyou kangoku* (substitute prison) continued. Because judges customarily granted prosecutors' requests for extensions, preindictment detention usually lasts for 23 days. Moreover, the 23-day detention period can be applied on a per charge basis, so for individuals facing multiple charges, the detention period can be extended far beyond 23 days. NGOs and foreign observers continued to report that for persons in *daiyou kangoku*, access to persons other than their attorneys and, in the case of foreign arrestees, consular personnel, was routinely denied. Nearly all persons detained during the year were held in *daiyou kangoku*. Beyond *daiyou kangoku*, extended pretrial detention of foreign detainees was a problem.

In one high-profile case, Carlos Ghosn, the former CEO of Nissan and a French-Brazilian national, was arrested in November 2018 on charges of financial wrongdoing and was subsequently arrested two more times, resulting in a jail stay totaling more than 100 days. After being released on bail under what legal experts described as unusually strict terms, he was arrested a fourth time on April 4 on an additional charge and was subjected to further jail time. Following the fourth arrest, legal experts expressed concern that the detention was being used to force a confession. Furthermore, the defendant's counsel appealed to the UN Working Group on Arbitrary Detention seeking a nonbinding determination regarding the defendant's arrest, detention, and conditions of bail, which includes forbidding the defendant to have any contact with his wife. While the law does not explicitly

guarantee the right of defendants to have contact with their family, legal experts stated such a restriction was rare, and they believed it was punitive.

#### **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 for the right to a fair and public trial, and an independent judiciary generally enforced this right. Defendants are legally presumed innocent until proven guilty, but NGOs and lawyers continued to doubt that was the case in practice, given the pressure on suspects to confess prior to trial. In one case, a foreign suspect exercised his right to remain silent and therefore faced extended detention. The suspect, however, was in the country on a time-limited visa, which would not be extended for a trial. The suspect eventually confessed in exchange for a suspended sentence in order to close the case.

Defendants have the right to be informed promptly and in detail of charges against them. Each charged individual has the right to a trial without undue delay (although observers noted that trials could be delayed indefinitely for mentally ill prisoners, and extended pretrial detention of detainees was a problem); 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.

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.

NGOs expressed concern about the retrial process for inmates on death row. The Ministry of Justice reports that out of 111 inmates on death row, 82 have requested retrials. Execution is not stayed for a pending petition of retrial, which the Japanese Federation of Bar Associations said calls into question the validity of executions.

### **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**

The constitution provides for freedom of speech and expression, including for the press, and the government generally respected these freedoms. The independent press and a functioning democratic political system sustained freedom of expression in the reporting year.

Freedom of Expression: Despite a law addressing hate speech, the government neither penalizes nor prohibits it. While there was a decrease in hate speech at demonstrations, it increased in propaganda, election campaigning, and online. Hate crimes also increased.

In response some prefectures and municipalities have taken action. In April an ordinance went into effect in Tokyo restricting the use of parks and other public facilities for potential hate rallies or other hate speech events, requiring universities and other businesses in its jurisdiction to make efforts to eliminate unjust discrimination and requiring the municipality to take measures to prevent the spread of certain hate speech on the internet following a consultation with a review board to avoid restricting legitimate acts of expression. The ordinance was modeled after similar ones in Osaka and Kawasaki. Some legal, journalist, and political groups expressed concerns that the ordinance is too vague and could suppress freedom of speech. In December the City of Kawasaki enacted an ordinance that bans discriminatory language and actions against foreign persons in public places in the city, for which repeat offenders are subject to a fine of up to 500,000 yen (\$4,600).

In July the Tokyo District Court provisionally decided to prohibit a figure, as yet unnamed, known for making anti-Korean hate speeches, from organizing an anti-Korea demonstration within a 550-yard radius of the North Korea-affiliated Tokyo Korean Junior and Senior High School, press reported.

According to legal experts and NGOs, hate speech and hate crimes against ethnic Koreans were particularly prominent and numerous, but also were directed at other racial and ethnic minorities. In August a Korean resident filed a human rights complaint against a professor at a Tokyo-based university based on the city's newly enacted ordinance banning ethnic discrimination. The professor was accused of repeatedly using hate speech against Koreans in class and online.

