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## Japan

### Country Reports on Human Rights Practices - [2005](#)

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Japan is a parliamentary democracy with a population of approximately 127.8 million. Sovereignty is vested in the citizenry, and the emperor is defined as the symbol of state. Prime Minister Junichiro Koizumi headed a coalition composed of the Liberal Democratic Party and the New Komeito Party. The most recent national elections, accepted as generally free and fair, were held on September 11. The civilian authorities generally maintained effective control of the security forces.

The government made significant progress on trafficking in persons; otherwise, the country's human rights record remained virtually unchanged. The following human rights problems were reported:

- prisoner and detainee abuse
- violence against women
- child abuse
- child prostitution
- trafficking in women
- discrimination against women, the Ainu and *burakumin*, and alien residents

#### RESPECT FOR HUMAN RIGHTS

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

a. Arbitrary or Unlawful Deprivation of Life

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

In November the Nagoya District Court handed down suspended prison terms to two Nagoya prison guards who were convicted in 2004 for a 2001 incident that led to an inmate's death. The inmate died from bacterial shock after being sprayed by a high-pressure water hose.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The law prohibits such practices, and the government generally respected these provisions in practice. However, there were isolated reports by bar associations, human rights groups, and prisoners that police and prison officials sometimes committed abuses.

Although prison rules remained confidential, reported punishments included forcing Japanese prisoners to kneel motionless in an empty cell for several hours at a time and requiring foreigners and inmates with disabilities to sit on a hard stool. While the Prison Law Enforcement Regulation stipulates that the maximum time prisoners may be held in single cells is 6 months, wardens continued 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. Parole may not be granted for any reason, including medical and humanitarian reasons, until an inmate has served two-thirds of his or her sentence.

Human rights organizations reported that death row prisoners were held for years in solitary confinement with little contact with anyone but prison guards.

The law and the criminal code include safeguards to ensure that suspects cannot be compelled to confess to a crime and that they cannot be convicted or punished in cases where a suspect's confession is the only evidence. Unlike in 2004, there were no reports that police used physical violence that included kicking and beating as well as psychological intimidation during interrogation to obtain confessions. A significant number of all criminal cases going to trial included confessions, reflecting the priority the judicial system placed on admission of

guilt.

Unlike in 2004, there were no reports that prison guards sexually abused female inmates. On January 28, the prison officer who raped and impregnated a female inmate in 2003 was convicted and sentenced to a three-year prison term. There was no information on the case of the male prison warden charged with engaging in sexual acts with a female inmate in 2004.

#### Prison and Detention Center Conditions

Prison conditions generally met international standards. However, several facilities were overcrowded, unheated, and medically understaffed.

There were no reported deaths in prisons, detention centers, or other government institutions resulting from adverse conditions during the year. However, on October 5, the Japan Federation of Bar Associations reported that the human rights of seven prison inmates may have been violated when they died from medical neglect after being placed in solitary confinement between 1999 and 2002.

In May the Ministry of Justice reported that 20 prisoners committed suicide in 2004.

In 2004 prisons operated at 117 percent capacity. In some institutions two inmates were placed in cells designed for one, and eight or nine were held in cells meant for six. According to media reports, prison officials stated that some prisoners preferred solitary confinement to their overcrowded prison cells.

Most facilities remained unheated and without air conditioning. In August a human rights group reported that inmates were not given sufficient clothing and blankets to protect themselves against cold weather.

Some correctional facilities lacked adequate medical services. Prisoners complained about insufficient food rations and not being allowed to purchase or receive supplementary food.

Men and women were housed in separate facilities; however, male prison guards sometimes guarded women prisoners.

According to the Japan Federation of Bar Associations, authorities may read letters sent or received by prisoners. Letters with contents deemed "inappropriate" may be censored or confiscated. New prisoners are limited to receiving and sending one letter each day. In most cases visits with convicted prisoners were monitored, but prisoners whose cases were pending were allowed private access to their legal representatives.

Unlike in previous years, the government selectively permitted independent monitoring of prison conditions. Visits between prisoners and diplomatic representatives were sometimes monitored by a note-taking guard. Amnesty International reported that the government granted its representatives greater access to detention facilities than in 2004; however, human rights groups were not routinely allowed to meet with prisoners.

