



Japan

Country Reports on Human Rights Practices - [2000](#)

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Japan is a parliamentary democracy based on the 1947 Constitution. Sovereignty is vested in the people, and the Emperor is defined as the symbol of state. Executive power is exercised by a cabinet, composed of a prime minister and ministers of state, which is responsible to the Diet, a two-house parliament. The Diet, elected by universal suffrage and secret ballot, designates the Prime Minister, who must be a member of that body. The Liberal Democratic Party (LDP), Conservative Party, and the Komeito party formed the current Government in July. The judiciary is independent.

The self defense forces are responsible for external security and have limited domestic security responsibilities. The well-organized and disciplined police force is firmly under the control of the civilian authorities. However, there continued to be credible reports that police committed some human rights abuses.

The industrialized free market economy is highly efficient and competitive in world markets and provides residents with a high standard of living.

The Government respects the human rights of its citizens; however, there are problems in some areas. There continued to be some credible reports that police and prison officials physically and psychologically abused prisoners and detainees. Officials sometimes are dismissed for such abuse but seldom are tried, convicted, and imprisoned. Violence against women and children, child prostitution, and trafficking in women are problems. Women, the Ainu (Japan's indigenous people), the Burakumin (a group whose members historically are treated as outcasts), and alien residents experience varying degrees of societal discrimination, some of it severe and longstanding. The Ministry of Justice handles complaints of discrimination. However, the Ministry's Human Rights Defense Bureau has a small staff and limited investigative or enforcement powers. The administrative system for combating human rights violations is weak. Many cases end up in court.

The Justice Ministry's Human Rights Commission continued to work on a 5-year mandate to develop measures to educate citizens about the importance of respecting human rights. In July 1999, the Commission submitted a report calling for greater attention to human rights education, particularly at the municipal level. The report also cited a number of ongoing human rights problems, including sexual harassment, violence in the home, and discrimination against the elderly, the disabled, minorities, and foreigners. The panel is to submit recommendations on relief measures by 2002.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

There were no reports of political or other extrajudicial killings.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The Constitution provides for freedom from torture and cruel, inhuman, or degrading treatment or punishment, and the Penal Code prohibits violence and cruelty toward suspects under criminal investigation; however, reports by several bar associations, human rights groups, and some prisoners indicate that police and prison officials sometimes used physical violence, including kicking and beating, as well as psychological intimidation, to obtain confessions from suspects in custody or to enforce discipline. There also were allegations of beatings of detainees by employees of private security companies that operate immigration detention facilities at Narita International airport. In 1998 the Supreme Court ordered the Kanagawa police to pay a \$5,850 (700,000 yen) fine to a man who was beaten in custody. Internal police reports that alleged coverups of misconduct, corruption, and bullying shook public confidence in the police at the beginning of the year, and resulted in the establishment in March of the Council on the Reform of Police Systems, a six-person board of academic and other private sector experts, to consider new rules governing police conduct and duties, as well as changes to the overall law enforcement structure. In July the Council submitted its recommendations; the Diet incorporated some of the Council's recommendations into the Revised National Police Law passed in November. The new law allows individuals to lodge complaints against the police with national and local public safety commissions. These commissions may direct the police to conduct investigations.

The Constitution and the Criminal Code include safeguards to ensure that no criminal suspect can be compelled to make a self-incriminating confession, nor convicted or punished in cases where the only evidence against him is the accused's own confession. The appellate courts have overturned some convictions in recent years on the grounds that they were obtained as a result of coerced confessions. In April, after another man admitted his guilt, prosecutors dismissed charges against a man held for over a year in police custody after having "confessed" to fraud and theft charges. He had undergone intense questioning prior to confessing. In addition civil and criminal suits alleging abuse during interrogation and detention have been brought against some police and prosecution officials. About 90 percent of all criminal cases going to trial include confessions, reflecting the priority the judicial system places on admissions of guilt. The Government points out that the high percentage of confessions, like the high conviction rate, is reflective of a higher standard of evidence needed to bring about indictment in the Japanese system. In Japan confession is regarded as the first step in the rehabilitative process.

Physical restraints, such as leather handcuffs, continue to be used as a form of punishment, and some prisoners have been forced to eat and relieve themselves unassisted while wearing these restraints. Ministry of Justice officials state that restraints are used inside prisons only when prisoners have been violent and pose a threat to themselves and others, or when there is concern that a prisoner might attempt to escape. In May the Osaka District Court awarded a prisoner \$5,000 (500,000 yen) in compensation for being confined in leather handcuffs for 3 days while he was being held in solitary confinement. The Court ruled that manaculating the man after he attacked a warder was appropriate, but that the punishment's duration was too long.

Prison conditions meet most minimum international standards; however, prisons in most areas of the country are not heated, and prisoners are given only minimal additional clothing to protect themselves against cold weather. There have been cases of frostbite among the prison population. In February a foreign national prisoner was hospitalized for frostbite while incarcerated at Fuchu prison. The Ministry of Justice requested a second year of funding in August as part of a 3-year plan to install heaters in prison buildings nationwide. Individual cells will remain unheated. Prisoners may not purchase or be given supplementary food. They are discouraged strongly from complaining about conditions. Prisoners face severe restrictions on the quantity of their incoming and outgoing correspondence. The authorities read letters to and from prisoners, and the letters may be censored, or, with a court order, confiscated. All visits with convicted prisoners are monitored; however, those whose cases are pending are allowed private access to their legal representatives. Prison officials claim that the "no complaining" policy is designed to keep family members from worrying about their loved ones. For the same reason, the Justice Ministry usually does not inform a condemned inmate's family prior to the person's execution. Human rights organizations report that lawyers also are not told of an execution until after the fact, and that death row prisoners are held for years in solitary confinement with little contact with anyone but prison guards. Parole may not be granted for any reason, including medical and humanitarian, prior to an inmate serving two-thirds of his or her sentence.

In the past, the Japanese Federation of Bar Associations and human rights groups have criticized the prison system, with its emphasis on strict discipline and obedience to numerous rules. Prison rules remain confidential. Wardens continue to have broad leeway in enforcing punishments selectively, including "minor solitary confinement," which may be imposed for a minimum of 1 and not more than 60 days and in which the prisoner is made to sit (for foreigners) or kneel (for Japanese) motionless in the middle of an empty cell.