Press and Media, Including Online Media: Independent media were active and expressed a wide variety of views without restriction.

While no such cases have ever been pursued, the law enables the government to prosecute those who publish or disclose government information that is a specially designated secret. Those convicted face up to five years' imprisonment with work and a fine of not more than five million yen (\$46,000).

Censorship or Content Restrictions: Domestic and international observers continued to express concerns that the system of *kisha* (reporter) clubs attached to government agencies may encourage censorship. These clubs are established in a variety of organizations, including ministries, and may block nonmembers, including freelance and foreign reporters, from covering the organization.



During the year the government barred two journalists from travelling abroad. In February Kosuke Tsuneoka was denied boarding on a flight to Yemen, via Oman, and told his passport had been revoked. In July the Foreign Ministry denied a passport to Jumpei Yasuda, who planned to travel to India and Europe. In both cases, officials cited legal provisions enabling the Foreign Ministry to deny passports if the holder is not permitted to enter a destination country. Tsuneoka was banned from entering Oman; Yasuda was barred from Turkey, although that country was not on his travel plans. The law also allows denial of a passport if the planned travel could harm the country's national interest, but the government did not cite that provision in its statements. Numerous domestic and internal observers and groups criticized these actions.

Libel/Slander Laws: Libel is a criminal as well as civil offense. The law does not accept the truthfulness of a statement in itself as a defense. There is no evidence the government abused these laws to restrict public discussion during the year.

### **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.

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

Despite the constitutional right to freedom of expression, in August the governor of Aichi Prefecture shut down, after three days, a section titled "After 'Freedom of Expression'" of an art festival in Nagoya. The section was intended to celebrate freedom of expression by featuring works that had previously been excluded or removed from exhibition in Japan or elsewhere. The exhibit featured a statue symbolizing an estimated 20,000 wartime sex slaves or "comfort women" and was closed three days after the opening of the festival, one of the country's biggest international art festivals. While the governor cited safety concerns as the reason for the closing, the mayor of Nagoya publicly stated that he wanted the exhibit closed because it "tramples on the feelings of Japanese citizens," that freedom of expression "is not freedom where people can do whatever they want to," and that with public funds supporting the festival, "freedom of expression has a certain limit." The exhibit was ultimately reopened for the final two weeks of the 75-day festival, but organizers were notified they would not receive a state subsidy, in part because organizers did not notify the Cultural Affairs Agency in advance that the exhibit could trigger an outcry that might affect the event's operation.

The Ministry of Education's approval process for history textbooks, particularly its treatment of the country's 20th century colonial and military history, continued to be 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 <https://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.

### **e. 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 the northeastern part of the country and sought to provide permanent relocation or reconstruction options. As of March, 3,418 persons were still living in temporary housing.

### **f. Protection of Refugees**

Abuse of Migrants, Refugees, and Stateless Persons: The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

Most applicants for refugee status had legal residential status when they submitted their asylum applications. Many of the applicants who were not legally in the country were housed indefinitely and sometimes for prolonged periods in immigration detention facilities. There is no limit to the potential length of detention. NGOs reported that foreign nationals dying in those facilities was a

significant concern. Civil society groups said the indefinite detention of asylum seekers was itself a problem and also expressed concerns about poor living conditions. Legal experts and UNHCR noted that due to lengthy detentions, detainees were protesting their conditions and engaging in hunger strikes; the latter were intended to create a health concern that would warrant medical release.

On June 24, a Nigerian detainee under deportation order died at the Omura Immigration Center in Nagasaki. The Immigration Services Agency, under the Justice Ministry, investigated the death but did not publicize the cause. On August 8, the JFBA stated that the man, the father of a Japanese child, was at the time of his death on a hunger strike at the detention facility to protest his three years and seven months in detention. The JFBA called on the independent inspection committee on immigration detention facilities to investigate his death and publicize its findings. In October the Immigration Services Agency proposed measures to improve counseling, medical treatment, and information sharing by detention workers.

As of September, 198 detainees were on hunger strike across the country.