#### d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

#### Role of the Police and Security Apparatus

Police forces are responsible for law enforcement and maintenance of order within the country. The self-defense forces are responsible for external security and have limited domestic security responsibilities. The National Police Safety Commission, an independent body under the prime minister's jurisdiction, oversees the National Police Agency (NPA). Each prefecture has a police safety commission as well as a police agency. Corruption and impunity were not problems within either the national or the prefectural police forces.

The National Police Law permits persons to lodge complaints against police with national and local public safety commissions. These commissions have the authority to direct police to conduct investigations. Allegations persisted that police and public safety commissions remained lax in investigating police misconduct.

#### Arrest and Detention

Persons were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official, and detainees were brought before an independent judiciary.

The law provides detainees the right to a prompt judicial determination of the legality of the detention, and authorities respected this right in practice. The law requires authorities to inform detainees immediately of the charges against them. Authorities may hold a suspect in detention at either a regular detention facility or a "substitute" (police) detention facility for up to 72 hours. A judge must interview a suspect prior to detention. A judge may extend preindictment custody by up to 2 consecutive 10-day periods based on a prosecutor's application. These extensions were routinely sought and granted. Under extraordinary circumstances, prosecutors may seek an additional 5-day extension, bringing the maximum period of preindictment custody to 28 days.

The code of criminal procedure allows detainees, their families, or representatives to request that the court release a detainee on bail. The court generally grants bail unless the detainee is considered a flight risk or has been charged with a serious offense, or the court believes the detainee will tamper with evidence. The amount set for bail depends on the nature of the offense and the detainee's competence and assets. According to media reports, bail could range from approximately \$13 thousand (1.49 million yen) to approximately \$13 million (1.49 billion yen).

Police and prosecutors have the power to control or limit access of suspects to their legal counsel if authorities believe such contact would interfere with an investigation. Suspects may be detained for up to 23 days without access to counsel. Counsel may not be present during interrogations at any time. A court-appointed attorney is not approved until after indictment; suspects must rely on their own resources to hire an attorney before indictment. Local bar associations provided detainees with limited free assistance. Family members are allowed to meet with detainees, but only in the presence of a detention officer.

Critics claimed that access to counsel was limited both in duration and frequency, but the government denied the charge. Critics also alleged that allowing suspects to be detained by the same authorities who interrogated them heightened the potential for abuse and coercion. The government countered that cases where persons were sent to police detention facilities tended to be those in which the facts were not in dispute.

#### e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected this provision in practice.

There are several levels of courts, including family and summary courts, district courts, high courts, and the Supreme Court, which serves as the court of final appeal. 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.

Although most criminal trials were completed within a reasonable length of time, cases occasionally took several years to work their way through the trial and appeals process.

#### Trial Procedures

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. The law extends this right to all citizens, and it also ensures that each charged individual receives a public trial by an independent civilian court, has access to defense counsel, and has the right of cross-examination. There is no trial by jury.

The government generally respected in practice the legal provisions for the right to a speedy and public trial by an impartial tribunal in all criminal cases. The average trial period in 2003 and 2004 was 3.2 months for criminal cases. The length of time before a suspect was brought to trial depended on the nature of the crime but rarely exceeded three months from the date of arrest; the average was one to two months.

A defendant is presumed innocent until proven guilty in a court of law. The law provides defendants with the right not to be compelled to testify against themselves as well as to have free and private access to counsel. Although the law protects defendants from the retroactive application of laws and defendants have the right of access to incriminating evidence after a formal indictment, the government's interpretation of these rights was criticized. The government contended that the right to consult with attorneys is not absolute and may be restricted when compatible with the spirit of the constitution. This sometimes resulted in the abridgement of a defendant's access to legal counsel. For example, the law allows prosecutors to control access to counsel before indictment (see section 1.d.). The law does not require full disclosure by prosecutors, and material that the prosecution does not use in court may be suppressed. Critics claimed that legal representatives of defendants did not always have access to all needed relevant material in the police record. A defendant who is dissatisfied with the outcome of a trial may appeal to a higher court.

Foreign defendants often complained of not being able to receive a fair trial. During the year no guidelines mandated the acceptable quality of communications between judges, lawyers, and non-Japanese-speaking defendants, and no standard licensing or qualification system existed for certifying court interpreters. Trials proceeded even if no translation or interpretation was provided to the accused. Foreign detainees frequently claimed that police urged them to sign statements in Japanese that they could not read and that were not translated adequately.

#### Political Prisoners

There were no reports of political prisoners.