Conditions in immigration detention facilities meet most international standards.

The Government restricts access to prisons and detention facilities by human rights groups.

d. Arbitrary Arrest, Detention, or Exile

Constitutional provisions for freedom from arbitrary arrest or imprisonment generally are respected in practice. The law provides for judicial determination of the legality of detention. Persons may not be detained without charge, and prosecuting authorities must be prepared to demonstrate before trial that probable cause exists in order to detain the accused. Under the Code of Criminal Procedure, a suspect may be held in police custody for up to 72 hours without judicial proceedings. A judge may extend preindictment custody based on a prosecutor's application by up to two consecutive 10-day periods. These extensions are sought and granted routinely. Under extraordinary circumstances, prosecutors may seek an additional 5-day extension, bringing the maximum period of preindictment custody to 25 days.

In 1999 the Supreme Court upheld as constitutional the section of the Criminal Procedure Code under which police and prosecutors have the power to control and may limit access by legal counsel when deemed necessary for the sake of an investigation. Counsel may not be present during interrogations at any time before or after indictment. As a court-appointed attorney is not approved until after indictment, suspects must rely on their own resources to hire an attorney before indictment, although local bar associations provide detainees with limited free counseling. Critics charge that access to counsel is limited both in duration and frequency; the Government denies that this is the case. An attorney is provided at government expense after indictment if the arrested person cannot afford one. In 1999 presentencing bail was available in 15.6 percent of cases.

Bar associations and human rights groups have criticized the use of a "substitute prison system" for prisoners awaiting court hearings. Although the law stipulates that suspects should be held in "houses of detention" between arrest and sentencing, a police detention facility may be substituted at the order of the court. This provision originally was added to cover a shortage of normal detention facilities. According to year-end Ministry of Justice data, normal detention facilities were filled to 66.2 percent of capacity in 1999. Critics charge that allowing suspects to be detained by the same authorities who interrogate them heightens the potential for abuse and coercion. The Government counters that cases sent to police detention facilities tend to be those where the facts are not in dispute. A 1997 Justice Ministry regulation permits detention house officials to limit the amount of documentation related to ongoing court cases retained by prisoners.

The length of time before a suspect is brought to trial depends on the nature of the crime but rarely exceeds 3 months from the date of arrest; the average is 1 to 2 months. In one case an accused allegedly was held for 3 years.

The Government does not use forced exile.

e. Denial of Fair Public Trial

The judiciary is independent and free from executive branch interference. The Cabinet appoints judges for 10-year terms, which can be renewed until judges reach the age of 65. Justices of the Supreme Court can serve until the age of 70 but face periodic review through popular referendums.

There are several levels of courts, including high courts, district courts, family courts, and summary courts, with the Supreme Court serving as the highest judicial authority. Normally a trial begins at the district court level, and a verdict may be appealed to a higher court, and ultimately, to the Supreme Court.

The Government respects in practice the constitutional provisions for the right to a speedy and public trial by an impartial tribunal in all criminal cases. Although most criminal trials are completed within a reasonable length of time, cases may take several years to work their way through the trial and appeals process. For example, in the complex 1995 case of the Aum Shinrikyo cult sarin gas attack on the Tokyo subway system, trials of seven senior members of the cult were still underway in district courts at year's end, although 193 trials stemming from the attack have been completed.

There is no trial by jury. The defendant is informed of the charges upon arrest and is assured a public trial by an independent civilian court with defense counsel and the right of cross-examination. The Constitution provides defendants with the right not to be compelled to testify against themselves as well as to free and private access to counsel. However, the Government contends that the right to consult with attorneys is not an absolute one and can be restricted if such restriction is compatible with the spirit of the Constitution. Access is sometimes abridged in practice; for example the law allows prosecutors to control access to counsel before indictment, and there are allegations of coerced confessions (see Section 1.c.). Defendants are protected from the retroactive application of laws and have the right of access to incriminating evidence after a formal indictment has been made. However, the law does not require full disclosure by prosecutors, and material that the prosecution does not use in court may be suppressed. Critics claim that legal representatives of defendants do not always have access to all needed relevant material in the police record to prepare their defense. A defendant who is dissatisfied with the decision of a trial court of first instance may, within the

period prescribed by law, appeal to a higher court.

No guidelines mandate the acceptable quality of communications between judges, lawyers, and non-Japanese speaking defendants, although the Supreme Court publishes handbooks explaining the legal procedures and terms for court interpreters. In April the Supreme Court introduced a training system to help court interpreters understand complicated trial procedures. However, no standard licensing or qualification system for certifying court interpreters exists, and a trial may proceed even if the accused does not understand what is happening or being said. The Supreme Court's 1998 statistics show a chronic shortage of qualified court interpreters, particularly for non-English speaking defendants. Foreign prisoners frequently claim that police urge them to sign statements in Japanese that they cannot read, and that are not adequately translated.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution protects the right to privacy of family, home, and correspondence, and the Government respects this right in practice. Under the Constitution, each search or seizure must be based on a separate warrant issued by a judge. Standards for issuing such warrants exist to guard against arbitrary searches. In August the Diet enacted legislation, which allows law enforcement authorities to use wiretaps in certain criminal investigations, including suspected drug offenses, murder, and trafficking in persons. The legislation also stiffened penalties for the unauthorized use of wiretaps by police authorities. Under this legislation, wiretaps can only be used if law enforcement officials can demonstrate that all other investigative techniques have been ineffective.

There were no new developments in the long-standing effort by groups representing the women and the disabled to obtain a government investigation, a formal apology, and compensation in the case of the several thousand disabled women who were sterilized without their consent between 1949 and 1992. A law that the Government revoked in 1996 permitted doctors to sterilize persons with mental or physical disabilities or certain hereditary diseases without consent, after they had received the approval of committees appointed by local governments.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government respects these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combine to ensure freedom of speech and of the press.