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 country's refugee screening process was, however, strict; in 2018, 42 asylum applications (vice 20 in 2017) were approved out of 10,493 applications. NGOs and UNHCR expressed concern about the low rate of approval (0.25 percent). Civil society groups said that more restrictive screening procedures implemented in 2018 resulted in the voluntary withdrawal of an additional 2,923 applications. NGOs noted the broadening of categories of individuals who could be granted asylum, citing one case in which the recipient was facing persecution in his or her home country as an LGBTI individual.

Forty foreign nationals not recognized as refugees were also admitted under humanitarian considerations.

In addition to the regular asylum application system, the government may accept other refugees under a pilot refugee resettlement program that began in 2010. On September 25, as part of the program, the government accepted 20 Syrian refugees from six families who had been staying temporarily in Malaysia. The government capped refugees from Burma at 30 a year within the pilot program. Approximately 300 Rohingya Muslims were living in the country under special stay permits on humanitarian grounds or temporary stay visas on the basis of ethnic and religious

persecution in Burma. Only 18 Rohingya asylum seekers have been granted refugee status.

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 could not afford it.

The Ministry of Justice, the Federation of Bar Associations, and the NGO Forum for Refugees Japan continued to cooperate to implement the Alternatives to Detention (ATD) project to provide accommodations, 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 project. An NGO reported a significant decrease in the number of refugee applicants at air and sea ports, to 12 from January through June 2018 from 133 in 2017.

Freedom of Movement: A refugee or asylum seeker may be granted a provisional release from detention with several restrictions. Under provisional release, the foreigner must appear at the Immigration Bureau once a month, stay within the prefecture in which he or she resides, and report any change of residence to the Immigration Office. The system of provisional release requires a deposit that may amount up to three million yen (\$27,600) depending on the individual case. If the refugee or asylum seeker does not follow the requirements of provisional release, their deposit is subject to confiscation. Lawyers noted that those found working illegally are punished with a minimum of three years of detention.

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 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 often 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 dependent on overcrowded government shelters, illegal employment, or NGO assistance.

Temporary Protection: The government provided temporary protection to 40 individuals in 2018 who may not qualify as refugees.

### **g. Stateless Persons**

Japan-born children of the approximately 70,000 ethnic Koreans who had their Japanese citizenship revoked following the end of Japanese colonial rule in Korea at the end of World War II are also deemed foreign nationals due to a law that bases nationality on strict blood lineage. While they could opt for South or North Korean citizenship or to pursue Japanese citizenship, many have not done so and are effectively stateless. While they hold no passports, these ethnic Koreans may travel overseas with temporary travel documents issued by the Japanese government. They experience restrictions related to voting and holding public service positions.

Children born to Rohingya living in the country remain stateless.

## **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 in 2017 was 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, taking 283 of the 465 seats in the Lower House of parliament. Upper House elections in July, which Prime Minister Abe's Liberal Democratic Party and its coalition partner, the Komeito Party, won with a solid majority, also were considered free and fair.

Groups of lawyers and voters filed lawsuits following the July election challenging the constitutionality of the results based on a disparity in the value of votes. Votes cast in the least-populated electoral districts were effectively worth approximately three times of those cast in the most densely populated districts. The constitution

stipulates that votes have equal value. Kagawa Prefecture's Takamatsu High Court ruled on October 16 the July Upper House election was held in a state that runs counter to vote equality, but it did not declare the results unconstitutional and dismissed the plaintiffs' demand for nullification, citing lawmakers' efforts to reduce the disparity.

Participation of Women and Minorities: No laws limit participation of women and minorities in the political process, and they did participate. Women voted at rates equal to or higher than men. In all national elections since the late 1960s, women made up a majority of voters, according to data by the Internal Affairs and Communications Ministry. Women, however, have not been elected to any level of office at rates reflecting this.

The law calls on political parties to make their best efforts to have equal numbers of male and female candidates on the ballot in national and local elections. Women held 47 of 465 seats in the Diet's Lower House and 56 of 245 seats in the Upper House. Women held two of 20 seats in the cabinet, but none of the four senior posts in the ruling Liberal Democratic Party. At the end of 2018 there were two female governors in the 47 prefectures. Nationwide, approximately 45 percent of local assemblies had either one or no women legislators.