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

The law prohibits such actions, and the government generally respected these prohibitions in practice.

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

#### a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom or the Internet. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

#### b. Freedom of Peaceful Assembly and Association

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

#### c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice. Past allegations by the Unification Church that the government was unresponsive to claims that its members were being abducted and deprogrammed decreased. Unification Church leadership reported that abductions lessened due to the government's increasing willingness to prosecute deprogrammers. However, church leaders continued to express concern over the government's unwillingness to prosecute abductors. According to church officials, police refused to intercede because abductions often involved family members abducting other family members.

Relations among religious groups were generally amicable. An estimated 200 Jewish families lived in the country. There were no reports of anti-Semitic acts.

For a more detailed discussion, see the [2005 International Religious Freedom Report](#).

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

The law provides for these rights, and the government generally respected them in practice.

The law prohibits forced exile, and the government did not use it.

#### Protection of Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided some protection against *refoulement*, the return of persons to a country where they feared persecution. The government did not routinely grant refugee status or asylum.

On January 18, pursuant to a 2003 Tokyo High Court ruling, the government deported a Turkish Kurd and his son who had been identified as refugees by the Office of the UN High Commissioner for Refugees. In its ruling, the court cited the appellant's return to Turkey and the spread of democracy in Turkey since the appellant had first entered the country.

The government did not accept any refugees for resettlement during the year, nor did it provide temporary protection to individuals who may not qualify as refugees under either the 1951 Convention or the 1967 protocol.

According to the Ministry of Justice, 673,240 persons were detained in 2004 at immigration detention centers. Unlike in the past, there were no reports that deportations were carried out in secret. From July to September 2004, 2 Kurdish families staged a 72-day protest against their deportation orders in front of the United Nations University in Tokyo.

In recent years the government has granted refugee and asylum status to those claiming fear of persecution in only a small number of cases. Out of 426 refugee claims submitted to the Ministry of Justice in 2004, the government granted asylum to 15 persons from Burma, Turkey, Bangladesh, Iran, China, Pakistan, and Cameroon.

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

The law provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage.

#### Elections and Political Participation

On September 11, the country held its most recent national elections. There were few reported irregularities, and the elections were judged to be generally free and fair.

Except for a brief hiatus in the 1990s, the Liberal Democratic Party has been re-elected as the dominant party in every government since the mid-1950s. There were no government restrictions on the political opposition. Individuals could freely declare their candidacies and stand for election.

Results from the September 11 general elections reflected the highest number of women elected to the Lower House since women first

entered the Diet in 1946. There were 43 women elected to the 480-member Lower House and 34 women elected to the 242-member Upper House. The prime minister appointed 2 women to his 18-member cabinet. On a regional level, there were four female governors and seven female deputy governors, which represented a greater number of women holding public office at that level than in years past.

No official government statistics were available regarding minority political participation.

#### Government Corruption and Transparency

There were isolated reports of government corruption during the year. According to NPA figures for January through June, there were 39 arrests involving bribery and 9 arrests for bid rigging, compared with 72 for bribery and 11 for bid rigging in 2004.

The law provides for public access to government information. There were no reports that the government denied legal requests for information or required information seekers to pay prohibitive fees to gain access.

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

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

The law prohibits discrimination on the basis of race, gender, disability, language, and social status. Although the government generally enforced these provisions, discrimination against women, Japanese ethnic minority groups, and foreigners remained a problem.

#### Women

The law prohibits domestic violence against women. The law allows district courts to impose 6-month restraining orders on perpetrators of domestic violence and impose sentences of up to a year in prison or fines of up to \$9,520 (1 million yen). The law covers common-law marriages and divorced individuals; it also encourages prefectures to expand shelter facilities for domestic abuse victims and stipulates that local governments offer financial assistance to 40 private institutions already operating such shelters. A 2004 revision to the law expanded spousal violence to include mental, sexual, and physical abuse and increased the length of restraining orders to two months.

Domestic violence often went unreported due to social and cultural concerns about shaming one's family or endangering the reputation of one's spouse or children. Consequently, NPA statistics on violence against women most likely understated the magnitude of the problem. According to the Cabinet Office, 42 percent of women abused by their spouses did not report it. Spousal violence consultation assistance centers nationwide received 49,329 consultations in 2004, of which 49,107 were from women. According to NPA statistics, there were 14,264 cases of alleged domestic violence in 2004. Police were quick to respond to cases when reported. They taught victims how to protect themselves and educated them on how to file restraining orders. In 2004 courts issued 4,436 restraining orders in a total of 5,505 cases filed.