Academic freedom is protected. However, the Education Ministry's decision to order revisions to elementary, middle, and high school textbooks based on national curriculum guidelines remains a source of domestic and international controversy. In 1997 the Supreme Court ruled that state screening of textbooks did not violate the constitutional provisions for freedom of expression.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association, and the Government respects these rights in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice. Following the 1995 Aum Shinrikyo terrorist attacks, a 1995 amendment to the Religious Corporation Law gave government authorities increased oversight of religious groups and required greater disclosure of financial assets by religious corporations. The amendment allows authorities to monitor more effectively the operations of registered religious corporations. The Government does not require that religious groups be licensed. However, to receive official recognition as a religious organization, which brings tax benefits and other advantages, a group must register with local or national authorities as a "religious corporation." In practice almost all religious groups register.

The only religion under active government surveillance is the Aum Shinrikyo cult. Aum Shinrikyo lost its legal status as a religious organization in 1996 following its sponsorship of terrorist attacks. In response to reports of increased cult fundraising and recruitment activities, local police and communities have taken measures

against cult members and chapters, including denying residency permits and public school access to cult leader Asahara's children. In December 1999, the Diet passed a set of bills that allow the authorities to more easily seize the group's assets, tighten surveillance against it, and force it to pay compensation to victims of its past crimes.

Members of the Unification Church and Jehovah's Witnesses have alleged that police do not act in response to allegations of forced deprogramming of church members. They also claim that police do not enforce the laws against kidnaping when the victim is held by family members, asserting that Unification Church members are subjected to prolonged arbitrary detention by individuals, who are not charged by police.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Citizens have the right to travel freely both within the country and abroad, to change their place of residence, to emigrate, and to repatriate voluntarily. Citizenship may be forfeited by naturalization in a foreign country or by failure of persons born with dual nationality to elect Japanese citizenship at the required age.

Revisions to the immigration law aimed at reducing visa overstays and smuggling of persons became effective in February. The new law imposes stiff penalties on persons illegally entering the country, and those deported are denied reentry for at least 5 years instead of the previous penalty of 1 year.

Asylum and refugee policy is in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. In recent years, the Government has granted asylum to those claiming fear of persecution in only a small number of cases. It believes that most persons seeking asylum in the country do so for economic reasons. During the year, approximately 300 persons in the country were either seeking asylum or accorded refugee status. As of year's end, the Government had recognized 22 refugee cases; 202 new asylum cases were pending. According to the U.N. High Commissioner for Refugees (UNHCR) most new applicants were from Pakistan, Burma, Afghanistan, and Iran. In addition approximately 10,400 Vietnamese nationals are permitted to reside in the country under special residence permits.

The Government has shown flexibility in dealing with visa extensions for Chinese student dissidents, although it continues to be reluctant to grant permanent asylum. Burmese asylum applicants have complained that asylum cases can go on for years without a formal decision.

The Government requires applicants to appear at an immigration office within 60 days of arrival or within 60 days of learning that they are likely to be persecuted in their home country. Individuals who do not present their applications within the 60-day time frame due to extenuating circumstances may apply for an exception. An alien who is recognized as a refugee has access to educational facilities, public relief and aid, and social welfare benefits. An alien who is denied refugee status may appeal the decision to the Ministry of Justice. Rejected applicants also may take their cases to court if Ministry authorities do not recognize their objections. In an effort to make procedures clearer to applicants, the Government distributes a pamphlet in English, Chinese, and eight other languages to those interested in the asylum process.

While the Government sometimes grants first asylum, there are no standard procedures established, and the Justice Ministry and the Foreign Affairs Ministry jointly decide upon such grants on a case-by-case basis. In 1998 the Justice Ministry began reversing an earlier decision to deny asylum to a group of Burmese prodemocracy students. In 1999 another 40 to 50 persons denied asylum were granted special residency status renewable on a yearly basis as of year's end. During the reporting period, 12 Afghan nationals who had been denied asylum on first application were granted special resident status, and approximately 15 other persons had been granted this status for humanitarian reasons as well.

There were no reports that persons were forced to return to a country where they feared persecution.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens have the right to change their government peacefully and are able to exercise this right in practice through frequent, free, and fair elections on the basis of universal suffrage by secret ballot. In 1998 the Diet granted citizens living overseas the right to vote for candidates in national elections in races based on proportional representation. In 1999 the Diet extended these absentee voting privileges to fishermen and mariners.

The country is a parliamentary democracy governed by the political party or parties able to form a majority in the lower house of its bicameral Diet. The Liberal Democratic Party, the Conservative Party, and the Komeito party formed the current Government in July.

There are no legal impediments to women's participation in government and politics, but they are underrepresented in both areas. In recent years there has been a slow increase in the number of women holding public office. As of December, women held 36 seats in the 480-member lower house of the Diet (7.5 percent), and 43 of the 252 seats in the upper house (17.1 percent), the highest number since 1946. There are 2 women in the 19-member Cabinet. Two of the country's 47 governors are women (in Osaka prefecture and in Kumamoto); both were elected during the year.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of local and international human rights organizations function freely, without governmental restrictions, investigating and publishing their findings on human rights cases. Government officials generally are cooperative and responsive to their views, although the Government restricts access to prisons and detention facilities by human rights groups (see Section 1.c.).

The Justice Ministry's Human Rights Commission continued to work on a 5-year mandate to develop measures to educate citizens about the importance of respecting human rights. In July 1999, the Commission submitted a report that called for greater attention to human rights education, particularly at the municipal level, and cites a number of ongoing human rights problems, including sexual harassment, violence in the home, and discrimination against the elderly, the disabled, minorities, and foreigners. The panel is expected to submit recommendations on relief measures by 2002.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination on the basis of race, creed, sex, social status, or family origin, and, in general, the Government respects these provisions.