Very few individuals with disabilities run as candidates. In the July election, two wheelchair-bound candidates were elected to the Diet, becoming the first two lawmakers in wheelchairs, among a very small population of persons with disabilities who have won seats nationwide.

Some ethnic minority group members of mixed heritage served in the Diet, but their numbers were difficult to ascertain because they did not self-identify.

#### **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. There were documented cases of corruption by officials.

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 investigations into financial and accounting irregularities involving government officials.

Corruption: Media reported on several convictions related to corruption. In September it was made public that the former deputy mayor of Fukui Prefecture's Takahama, which hosts a Kansai Electric Power Co. (KEPCO) nuclear power plant, paid KEPCO's president, chairman, and other executives 320 million yen (\$2.95 million) in money and goods over a seven-year period beginning in 2011 in return for receiving at least 2.5 billion yen (\$23 million) worth of nuclear plant-related work orders for a local construction company. In August a Diet member and parliamentary vice minister at the Ministry for Health, Labor, and Welfare (MHLW), resigned his ministry position following allegations he planned to accept bribes for pressuring the Ministry of Justice to expedite issuance of visas for foreign workers. The accused individual denied he had done anything illegal and kept his Diet seat.

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. Local ordinances require governors of all 47 prefectures, prefectural assembly members, mayors, and assembly members of 20 major cities to disclose their incomes and assets; assembly members of the remaining approximately 1,720 municipalities are not required to do the same. There are no penalties for false disclosure. The law does not apply to unelected officials. Separately, a cabinet 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 were usually cooperative and responsive to their views.

Government Human Rights Bodies: The Justice Ministry's Human Rights Counseling Office has more than 300 offices across the country. Approximately 14,000 volunteers fielded questions in person, by telephone, or on the internet, and provided confidential consultations. Counselling in any of six foreign languages was available in 50 offices. These consultative offices fielded queries, but they do not have authority to investigate human rights violations by individuals or public

organizations, provide counsel, or mediate. Municipal governments have human rights offices that deal with a range of human rights problems.

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

Discrimination based on race, ethnicity, nationality, sexual orientation, or gender identity is not prohibited.

### **Women**

Rape and Domestic Violence: The law criminalizes various forms of rape, regardless of the gender of a victim. The law also criminalizes custodial rape of a minor younger than age 18. The law does not deny the possibility of 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.). The law mandates a minimum sentence of five years in prison for rape convictions. Prosecutors must prove that violence or intimidation was involved or that the victim was incapable of resistance. Domestic violence is also a crime for which victims may seek restraining orders. Convicted assault perpetrators face up to two years' imprisonment or a fine of up to 300,000 yen (\$2,760). Convicted offenders who caused bodily injury faced up to 15 years' imprisonment or a fine of up to 500,000 yen (\$4,600). Protective order violators face up to one year's imprisonment or a fine of up to one million yen (\$9,200).

Several acquittals in rape cases called attention to the high legal standard and prosecutorial burden, which NGOs asserted imposed an unfairly high burden on victims and deterred them from coming forward. In March a Nagoya court acquitted a father accused of raping his 19-year-old daughter despite recognizing that the sex was nonconsensual and that force was involved, concluding that doubt remained whether she had no option other than to submit. In July the Nagoya Prosecutors' Office decided not to indict a former Diet member for suspected sexual assault against his girlfriend while she was sleeping.

During the year the press also reported at least two arrests involving rapes and sexual assaults by male employees of large private firms against female college students during job-hunting meetings.

NGOs and legal experts pointed out a lack of training for judges, prosecutors, and lawyers about sexual crimes and victims.



Rape and domestic violence are significantly underreported crimes. According to a survey by the government's Gender Equality Bureau, only 2.8 percent of sexual assault victims report the crime to police and nearly 60 percent of rape victims do not report the crime. Observers attributed women's reluctance to report rape to a variety of factors, including fear of being blamed, fear of public shaming, a lack of victim support, potential secondary victimization through the police response, and court proceedings that lacked empathy for rape victims.

Victims of abuse by domestic partners, spouses, and former spouses could receive protection at shelters.