The law criminalizes all forms of rape, including spousal rape. According to the NPA, 2,176 rapes were reported in 2004, and 1,945 cases were reported from January through November. Husbands have been prosecuted for spousal rape. There were 118 gang rapes reported in 2004; from January through November, 109 were reported. Gang rape is punishable by a minimum penalty of four years in prison. Many local governments maintained special, women-only consultation departments in police and prefectural offices to provide confidential assistance to abused women.

Local governments and private rail operators enforced measures to address the widespread problem of groping and molesting female commuters. Several railway companies had women-only rail cars on various trains, and an antigroping ordinance makes first-time offenders subject to imprisonment.

Prostitution is illegal, but it occurred. Sex tourism was not a widespread problem. The government continued to address the problem of trafficking in women for prostitution (see section 5, Trafficking in Persons).

The law prohibits sexual discrimination; however, sexual harassment in the workplace remained widespread. In 2004 the Ministry of Health, Labor, and Welfare (MHLW) received 7,706 reports of sexual harassment in the workplace. The National Personnel Authority established rules to stop harassment in public servants' workplaces. The law includes measures to identify companies that fail to prevent sexual harassment, but it does not include punitive measures to enforce compliance other than allowing the names of offending companies to be publicized. A number of government entities have established hot lines and designated ombudsmen to handle complaints of discrimination and sexual harassment. On December 13, the MHLW notified labor bureaus nationally that mental illness resulting from sexual harassment may be compensated under the law. The government also encouraged and supported private companies and public institutions to make voluntary efforts to prevent sexual harassment.

Under the law women enjoy the same rights as men. According to the Ministry of Internal Affairs and Communication, women composed 40 percent of the labor force, and women between the ages of 15 and 64 constituted 48.3 percent of the labor force. Although the law prohibits wage discrimination, the average hourly wage for women was only 67.4 percent of the hourly wage for men. Much of the disparity resulted from the "two-track" personnel administration system under which many private sector companies directed men into the higher paying managerial track while steering equally qualified women into the lower paying clerical track.

According to the Tokyo High Court, there were no pending cases regarding comfort women (women forced into sexual servitude for the country's military personnel during World War II); all cases were finalized in 2004. The Asian Women's Fund, established in 1995 to express

atonement for comfort women, has been the mechanism through which the government has contributed to various medical and welfare support projects for former comfort women. This fund was scheduled to close in March 2007.

The 2000 Basic Law for a Gender-Equal Society addresses the inequities between women and men in such areas as government, politics, and private sector employment. It also aims to support the efforts of women and men to harmonize work with their family and community lives, eliminate violence against women, and encourage respect for women's human rights. Pursuant to the law, a Council for Gender Equality was created to monitor enforcement; its high-level members included the Chief Cabinet Secretary, cabinet ministers, and Diet members knowledgeable about gender issues. During the year the council regularly met to examine and discuss basic policies on gender equality, monitor progress in achieving gender equality, and survey the impact of government policy on gender equality processes.

#### Children

The government is committed to the rights and welfare of children, and in general children's rights were protected adequately.

The highest level of public school education provided is 12 years of schooling. Primary education is free and compulsory through the lower secondary level (age 15 or the 9th grade). Education was widely available to students who met minimum academic standards at the upper secondary level through age 18. Society places an extremely high value on education, and enrollment levels for both boys and girls through the upper secondary level exceeded 94.4 percent, according to the Ministry of Education, Culture, Sports, Science, and Technology. There were no differences in the treatment of girls and boys at any level of school.

The government provides universal health care for all citizens, including children.

Public attention focused increasingly on reports of frequent child abuse in the home. The law grants child welfare officials the authority to prohibit abusive parents from meeting or communicating with their children. The law also bans abuse under the guise of discipline and obliges teachers, doctors, and welfare officials to report any suspicious circumstances to a nationwide local child counseling center or municipal welfare center.

The MHLW reported that from 2000, when the Child Abuse Prevention Law was enacted, through June 2003, 127 children died as a result of child abuse. In 2004, 51 children died after being abused, according to the NPA.

In 2003 there were 23,738 cases of child abuse, according to the Cabinet Office. In 2004 there were a record 26,569 cases, according to MHLW. Approximately 50 percent of the cases involved violence, and 40 percent were cases of parental neglect. Child welfare centers reported a record 26,573 calls in 2003, an increase of 2,800 calls from the previous year.