Women

According to National Police Agency statistics, 2,060 rapes and 6,310 indecent assaults were reported through November. However, a government-sponsored poll showed that violence against women, particularly domestic violence, often goes unreported due to social and cultural concerns about shaming one's family or endangering the reputation of one's spouse or offspring. Husbands have been prosecuted for spousal rape; usually these cases involve a third party who assisted in the rape. The National Police Agency confirmed 7 cases of spousal rape through November. Typically women who are victims of domestic violence return to the home of their parents rather than file reports with the authorities. Therefore National Police Agency statistics on violence against women probably understate the magnitude of the problem. In the domestic violence survey conducted by the Prime Minister's Office released in February, 5 percent of wives said they had experienced "life-threatening violence" at least once. According to a survey conducted by the Prime Minister's Office in 1998, one in three women reported some form of physical abuse in the home. Frequent complaints by female commuters that they have been groped or otherwise molested on crowded trains led the Tokyo Metropolitan Police Department to establish special molestation complaint offices at three Tokyo train stations in 1995. In December the Keio Electric Railway Company announced plans to introduce women-only rail cars on late night trains in the Tokyo area over the holiday season to deal with the problem of groping. A Keio spokesman stated that the company had received 351 complaints about groping in the year ending March 31, an increase of 100 complaints over the previous 12-month period. Many local governments are responding positively to a need for confidential assistance by establishing special women's consultation departments in police and prefectural offices. A new antistalking law went into effect in November in response to rising complaints about women's lack of recourse in dealing with stalkers. Through December 26, the police arrested 20 persons under this new law.

Trafficking in women is a problem (see Sections 6.c. and 6.f.).

The Constitution and the Equal Employment Opportunity (EEO) Law prohibit sexual discrimination and provide for individual dignity and the essential equality of the sexes in the family. However, sexual harassment in the workplace remains widespread. A 1997 survey by the Ministry of Labor reported that 62 percent of women claimed to have experienced at least one act of sexual harassment. A National Personnel Authority survey of female public servants conducted from July to September similarly found that 69.2 percent of all female respondents believe they have been subjected to acts that constitute sexual harassment. The National Personnel Authority established workplace rules in April 1999 in an effort to stop harassment in public servants' workplaces. New survey data indicates that the most severe forms of sexual harassment may be declining in government workplaces; female public servants who said that their bosses had pressured them into a sexual relationship dropped from 17 percent in 1997 to 2.2 percent. In April 1999, a revision to the 1997 Equal Employment Opportunity (EEO) Law intended to address problems of sexual harassment and

discrimination against women went into effect. The revised EEO Law includes measures to identify companies that fail to prevent sexual harassment, although it does not include punitive measures to enforce compliance. The new law's only penalty is that names of companies that practice sexual discrimination can be publicized. The Ministry of Labor does not enforce compliance through fines or other punitive penalties. However, since the 1999 revision, there was a 35 percent jump in consultations over workplace sexual harassment cases. Under a 1997 revision to the Labor Standards Law an arbitration committee is allowed to initiate procedures to help ensure the rights of female workers at the worker's request, without first having to obtain approval from both management and the worker's union. A number of government entities continued to establish hot lines and designate ombudsmen to handle complaints of discrimination and sexual harassment.

In August the former governor of Osaka, Isamu Yamada, was sentenced to an 18-month suspended prison term after pleading guilty in a criminal court to molesting a 21-year-old campaign worker. In a 1999 civil suit, he was ordered to pay the campaign worker \$107,000 (11,235,000 yen), the largest award ever in the country in a sexual harassment suit. Women's groups viewed the result as a positive step forward in the effort to combat sexual harassment.

The Labor Standards Law forbids wage discrimination against women. Under the revised EEO Law, women may work overtime shifts for the first time.

Women make up 40 percent of the labor force, and women between the ages of 15 and 64 have a labor force participation rate of 51 percent. Although the Labor Standards and the EEO law prohibit wage discrimination against women, in 1999 female workers on average earned only 62 percent of average male earnings. Women age 20 to 24 earned 91 percent of men's wages for this age group, but average earnings of women age 50 to 54 were only 54 percent of the earnings of men in this age cohort. Much of this disparity results from the "two-track" personnel administration system found in most larger companies, under which new hires are put into one of two categories: Managerial track (those engaged in planning and decisionmaking jobs and with the potential to become top executives), or general track (those engaged in general office work). According to a 1998 survey by the Management and Coordination Agency, women held 9.2 percent of managerial positions. A 1998 Labor Ministry survey found that over half of the companies with a two-track personnel system did not even consider women for managerial track positions. According to the Home Ministry, as of April 1999, women constituted 32 percent of all local government workers but held only 4 percent of top local government positions. Female workers have suffered disproportionately from the continued sluggishness of the economy. A 1999 Rengo labor union study reported that the number of nonworking women grew by 420,000 as many gave up looking for jobs due to the tight employment market.

In addition to discrimination, the traditional male/female division of labor at home places disproportionate burdens on working women, who are still responsible for almost all child care and household duties.

Women's and disabled person's advocacy groups continue to press for a government investigation into sterilization cases that were carried out between 1949 and 1992, a formal government apology and compensation (see Section 1.f.).

In 1993 the government spokesperson publicly acknowledged and apologized for the former Imperial Government's involvement in the army's practice of forcing as many as 200,000 women (including Koreans, Filipinos, Chinese, Indonesians, Dutch, and Japanese) to provide sex to soldiers between 1932 and 1945. A 1999 U.N. Subcommittee on Prevention of Discrimination and Protection of Minorities report included a recommendation that the Government provide state compensation to former "comfort women" and prosecute those responsible for setting up and operating "comfort stations" during World War II. The Government has been unwilling to pay direct compensation to individual victims, on the grounds that postwar treaties already settled all war claims.

The "Asian Women's Fund" (AWF) was established in 1995 as a private, government-sponsored fund to "extend atonement and support" to former "comfort women." The AWF supports three types of projects: Payments to individual victims; medical and welfare assistance to individual comfort women; and funding projects to improve the general status of women and girls. Projects in the first category are funded by private donations, while the second and third types of projects are financed by the Government and administered by the AWF. As of December, the AWF had collected donations totaling approximately \$4.6 million (486 million yen) and given lump-sum payments of almost \$19,000 (2 million yen) each and a letter of apology signed by the Prime Minister to more than 170 women. These women also received medical and welfare assistance from the AWF. In 1998 the AWF reached an agreement with a Dutch affiliate to start compensation payments to former Dutch comfort women. Government officials estimate that up to 100 Dutch women were forced to provide sexual services during World War II.