Sexual Harassment: Sexual harassment in the workplace persisted. The law does not criminalize sexual harassment but includes measures to identify companies that fail to prevent it. Prefectural labor offices and the MHLW provided these companies with advice, guidance, and recommendations. Companies that fail to comply with government guidance may be publicly identified, although this has not happened in years.

The government has a set of measures to prevent sexual harassment, including requiring all senior national government officials to take mandatory training courses as well as setting up a consultation mechanism in each ministry and agency to which the general public can report sexual harassment. Nonetheless, harassment continued in government agencies.

Public reports of suspected sexual harassment committed by two former ambassadors at their respective embassies raised questions about how the Ministry of Foreign Affairs handles sexual harassment. In May the Tokyo Metropolitan Police forwarded to prosecutors a criminal case against the former ambassador to Iran suspected of forcible indecency with a female ministry official at the embassy there. The accuser's legal representative claimed her superior instructed her to delete an account of the sexual assault from an internal report of the harassment she submitted to the ministry. In March the ministry suspended the former ambassador to Kenya from duty without announcing a specific reason but did not deny allegations that he had engaged in sexual harassment at the embassy in Nairobi.

In May the Diet passed a set of labor law revisions making it mandatory for companies to take preventive measures against power harassment in the workplace. The revisions, which go into effect in April 2020, also created additional requirements for companies to prevent sexual harassment.

Press reported that sexual harassment targeting students during job-hunting activities was widespread. The government requires companies to prevent sexual harassment in the workplace, but the regulations do not apply to students looking for jobs. To address this, universities were issuing warnings to students, and some companies announced new conduct rules to their employees when meeting students searching for jobs (see section 7.d.).

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

In April the government passed a law to compensate individuals who were involuntarily sterilized from 1948 to 1996 under a policy that targeted persons with disabilities under the defunct Eugenic Protection Law. Affected persons received approximately 2.57 million yen (\$28,000) each and a formal apology. The MHLW estimated 25,000 persons were subjected to forced sterilization surgery under that law.

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.

In June a group submitted a petition to the MHLW calling for a ban on workplace dress codes that require women to wear high heels, citing gender equality and gender-based workplace discrimination, as well as health concerns. The petition had approximately 30,000 signatures. Following the submission of the petition, the labor minister commented, “[wearing heels] is socially accepted as something that falls within the realm of being occupationally necessary and appropriate.” Later he added, “It depends on the specific situation. In light of social norms, it can’t be considered harassment unless it exceeds the scope of what’s appropriate and necessary for the job.” Approximately 60 percent of Japanese women have reportedly been asked to wear heels for work or a job interview.

NGOs continued to urge the government to 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 were allowed to register births after the deadline but were 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. 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 continued to increase. Police protected a larger number of victims while arresting a greater number of abusers (mainly fathers, mothers, stepfathers, or parents' boyfriends) for physical, sexual, or psychological assaults, killing, or neglect. The MHLW received increased reports of psychological abuse as a result of witnessing domestic violence at home.

Legal experts called for MHLW's child-care centers and police to share child abuse cases fully to identify and prevent further abuse. The law provides for a simplified process to inspect homes where child abuse is suspected; requires child welfare offices to have legal, psychological, and medical experts on staff; allows more municipalities to have child-welfare offices; and, raised the age of eligibility for staying at public homes.

Reports of sexual abuse of children by teachers continued. Local education boards around the nation imposed disciplinary actions on 210 teachers of public schools for child obscenity from April 2017 through March 2018, according to the Ministry of Education, Culture, Sports, Science, and Technology. Child assistance experts urged the ministry to share information more actively on teachers involved in child molestation with police to reduce further victimization of children in schools.

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 younger than age 20 may not marry without at least one parent's approval. A law creating gender parity in the legal age to marry, 18 for both sexes, comes into force in 2022.

Sexual Exploitation of Children: Child prostitution is illegal, with penalties including prison sentences or fines. Statutory rape laws criminalize sexual intercourse with a girl younger than age 13, notwithstanding her consent. The penalty for statutory rape is not less than three years' imprisonment with mandatory labor. The law was enforced. Additionally, national law and local ordinances address sexual abuse of minors. 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 (\$27,600). Police continued to crack down on this crime.