Trafficking of minors, teenage prostitution, dating for money, and child pornography continued to be problems. According to the government, during the year there were 1,582 sex-related crimes associated with Internet dating sites.

#### Trafficking in Persons

The law prohibits holding persons in bondage, and the government employed a variety of labor and immigration statutes to carry out trafficking-related prosecutions. Revisions made during the year to the penal code defined and criminalized trafficking in persons and increased penalties for trafficking-related offenses.

In December 2004 the government released an action plan to combat trafficking in persons. Focusing on prevention, prosecution, and protection of trafficking victims, the government tightened the issuance of "entertainer" visas, strengthened immigration control, revised the penal code to make trafficking in persons a new category of crime, and enhanced the protection of victims through shelters, counseling, and repatriation assistance. The plan also modified the law regulating adult entertainment businesses to increase the responsibility of business owners to prevent foreign women working in that industry from being forced into prostitution.

The NPA reported 54 human trafficking investigations through November, compared with 79 in 2004. In 2004 the NPA reported 58 arrests and 48 prosecutions. The NPA improved its handling of trafficking cases and provided guidelines on victim identification and treatment to local police forces. The NPA also took concrete steps to increase cooperation with foreign law enforcement agencies on trafficking cases.

Trafficking of women and girls into the country was a problem. Women and girls, primarily from Thailand, the Philippines, and Eastern Europe, were trafficked into the country for sexual exploitation and forced labor. Women and girls from Colombia, Brazil, Mexico, South Korea, Malaysia, Burma, and Indonesia also were trafficked into the country in smaller numbers. The country was a destination for illegal immigrants from China who were trafficked by organized crime groups and held in debt bondage for sexual exploitation and indentured servitude in sweatshops and restaurants. The government reported that some smugglers used killings and abduction to enforce cooperation.

Although reliable statistics on the number of women trafficked to the country were unavailable, an Organization of American States report in February estimated that approximately 1,700 women per year were trafficked to Japan from Latin American and Caribbean countries. A significant number of those women were citizens of Colombia, Bolivia, Brazil, Mexico, and Peru. Of the 51 women from Southeast Asia and Eastern Europe confirmed to be victims during the year, there were 20 Filipinas, 17 Thais, 4 Indonesians, 4 Romanians, 3 Taiwanese, 1 South Korean, 1 Australian, and 1 Estonian.

There was evidence that trafficking took place within the country, as some recruited women subsequently were forced, through the sale of their "contracts," to work for other employers. Child prostitution was a problem (see section 5, Children).

Between January and June, police referred 29 trafficking cases to the public prosecutor, an increase of 16 from the same period last year. In 2004 the NPA arrested 41 individuals for trafficking-related offenses, 8 of whom were traffickers. Of these, 36 were convicted: 14 received prison terms, 17 received fines, and 5 received both a fine and prison term. During the year efforts were made to improve screening of travelers arriving in Japan from key source countries of trafficking and to tighten the issuance of entertainer visas, which were often used by traffickers. On May 15, the government began implementing more stringent rules on the issuance of entertainer visas to persons from the Philippines.

The government did not consistently consider an individual who had willingly entered into an agreement to work illegally in the country to be a trafficking victim, regardless of that person's working conditions. Thus, government figures understated the scope of the problem, as persons who agreed to one kind of work found themselves doing another kind or were subject to force, fraud, or coercion. However, the government made progress in victim identification through better training of law enforcement officials.

In previous years many women trafficked into the country entered legally on entertainer visas. Entertainers are not covered by the labor standards law and have no minimum wage protections.

Brokers in the countries of origin recruited women and "sold" them to intermediaries, who in turn subjected them to debt bondage and coercion. Agents, brokers, and employers involved in trafficking for sexual exploitation often had ties to organized crime.

Women trafficked to the country generally were employed as prostitutes under coercive conditions in businesses licensed to provide commercial sex services. Sex entertainment businesses are classified as "store form" businesses, such as strip clubs, sex shops, hostess bars, and private video rooms, and as "nonstore form" businesses, such as escort services and mail order video services, which arrange for sexual services to be conducted elsewhere. According to NGOs and other credible sources, most women who were trafficked to the country for the purpose of sexual exploitation were employed as hostesses in "snack" bars and were required to provide sexual services off-premises.