The Government's refusal to pay direct compensation continues to draw international criticism. In December a

coalition of NGO's held the Women's International War Crimes Tribunal in Tokyo, a 5-day long mock trial designed to publicize the plight of former comfort women and the sentiment among many that the Government had not taken responsibility adequately for the abuses suffered by comfort women during World War II. In September, 15 former comfort women filed a class action lawsuit in a U.S. federal district court against the Japanese Government seeking compensation and an apology. At year's end, the case was pending. Similar lawsuits have been filed in other jurisdictions in previous years. In 1998 the Yamaguchi District Court ordered the Government to pay \$2,542 (300,000 yen) in state compensation to three Korean former sex slaves for neglecting its constitutional duty to enact compensation legislation following the Government's 1993 admission. However, the Court denied the plaintiffs' demand for an official government apology. This was the first court judgment rendered in favor of foreign war victims. Five other cases concerning former comfort women are pending in Tokyo District Court.

Children

The Government is committed to children's rights and welfare, and in general, the rights of children are protected adequately. Boys and girls have equal access to health care and other public services. Education is free and compulsory through the lower secondary level (age 14). Education is available widely to students who meet minimum academic standards at the upper secondary level through the age of 18.

Public attention also is focused increasingly on reports of frequent child abuse in the home. According to the National Police Agency, 44 children died of abuse or neglect, one less than in 1999. However, the number of child abuse cases increased 55 percent during the year. The police investigated 186 cases of child abuse during the year, in which 182 adults were arrested and 166 children put into state protection. Child protection centers also dealt with 12,411 cases of abuse, an increase of 60 percent over the previous year. A March 1999 report by the Ministry of Health and Welfare warned that recent cuts in funding by local governments to centers handling child abuse cases was exacerbating the problem, particularly since caseloads at counseling centers nearly doubled from 1988 to 1996. However, in May the Diet's enactment of a law granting child welfare officials authority to prohibit abusive parents from meeting or communicating with their children raised public awareness of the problem of child abuse. The law also bans abuse under the guise of discipline and obliges teachers, doctors, and welfare officials to report any suspicious circumstances.

Severe bullying ("ijime") continued to be a societal concern, at elementary and junior high schools, bullying most often involves verbal abuse, with physical abuse occurring more often at the high school level. However, because many cases go unreported, it is difficult to determine the exact number. According to a 1998 Management and Coordination Agency study, one in three elementary and junior high school students has been bullied, but more than one-third of the victims did not report the bullying to anyone. An Education Ministry survey released in August reported 18,900 cases of student-on-student violence in public schools during the 1999-2000 academic year. In June a court ruling linked an elementary school boy's 1994 suicide to corporal punishment inflicted by his teacher apparently this was the first time a teacher has been held accountable for such action by the courts. Educators, lawyers, and members of the boy and teacher's families residing in the Hyogo region where the incident occurred set up committees on classroom discipline and hot lines designed to prevent similar violence in the future. In addition to compiling statistics on bullying and consulting with various groups concerned with children's welfare, the Ministry of Justice's Office of the Ombudsman for Children's Rights provides counseling services for children 18 years of age and younger who have been victims of bullying.

Teachers also increasingly are becoming the targets of student violence. Education Ministry statistics for 1999 showed an 11.2 percent increase in assaults on teachers by students from the previous year.

In previous years, both the Government and society in general appeared to take a lenient attitude toward teenage prostitution and dating for money (which may or may not have involved sexual activities). However, in 1999 the Diet passed a law, which went into effect late that year, banning sex with children under age 18 as well as the production, sale, or distribution of child pornography. The law has reduced the open availability of child pornography. The law was passed following heightened public attention to a growing problem of teenage prostitution and international criticism over Japan's lax laws on child pornography. And, whereas in 1998 INTERPOL estimated that 80 percent of Internet sites with child pornography originated in Japan, by late 1999, after passage of the law, the police reported most of these locations had either disappeared entirely or were accessible only at random hours so as to avoid detection and arrest. Since April 1999, operators of pornographic home pages and suppliers of pornographic images have been required to register with local safety commissions and to ban offering such pages to persons under the age of 18. However, teenage prostitution and dating for money continued to be a societal concern. Through October the police arrested 508 persons for patronizing teenage prostitutes.

Under juvenile law, juvenile suspects are tried in family court and have the right of appeal to an appellate court. Family court proceedings are not open to the public, a policy that has been criticized by family members

of juvenile crime victims. The number of juveniles arrested and sent to prosecutors was down 6.3 percent in 1999, according to the National Police Agency.

During the year, the Tokyo prefectural government put into effect programs to protect the welfare of stateless children, whose births their illegal immigrant mothers refused to register for fear of forcible repatriation. Justice Ministry statistics showed 837 stateless minors under age 5 in 1999.

People with Disabilities

The law does not mandate accessibility to buildings for the disabled; however, 1994 legislation on construction standards for public facilities allows operators of hospitals, theaters, hotels, and similar enterprises to receive low-interest loans and tax breaks if they build wide entrances and elevators to accommodate those with disabilities. There are an estimated 2.9 million physically disabled and roughly 2 million mentally disabled persons. Although not generally subject to overt discrimination in employment, education, or in the provision of other state services, the disabled face limited access to public transportation, "mainstream" public education, and other facilities. In November the barrier free transportation law took effect requiring public transport systems to take measures to make their facilities more accessible to the disabled as well as the elderly. In January revisions to the Civil Code went into effect to enable persons with hearing problems or speech impediments to create valid wills; previously they could not because they cannot "convey orally" to a notary the contents of a will or affirm that the text the notary reads back to them is correct.

The Deliberation Panel on the Employment of the Handicapped, which operates within the Ministry of Labor, has mandated since 1976 that private companies with 300 or more employees hire a fixed minimum proportion of disabled persons. The penalty for noncompliance is a fine. A 1998 cabinet directive ordered private companies to raise the proportion of physically disabled persons in their work force from 1.6 to 1.8 percent and raised the percentage of disabled persons among civil servants from 2 to 2.1 percent.