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's interagency taskforce to combat child sex trafficking in *joshi kosei* (or "JK" businesses)--dating services connecting adult men with underage girls--and in forced pornography continued to strengthen its crackdown on such businesses. In 2018 authorities identified 137 of these operations nationwide. A total of 69 individuals alleged to have been engaged in unspecified criminal activities surrounding the JK business were arrested, and seven major prefectures passed ordinances banning JK businesses, prohibiting girls younger than 18 from working in "compensated dating services," or requiring JK business owners to register their employee rosters with local public safety commissions. NGOs helping girls in the JK business reported a link between these activities and the commercial sexual exploitation of children in prostitution.

The country was a site for the production of child pornography and the exploitation of children by traffickers.

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 <https://www.state.gov/trafficking-in-persons-report/>.

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

<https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

### **Anti-Semitism**

No official statistics of the Jewish population in the country were available. According to a Jewish community representative, approximately 100 households are active members of the community. Anti-Semitic speech continued in rare incidents in the public and cyber space. In early 2018 popular anime director Kazuyoshi Yaginuma sent tweets questioning the Holocaust and supporting other anti-Semitic tweets. There were no reports of anti-Semitic incidents during the year.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **Persons with Disabilities**

The law prohibits discrimination against persons with physical, intellectual, mental, or other disabilities affecting body and mind and bars infringement of their rights and interests on the grounds of disability in the public and private sectors. The law 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. The laws do not stipulate remedies for persons with disabilities who experience discriminatory acts, nor do they establish penalties for noncompliance. The law also mandates that the government and private companies hire minimum proportions (2.5 percent and 2.2 percent, respectively) of persons with disabilities (including mental disabilities) or be fined. Disability rights advocates claimed 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.

Nonetheless, persons with disabilities faced limited access to some public-sector services. Abuse of persons with disabilities was a serious concern. Persons with disabilities around the country experienced abuse by family members, care-facility employees, and employers. Private surveys indicated discrimination against and sexual abuse of women with disabilities.

In July the government agreed to implement a court ruling awarding damages to former leprosy patients' relatives. The court ruled the state acted illegally when it failed to end the segregation of persons with leprosy by 1960 and retained a discriminatory law on leprosy until 1996.

NGOs continued to express concern that persons with disabilities tended to be stigmatized and segregated from the general population. While some schools provided inclusive education, children with disabilities generally attended specialized schools.

Mental health professionals asserted the government's efforts to reduce the stigma of mental illness and inform the public that depression and other mental illnesses are treatable and biology-based were insufficient.

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

Minorities experienced varying degrees of societal discrimination.

The law specifically addresses discrimination against *Buraku* (the descendants of feudal-era outcasts). It obligates national and local governments to 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 and nonethnically Japanese citizens, 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 and “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. Such discrimination usually was open and direct, and NGOs complained of government failure to enforce laws prohibiting such restrictions.

There was no indication of increased societal acceptance of ethnic Koreans. Representatives of the ethnic Korean community said hate speech against Koreans in public and on social networking sites persisted. After a stabbing spree in May that left 20 persons dead or injured, false rumors were spread online claiming the perpetrator was Korean. In March the government’s Japan Pension Service fired a branch director after he tweeted offensive messages against Koreans. 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 job promotions as well as 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**

In April a law was enacted to recognize officially Ainu as indigenous people, prohibit discrimination against them, prohibit the violation of Ainu rights, and protect and promote their culture. The law requires the national and local governments to take measures to support communities and boost local economies and tourism. The law does not stipulate rights to self-determination or education for the Ainu.

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**

The law requires transgender persons to be without reproductive capacity, effectively requiring surgical sterilization for most persons, in order to have their gender identity legally recognized. They also must meet additional conditions, including undergoing a psychiatric evaluation and receiving a diagnosis of “gender identity disorder,” which the World Health Organization formally removed from the mental disorders section of the International Classification of Diseases released in May; being unmarried and older than age 20; and not having any children younger than age 20. On January 23, the Supreme Court ruled on a suit filed in 2016 that the above requirements were constitutional.