Trafficking victims generally did not realize the extent of their indebtedness, the amount of time it would take them to repay the debts, or the conditions of employment to which they would be subjected upon arrival. According to Human Rights Watch, the passports of women trafficked to work in "dating" bars usually were confiscated by their employers, who also demanded repayment for the cost of the woman's "purchase." Typically, the women were charged \$28,570 to \$47,620 (3 million to 5 million yen), their living expenses, medical care (when provided by the employer), and other necessities, as well as "fines" for misbehavior added to the original "debt" over time. How the debt was calculated was left to the employers; the process was not transparent, and the employers reportedly often used the debt to coerce additional unpaid labor from the trafficked women. Employers also sometimes "resold," or threatened to resell, troublesome women or women found to be HIV positive, thereby increasing the victims' debts and possibly worsening their working conditions.

Many women trafficked into the sex trade had their movements strictly controlled by their employers and were threatened with reprisals, sometimes through members of organized crime groups, to themselves or their families if they tried to escape. Employers often isolated the women, subjected them to constant surveillance, and used violence to punish them for disobedience. There were reports that some brokers used drugs to subjugate victims. Many trafficked women also knew that they were subject to arrest if found without their passports or other identification documents. Few spoke Japanese well, making escape even more difficult.

The government began to improve the training of law enforcement officials to develop better victim identification techniques and stress the criminal nature of trafficking. Nevertheless, there continued to be reports that police failed to identify victims adequately or declined to investigate suspected brokers when presented with information obtained from trafficking victims.

Tokyo Metropolitan and Kanagawa Prefectural governments funded locally based NGOs assisting victims of trafficking. The central government began to house trafficking victims in women's consultative centers and NGO shelters. Generally these trafficking victims were repatriated without being encouraged to testify against their captors. In 2004 the government administratively decided not to treat victims as immediately deportable criminals, which allowed it to develop cases against traffickers. Victims without documentation or sufficient funds to return to their country of origin were referred to the International Organization for Migration for assistance. Several NGOs throughout the country provided shelter, medical aid, and legal assistance to trafficking victims.

#### Persons with Disabilities

The law prohibits discrimination against persons with physical and mental disabilities in employment, education, and access to health care, and the government effectively enforced these provisions.

Persons with disabilities were not generally subject to overt discrimination in employment, education, or in the provision of other state services; however, they faced limited access to these services in practice. The Deliberation Panel on the Employment of the Handicapped, which operates within the Ministry of Labor, has mandated that private companies with 300 or more employees hire a fixed minimum proportion of persons with disabilities. The penalty for noncompliance is a fine.

The law does not mandate accessibility to buildings for persons with disabilities; however, the law on construction standards for public facilities allows operators of hospitals, theaters, hotels, and similar enterprises to receive low-interest loans and tax benefits if they build wider entrances and elevators to accommodate persons with disabilities.

The Law to Promote the Employment of the Handicapped includes those with mental disabilities. The law loosened the licensing requirements for community support centers that promote employment for persons with disabilities, and it introduced government subsidies for the employment of persons with mental disabilities in part-time jobs. According to the MHLW, there were 257,939 workers with disabilities

employed by private companies. This number represented 1.46 percent of the total number of regular employees, somewhat less than the legally stipulated rate of 1.8 percent. Several large corporations had special divisions for workers with disabilities, including Omron, Sony, and Honda. For example, 62 percent of Omron's Kyoto factory staff of 207 had disabilities, with the majority having severe disabilities. These employees earned an average of \$29 thousand (3 million yen) per year, which was above the minimum wage.

The government supported the right of persons with disabilities to participate in civic affairs.

#### National/Racial/Ethnic Minorities

*Burakumin* (descendants of feudal era "outcasts"), Koreans, and alien workers experienced varying degrees of societal discrimination, some of it severe and longstanding.

The approximately three million *burakumin*, although not subject to governmental discrimination, frequently were victims of entrenched societal discrimination, including restricted access to housing and employment opportunities.