An amendment to the Law to Promote the Employment of the Handicapped to include the mentally disabled took effect in 1998. The amendment also loosened the licensing requirements for community support centers that promote employment for the disabled, and it introduced government subsidies for the employment of mentally disabled persons in part-time jobs.

In 1995 the Headquarters for Promoting the Welfare of Disabled Persons, set up by the Prime Minister's Office, recommended that municipalities draw up formal plans for the care of disabled citizens by the end of March 1997. In 1996 the Ministry of Health and Welfare also instructed local governments to set numerical targets for the number of home help providers and care facilities allocated to the disabled. However, only one-third of the nation's municipalities have formal care plans for disabled citizens.

Women's and disabled person's advocacy groups continue to press for a government investigation into sterilization cases that were carried out between 1949 and 1992, a formal government apology, and compensation (see Section 1.f.).

Indigenous People

The Ainu are a people descended from the first inhabitants of Japan. Under an 1899 law, the Government pursued a policy of forced assimilation, imposing mandatory Japanese-language education and denying the Ainu their right to continue traditional practices. The law also left the Ainu with control of only approximately 0.15 percent of their original land holdings.

In 1997 the Sapporo District Court ruled that the Ainu were a minority aboriginal race, and later that year the Diet passed the Law to Promote Ainu Culture. The law officially recognized the Ainu as an ethnic minority and required all prefectural governments to develop basic programs for promoting Ainu culture and traditions. It canceled a series of previous laws that discriminated against the Ainu, including an 1899 law. However, the law stopped short of recognizing the Ainu as the indigenous people of Hokkaido and also failed to address whether they deserved special rights as a distinct ethnic group. The new law did not mandate civil rights protection for the Ainu. A nonbinding accompanying resolution referred to the Ainu as a legal Japanese minority. A 1998 report submitted by the U.N. Special Rapporteur to the 16th U.N. Working Group on Indigenous Populations stated that the Ainu had never entered into a consensual juridical relationship with any state and stated that the lack of such an agreement deprived them of their rights. Many Ainu criticize the Law to Promote Ainu Culture for not advancing Ainu political rights and criticize the Government for not providing funds for noncultural activities that would improve Ainu living conditions or financial status.

The Ainu continue to face societal discrimination while engaging in an uphill struggle against complete

assimilation. An Ainu-language newspaper was established in 1997. In 1998 a local Hokkaido radio station began broadcasting a weekly 15-minute Ainu-language program. Also in 1998, the Japan Ainu Association, a nationwide organization of Ainu, was established to lobby the Government for economic assistance and greater social welfare benefits for Ainu throughout the country.

National/Racial/Ethnic Minorities

The homogeneous nature of Japanese society impedes the integration of minority groups. This historically has affected Burakumin, Koreans, and alien workers.

The Burakumin (descendants of feudal era "outcasts" who practiced "unclean" professions such as butchering and undertaking), although not subject to governmental discrimination, are frequently victims of entrenched societal discrimination, including restricted access to housing and employment opportunities. They are estimated to number approximately 3 million, but most prefer to hide their identity. In a 1993 government survey, 33 percent of Burakumin said that they suffered discrimination at some point during their lifetime, with 24 percent experiencing difficulties in marriage, 24 percent in daily life, and 21 percent at their place of work. Beginning in 1969, the Government introduced with some success a number of social, economic, and legal programs designed to improve conditions for the Burakumin and hasten their assimilation into mainstream society. However, in recent years, some within the Burakumin community have questioned whether assimilation is an appropriate goal. When the basic legislation to provide funding for Burakumin programs expired in 1997, the Government enacted legislation effective for 5 years that retains 15 of the original 45 programs for Buraku communities.

In 1997 the Buraku Liberation League rewrote its manifesto for the first time in 13 years, placing less emphasis on class struggle and more emphasis on civil rights, social welfare, and the environment. The new platform also replaced the term Burakumin (hamlet people) with Buraku Jumin (hamlet residents), to try to debunk the false concept that these people are a different race from other Japanese. The platform was adopted at a national convention.

According to the Ministry of Justice, there were nearly 1.5 million legal foreign residents as of December 31, 1999, accounting for 1.23 percent of the population. Of these approximately 636,500 were ethnic Koreans, followed by 294,200 Chinese, and 224,300 Brazilians. The number of Korean residents—a record low 40.9 percent of the foreign population in 1999—has been decreasing steadily as Korean nationals naturalize or marry Japanese, which allows their children to gain Japanese citizenship automatically. Despite improvements in legal safeguards against discrimination, Korean permanent residents (most of whom were born, raised, and educated in Japan) still are subject to various forms of deeply entrenched societal discrimination.

Other foreigners also are subject to discrimination. There is a widespread perception that many crimes are committed by foreigners. In May the governor of Tokyo stated publicly that foreigners in the country might riot after an earthquake and warned that the country's self defense forces should be prepared. In December the Tokyo police admitted that as part of an anticrime effort, 700 posters, which ultimately were not used, had been issued to police stations to post in the Tokyo area that noted the increase in crime among foreigners, particularly among Chinese, and that urged citizens to call the police if they heard persons speaking Chinese. Justice Ministry officials in Toyama Prefecture ordered several shops to remove notices printed in English and Russian that warned persons they could not enter the stores if they did not understand Japanese on the grounds that the notices constituted racial discrimination.

By law aliens with 5 years of continuous residence are eligible for naturalization and the simultaneous acquisition of citizenship rights, including the right to vote. However, in practice most eligible aliens choose not to apply for citizenship, in part due to fears that their cultural identity thereby would be lost. Obstacles to naturalization include broad discretion available to adjudicating officers and great emphasis on Japanese language ability. Naturalization procedures also require an extensive background check, including inquiries into the applicant's economic status and assimilation into Japanese society. Koreans are given the option of adopting a Japanese surname. The Government defends its naturalization procedures as being necessary to ensure the smooth assimilation of foreigners into Japanese society. Alien permanent residents may live abroad up to 4 or 5 years without losing their right to permanent residence the country.