No law prohibits discrimination based on sexual orientation or gender identity, and there are no penalties associated with such discrimination. In February the Tokyo District Court dismissed a damage suit against Hitotsubashi University filed by parents of a student who fell from the school building in 2015 after his classmates without his consent disclosed he was gay; the court declared the university bore no responsibility for the death.

The Ministry of Justice received 33 inquiries about potential human rights violations based on sexual orientation and gender identity in 2018, providing the inquirers with legal advice. LGBTI advocacy organizations reported instances of discrimination, outing, bullying, harassment, and violence.

Stigma surrounding LGBTI persons remained an impediment to self-reporting of discrimination or abuse.

A ruling Liberal Democratic Party Diet member, Katsuei Hirasawa, reportedly stated at a January 3 public event that a nation would collapse if everyone became like LGBTI persons. LGBTI rights advocates criticized his remark for denying sexual diversity and being discriminatory by exaggerating an unlikely reality.

In August for the first time, a transgender person received a long-term residency permit on the basis of her same-sex partnership.

A Constitutional Democratic Party of Japan Diet member, Taiga Ishikawa, became the second openly LGBTI national legislator at the July Upper House election. The Ibaraki Prefecture government enacted a prefectural ordinance banning



discrimination based on gender identity or sexual orientation on March 25, becoming the second prefecture to do so, after Tokyo. A number of municipalities have also done so. LGBTI advocates welcomed these moves but also expressed concern about their effectiveness due to the general lack of a remedies clause.

### **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 their HIV 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.

### **Other Societal Violence or Discrimination**

Police arrested a series of individuals who abused senior citizens, and the MHLW reported rising rates of physical, psychological, and sexual abuse of senior citizens, as well as nursing care negligence by their families and nursery care center employees.

## **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 may participate in public-service employee unions, which may negotiate collectively with their employers on wages, hours, and other conditions of employment. 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. Firefighting personnel and prison officers are prohibited from organizing and collectively bargaining. While the government implemented a streamlined system for firefighting personnel to provide opinions and input to

managerial staff in April, this system continues to deny the personnel the right to organize.

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 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, imprisonment, or both.

The government and employers generally respected freedom of association and the right to collective bargaining, but the increasing use of short-term contracts undermined regular employment and frustrated organizing efforts. Collective bargaining was common in the private sector.

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

The law prohibits all forms of forced or compulsory labor.

Violations persisted and enforcement was lacking in some segments of the labor market, such as in sectors where foreign workers were employed. In general, however, the government enforced the law effectively. 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 all of them carry sufficient penalties to deter violations. For example, the law criminalizes forced labor and prescribes penalties of up to 10 years' imprisonment, but it also allows for fines in lieu of incarceration. NGOs argued that reliance on multiple and overlapping statutes hindered the government's ability to identify and prosecute trafficking crimes, especially for cases involving forced labor with elements of psychological coercion.

Indicators of forced labor persisted in the manufacturing, construction, and shipbuilding sectors, primarily 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 many 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, excessive working hours, high debts to brokers in countries of origin, and retention of identity documents, despite government prohibitions on these practices. 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 (\$9,200) in their home countries for jobs and were employed under contracts that mandated forfeiture of those funds to agents in their home country if workers attempted to leave, both of which are illegal under the TITP. The Organization for Technical Intern Training (OTIT) oversees the TITP program, including conducting on-site inspections of TITP workplaces. OTIT increased its workforce, including hiring new inspectors, but labor organizations continued to cite concerns that OTIT is understaffed, insufficiently accessible to persons who do not speak Japanese, and ineffective at prosecuting labor abuse cases.

Also see the Department of State’s *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

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

Children ages 15 to 18 may perform any job not designated as dangerous or harmful, such as handling heavy objects or cleaning, inspecting, or repairing machinery while in operation. They are also prohibited from working late night shifts. Children ages 13 to 15 years may perform “light labor” only, and children younger than age 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. The law does not explicitly prohibit discrimination with respect to employment and occupation based on religion, sexual orientation or gender identity, HIV-positive status, or language.