According to the Ministry of Justice, there were nearly 1.97 million legal foreign residents at the end of 2004. The largest group was ethnic Korean (607,419), followed by Chinese (487,570), Brazilian (286,557), and Filipino (199,394). Despite improvements in legal safeguards against discrimination, Korean permanent residents (most of whom were born, raised, and educated in Japan) were subject to various forms of deeply entrenched societal discrimination. Harassment and threats against pro-North Korean organizations and persons reportedly have increased since the 2002 admission by North Korea that it had kidnapped more than a dozen Japanese citizens. Other foreigners also were subject to discrimination. There was a widespread perception among citizens that foreigners were responsible for many of the crimes committed in the country. According to a May 2004 government survey, more than 70 percent of citizens worried that an increase in the number of illegally employed foreign workers could undermine public safety and result in human rights abuses against the workers themselves. Nevertheless, more than 80 percent said the country should accept foreign laborers conditionally or unconditionally.

A controversial Immigration Bureau Web site launched in 2003 allows informants to report the name, address, or workplace of any suspicious foreigners for such reasons as "causing a nuisance in the neighborhood" and "causing anxiety." Due to protests from human rights groups, the site was amended in March 2004 to remove the preset reasons, but it remained operational at year's end.

By law aliens with five years of continuous residence are eligible for naturalization and citizenship rights, including the right to vote; however, in practice most eligible aliens chose not to apply for citizenship, partly due to fears that their cultural identity would be lost. Obstacles to naturalization included 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 society. Koreans were given the option of adopting a Japanese surname. The government defended its naturalization procedures as necessary to ensure the smooth assimilation of foreigners into society.

#### Indigenous People

According to the government, there are no indigenous groups. However, the Ainu, descendants of the first inhabitants of the country, claim to be such a group. 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 approximately 0.15 percent of their original land holdings and empowered the government to manage communal assets.

A 1997 law recognized the Ainu as an ethnic minority, required all prefectural governments to develop basic programs for promoting Ainu culture and traditions, canceled previous laws that discriminated against the Ainu, and required the government of Hokkaido to return Ainu communal assets. However, the law stopped short of recognizing the Ainu as the indigenous people of Hokkaido, failed to address whether they deserved special rights as a distinct ethnic group, and did not mandate civil rights protection for the Ainu. A nonbinding accompanying resolution referred to the Ainu as a legal minority. The UN Special Rapporteur to the UN Working Group on Indigenous Populations stated that the Ainu never had entered into a consensual juridical relationship with any state and noted that the lack of such an agreement deprived them of their rights. Many Ainu criticized the Law to Promote Ainu Culture for not advancing Ainu political rights, and they criticized the government for not providing funds for noncultural activities that would improve Ainu living conditions or financial status. Although Ainu-language newspapers, radio programs, and academic programs studying Ainu culture have increased, the Ainu continued to face societal discrimination.

### Section 6 Worker Rights

#### a. The Right of Association

The law allows workers to form and join unions of their choice without previous authorization or excessive requirements. Unions were free of government control and influence. Approximately 19.2 percent (10.3 million) of the total workforce was unionized.

#### b. The Right to Organize and Bargain Collectively

The law allows unions to conduct their activities without interference, and the government protected this right in practice. Collective bargaining is protected by law and was freely practiced. Unions have a right to strike, and workers exercised this right in practice.

There are no export processing zones.

#### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that such practices occurred with adult workers (see section 5).

#### d. Prohibition of Child Labor and Minimum Age for Employment

The law bans the exploitation of children in the workplace, and the government effectively implemented the law. The MHLW is responsible for enforcement. Both societal values and the rigorous enforcement of the Labor Standards Law protect children from exploitation in the workplace. Child labor was not a problem. 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. An exception is made for children in the entertainment industry, who may begin work at age 13.

#### 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 was considered widespread. Minimum wage rates ranged, according to prefecture, from \$5.77 (606 yen) to \$6.76 (710 yen) per hour. The minimum daily wage provided a decent standard of living for a worker and family.

The 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, it was widely accepted within the population that workers, including those in government jobs, routinely exceeded the hours outlined in the law. Labor unions frequently criticized the government for failing to enforce maximum working hour regulations.

Activist groups claimed that employers exploited or discriminated against illegal foreign workers, who often had little or no knowledge of the Japanese language or their legal rights. The government tried to reduce the inflow of illegal foreign workers by prosecuting employers of such workers. The law provides for penalties against employers of undocumented foreign workers. Maximum fines for illegal employment assistance were raised to \$29 thousand (3 million yen) in December 2004. The government continued to study the illegal foreign worker problem, and several citizens' groups were working with illegal foreign workers to improve their access to information on worker rights.

The government set occupational health and safety standards. The Ministry of Labor effectively administered various laws and regulations governing occupational health and safety. 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.

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