In 1995 the Supreme Court ruled that the Constitution does not bar permanent foreign residents from voting in local elections. However, the Court also ruled that existing laws denying voting rights to foreign residents are not unconstitutional. In April and in August, the Supreme Court upheld Nagoya and Osaka High Court decisions rejecting appeals by Korean permanent residents demanding the right to vote in local elections. The courts have consistently ruled that limiting the vote to Japanese nationals is constitutional, but that the Diet could legislate suffrage for foreign residents. A ruling coalition proposal to submit such legislation for Diet

approval was a major point of discussion during Korean President Kim Dae-jung's visit to Tokyo in September. However, at year's end the Government had not introduced the proposed legislation. In March 1999, the Osaka Prefectural Assembly passed a measure granting permanent residents local suffrage, becoming the third prefecture to pass such a bill.

Under the School Education Law, students attending Chinese, Korean, or other non-Japanese schools are not eligible to take national university examinations. However, in August the Education Ministry announced that beginning in 2001, graduates of non-Japanese schools would be eligible to take national university examinations if they pass a state-run high school equivalency test. A number of local governments provide subsidies to Korean schools; the central Government does not subsidize any non-Japanese language schools.

In April a revised law to end the practice of fingerprinting permanent foreign residents went into effect. Instead of fingerprinting, the Government established a family registry system that uses the resident's picture and signature and contains information on parents and spouses living in the country, a system similar to that used for Japanese nationals. All foreign residents still are required to carry alien registration certificates at all times, but the revised law reduces the penalties imposed on those found without documentation. The Government restored a Korean woman's permanent residency status 2 days after the new law entered into effect, 14 years after she had lost it for refusing to be fingerprinted.

In 1996 the Home Affairs Ministry reversed the long-held national policy of opposition to localities lifting the Japanese nationality requirement for public servants. However, the Ministry instructed local governments to restrict noncitizens' access to jobs that involved the exercise of public authority and formation of public opinion. The directive also required local governments to clearly state which jobs were closed to noncitizens. Some of the jobs considered off limits include tax collection, construction permit issuance, sanitation inspection, and firefighting.

Several local governments already have changed their rules in response to the Government's new position. In 1999 the Hakodate municipal government began to allow foreign residents to take employment tests for all city jobs except firefighters. According to a 1997 joint survey conducted by the All Japan Prefectural and Municipal Workers Union and the Korean Residents Association in Japan, 19.8 percent of local governments still forbid the hiring of noncitizens.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for the right of workers to associate freely in unions. Approximately 12 million workers, 22 percent of all employees, belong to labor unions. Unions are free of government control and influence. Most unions are involved in political activity as well as labor relations, but they are not controlled by political parties. The Japanese Trade Union Confederation, which represents 7.6 million workers and was formed in 1989 through the merger of several confederations, is the largest labor organization. There is no requirement for a single trade union structure, and there are no restrictions on who may be a union official. Members of the armed forces, police, and firefighters are not permitted to form unions or to strike. These restrictions have led to a long-running dispute before the International Labor Organization's (ILO) Committee on the Application of Conventions and Recommendations over the observance of ILO Convention 98 concerning the right to organize and bargain collectively. The Committee has observed that these public employees have a limited capacity to participate in the process of determining their wages and has asked the Government to consider any measures it could take to encourage negotiations with public employees.

The right to strike, implicit in the Constitution, is exercised. During 1999 87,000 workdays involving 26,000 employees were lost to strikes. The law prohibits retribution against strikers and is enforced effectively. Public employees do not have the right to strike.

Unions are free to affiliate internationally and are active in international bodies, most notably the International Confederation of Free Trade Unions, and maintain extensive international contacts.

b. The Right to Organize and Bargain Collectively

The Constitution provides unions with the right to organize, bargain, and act collectively. These rights are exercised freely, and collective bargaining is practiced widely. The annual "Spring Wage Offensive," in which individual unions in each industry conduct negotiations simultaneously with their firms, involves nationwide participation. Management usually consults closely with its enterprise union. However, trade unions are

independent of management and aggressively pursue the interests of their workers. The law prohibits antiunion discrimination, and adequate mechanisms exist for resolving cases that occur, including the reinstatement with back wages of any workers fired for union activities. However, the collective bargaining rights of public employees are limited. The Government determines the pay of government employees based on a recommendation by the independent National Personnel Authority.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The Constitution provides that no person shall be held in bondage of any kind. Involuntary servitude, except as punishment for crime, is prohibited. Although children are not specified in the provision, this legal prohibition against forced or compulsory labor applies equally to adults and to children. Although in general forced or bonded labor does not occur, women are trafficked to Japan and coerced into prostitution (see Section 6.f.).

In September a U.S. federal judge dismissed 13 lawsuits filed by former Allied prisoners of war against several Japanese companies seeking compensation for forced labor during World War II on the grounds that these claims were settled by the 1951 San Francisco Treaty of Peace with Japan barring war-related claims. The judge did not rule on whether similar suits filed by plaintiffs from China and South Korea, which were not signatories to the Treaty, could continue. Survivors and families of Chinese and Korean workers also continue to press claims for damages and compensation for their forced labor during the war, both in Japanese civil courts and in complaints to the ILO. In 1999 the Tokyo High Court ordered the Kajima Corporation to settle with Chinese wartime laborers and their survivors for forced labor at the Hanaoka copper mine it operated during the war. On November 29, the Kajima Corporation agreed to establish a \$4.6 million (500 million yen) fund to be administered by the Chinese Red Cross to compensate wartime workers. This was the first such settlement with Chinese forced to work in Japan during the war; however, the Kajima Corporation noted that the settlement did not represent an official acknowledgement of liability for events at the mine. An ILO committee has called on the Government to take additional measures to satisfy individual Chinese and Korean victims of forced labor during the war.

The Asian Women's Fund continued to support former comfort women, who were forced to provide sexual services to Japanese troops during World War II (see Section 5).

d. Status of Child Labor Practices and Minimum Age for Employment

The Constitution bans the exploitation of children. Both societal values and the rigorous enforcement of the Labor Standards Law protect children from exploitation in the workplace. The Government prohibits forced or bonded labor, including that performed by children and enforces this prohibition effectively (see Section 6.c.).