The law prohibits gender-based discrimination in certain circumstances, including recruitment, promotion, training, and renewal of contracts, but it does not address mandatory dress codes.

The law also mandates equal pay for men and women; however, the International Labor Organization noted the law's protection against such wage discrimination is too limited because it does not capture the concept of "work of equal value." Enforcement regulations of the equal employment opportunity law also include prohibitions against policies or practices that were adopted not 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. Women, however, continued to express concern about unequal treatment in the workforce, including sexual and pregnancy harassment. Women's average monthly wage was approximately 73 percent of that of men in 2018.

The law included provisions to obligate employers to treat regular and nonregular workers equally when 1) the job contents are the same and 2) the scope of expected changes to the job content and work location are the same. The labor law revisions related to equal pay for equal work go into effect in April 2020 for large companies and in 2021 for small and medium enterprises (SME).

The women's empowerment law requires national and local governments, as well as private-sector companies that employ at least 301 persons, to analyze women's employment in their organizations and release action plans to promote women's participation and advancement. Revisions to this law passed in May, which expand the reporting requirements to SMEs that employ at least 101 persons and increase the number of disclosure items, go into effect in 2021.

In response to government agencies overstating the number of their employees with disabilities to meet statutory hiring requirements in 2018, the government revised the law in June. The revisions included new preventive provisions, including a requirement for verification of disability certificates to ensure the job

candidate's disability. In August the MHLW released its statistics showing nearly 40 percent of government institutions missed hiring targets for persons with disabilities. The law mandates that both government and private companies hire at or above a designated minimum proportion of persons with disabilities (including mental disabilities). The law requires a minimum hiring rate for the government to be 2.5 percent and for private companies to be 2.2 percent. By law companies with more than 100 employees that do not comply with requirements to hire minimum proportions of persons with disabilities must pay a fine per vacant position per month. There is no penalty for government entities failing to meet the legal minimum hiring ratio for persons with disabilities. Disability rights advocates claimed that some companies preferred to pay the mandated fine rather than hire persons with disabilities.

In cases of violation of law on equal employment opportunity, the MHLW may request the employer 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 publicly 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.

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

The law establishes a minimum wage, which varies by prefecture and allows for earnings above the official poverty line.

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 of 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 grace period for SMEs exempting them from paying 50 percent for overtime that exceeds 60 hours a month will be abolished in April 2023.

For large companies the law caps overtime work and subjects violators to penalties including fines and imprisonment, conditions that will be extended to SMEs in 2020. In principle overtime work will be permitted only up to 45 hours per month and 360 hours per year. Even in the case of special and temporary circumstances,

it must be limited to less than 720 hours per year and 100 hours per month (including holiday work), and the average hours of overtime work over a period of more than two months must be less than 80 hours (including holiday work). The law also includes provisions to introduce the Highly Professional System (a white-collar exemption), which would eliminate the requirement to pay any overtime (including premium pay for holiday work or late-night work) for a small number of highly skilled professionals earning an annual salary of more than approximately 10 million yen (\$92,000). Labor unions continued to criticize the government for failing to enforce the law regarding maximum working hours; workers, including those in government jobs, routinely exceeded the hours outlined in the law.

The government sets occupational safety and health (OSH) 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 OSH standards for mining, and the Ministry of Land, Infrastructure, Transport, and Tourism is responsible for OSH 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, and provides for fines for employers who fail to comply with applicable OSH laws.

Penalties for OSH 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 guidance. MHLW officials acknowledged their resources were inadequate to oversee more than 4.3 million firms and that the number of labor inspectors was not sufficient to deter violations.

Reports of OSH violations 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.).

Falls, road traffic accidents, and injuries caused by heavy machinery were the most common causes of workplace fatalities. The MHLW also continued to grant

formal recognition to victims of *karoshi* (death by overwork). Their former employers and the government paid compensation to family members when conditions were met.

In May the Diet passed a set of labor law revisions requiring companies to take preventive measures for power harassment in the workplace and creating additional requirements for companies to prevent sexual harassment. The revisions go into effect in April 2020, making it mandatory for large companies and an “obligation to make efforts” for SMEs.