Child labor is virtually nonexistent. By law children under the age of 15 may not be employed, and those under age 18 may not be employed in dangerous or harmful jobs. The Labor Inspection Division of the Ministry of Labor, which vigorously enforces the Labor Standards Law, reports no violations. Society places an extremely high value on education, which is compulsory through the lower secondary (i.e., ninth grade) level. Enrollment levels for both boys and girls through the free and widely available upper secondary level (age 18) exceed 95 percent.

e. Acceptable Conditions of Work

Minimum wages are set on a regional (prefectural) and industry basis, with the input of tripartite (workers, employers, public interest) advisory councils. Employers covered by a minimum wage must post the concerned minimum wages, and compliance with minimum wages is considered widespread. Minimum wage rates, effective during the year, ranged from \$53 (5,560 yen) per day in Tokyo and Osaka to \$46 (4,795 yen) in Miyazaki, Aomori, Iwate, and Akita prefectures and are considered sufficient to provide a worker and family with a decent standard of living. The Labor Standards Law provides for a 40-hour workweek for most industries and mandates premium pay for hours worked over 40 in a week, or 8 in a day. However, labor unions frequently criticize the Government for failing to enforce maximum working hour regulations in smaller firms.

The Immigration Bureau of the Justice Ministry estimated that, as of January 1, there were 251,697 foreign nationals residing illegally in the country. Illegal immigrants come primarily from South Korea, the Philippines, China, Thailand, and Malaysia.

While many foreign illegal residents came in search of better paying manufacturing and construction jobs, these opportunities decreased during the economic slowdown. Thus more of the foreign workers are unemployed or marginally employed. Activist groups claim that employers exploit or discriminate against foreign workers, who often have little or no knowledge of the Japanese language or their legal rights. The Government has tried to reduce the inflow of illegal foreign workers by prosecuting employers. Recent revisions of the Immigration Law provide for penalties against employers of undocumented foreign workers. Suspected foreign workers also may be denied entry for passport, visa, and entry application irregularities. The August 1999 revision to the immigration law also established penalties for illegal stays separate from existing injunctions against illegal entry. The Government continues to study the foreign worker issue, and several citizens' groups are working with illegal foreign workers to improve their access to information on worker rights.

The Ministry of Labor effectively administers various laws and regulations governing occupational health and safety, principal among which is the 1972 Industrial Safety and Health Law. Standards are set by the Ministry of Labor and issued after consultation with the Standing Committee on Safety and Health of the Central Labor Standards Council. Labor inspectors have the authority to suspend unsafe operations immediately, and the law provides that workers may voice concerns over occupational safety and remove themselves from unsafe working conditions without jeopardizing their continued employment.

f. Trafficking in Persons

Although the law specifically prohibits trafficking, and there are provisions that could be used to combat it, the trafficking of persons, and particularly of women into the country for sexual purposes, is a problem. The Constitution prohibits holding persons in bondage; and in April 1999 the Law on Control and Improvement of Amusement Businesses was amended in order to supplement the Prostitution Prevention Act as an instrument against trafficking. The amended law sanctions employers rather than just sanctioning prostitute/victims and requires the Government to refuse to grant or to revoke the business license of anyone convicted of the "crime of encouragement" to engage in prostitution. The Penal Code contains articles that forbid the illegal arrest or confinement of another, as well as the kidnaping of another for profit. Labor and immigration laws also contain provisions relevant to trafficking victims. However, relatively few persons ever are prosecuted in connection with trafficking and forced sexual servitude; those who are prosecuted generally are prosecuted in connection with violations of immigration law. In May 1999 the Diet enacted a law intended to prevent all forms of sexual exploitation of children, whether trafficked or not, which imposes a 1- to 3-year sentence on anyone convicted of trading in children for the purpose of child prostitution or child pornography (see Section 5).

In 1998 the U.N. Committee on Human Rights noted that "traffic in women and insufficient protection for women subject to trafficking and slavery-like practices remain serious concerns." Japan is a destination country for trafficking in women for purposes of sexual exploitation. Brokers in source countries (e.g., the Philippines, the states of the former Soviet Union, and Thailand) recruit women and "sell" them to Japanese intermediaries, who in turn coerce them into the sex trade by subjecting them to excessive debts and seizing their passports. Agents, brokers, and employers involved in trafficking for the sex trade often have ties to organized crime. Reliable statistics on the number and origin of women trafficked to the country are unavailable, but a government-funded study released in August found that nearly two-thirds of foreign women surveyed following arrests for immigration offenses stated that they were working in the sex industry under duress. Ministry of Justice statistics indicated that 1.5 percent of the 24,661 women deported in 1999 were deported as prostitutes (others who worked in the sex industry were deported for other reasons). According to the Ministry of Justice, there were 126,982 foreign women who overstayed their visas in 1998; it is not known how many such women are involved in the sex industry or have been trafficked. Many women who are trafficked into the country, particularly from the Philippines, enter on entertainment visas. An estimated 40,000 women from the Philippines enter the country each year on such visas. "Entertainers" are not covered by the Labor Standards Law, and have no minimum wage protections; however, there are indications that they may be somewhat less vulnerable to abuse by employers than female migrant workers entering on other types of visas or illegally.

During the year, Human Rights Watch published an extensive report on Thai women in Japan. According to the report, many Thai women are enticed to come to the country with offers of lucrative legitimate employment, only to be forced into the sex industry; many others reportedly know that they will work in the sex trade. The passports of the trafficked women usually are confiscated by their "employers," leaving them unable to escape their circumstances.

The Government makes little effort to assist victims of trafficking for sexual purposes other than to house them temporarily in facilities established under the Antiprostitution Law, in detention centers for illegal immigrants, or through referrals to shelters run by NGO's; generally they are deported as illegal aliens. Women without documentation or sufficient funds to return to their country of origin may be detained for long periods. Several NGO's provide assistance to trafficking victims.

In recent years there has been a surge in the smuggling of illegal immigrants from China. These illegal immigrants often are held in debt bondage to make them pay off the smugglers.

[End.]