



## 2008 Human Rights Report: Japan

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

**2008 Country Reports on Human Rights Practices**

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Japan is a parliamentary democracy with a population of approximately 127.7 million. Sovereignty is vested in the citizenry, and the emperor is defined as the symbol of state. In July 2007 elections the Democratic Party of Japan ended the Liberal Democratic Party's (LDP) half-century dominance of the Diet when it captured a majority in the upper house. The elections were generally considered free and fair. On September 24, Taro Aso succeeded Yasuo Fukuda as prime minister and head of a coalition composed of the LDP and the New Komeito Party. Civilian authorities generally maintained effective control of the security forces.

The government generally respected the rights of its citizens. Human rights nongovernmental organizations (NGOs) reported problems with the country's detention facilities and legal system. There were some cases of violence and other abuse against women and children and of sexual harassment and employment discrimination. Trafficking in persons remained a problem. Discrimination against ethnic and other minorities and against children borne out of wedlock were problems.

### 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.

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.

Human rights NGOs reported incidences of alleged physical abuse in some prisons. The NGOs reported eight deaths including a suicide at Tokushima Prison from 2004 to November 2007 as a result of a doctor's purported insertion of various types of pointed instruments into prisoners' anuses. Prison officials maintained that the doctor was carrying out legitimate medical procedures.

As of year's end, the civil case against three police officers convicted for the 2004 death of a suspect resulted in three convictions, with two of the officers appealing the decision. On September 9, the Fukuoka High Court upheld the suspended sentence of a former senior police officer convicted of coercing a suspect into confessing by using a technique called fumiji, in which a prisoner is made to walk on the names of his ancestors.

The government continued to deny death row inmates and their families information about the date of execution. Families of condemned prisoners were notified of the execution after the fact. The government stated this policy was to spare the prisoners the anguish of knowing when they were going to die. Condemned prisoners, although held in solitary confinement for an average of almost eight years until their execution, were allowed visits by their families, lawyers, and other persons.

Prisoner rights NGOs continued to report that prison management regularly abused the rules on solitary confinement. Punitive solitary confinement may be imposed for a maximum of 60 days, but procedures allow wardens to keep prisoners in "isolation" solitary confinement indefinitely. Prison officials said that solitary confinement was an important tool they must use in order to maintain order in prisons that were at and above capacity.

#### Prison and Detention Center Conditions

Prison conditions generally met international standards. However, several facilities were overcrowded and lacked heating. NGOs also reported that some facilities provided inadequate food and medical care and that in some institutions clothing and blankets were insufficient to protect inmates against cold weather. Most prison facilities do not provide heating during nighttime hours in winter despite overnight freezing temperatures. The lack of heating in prisons subjected the prison population to a range of preventable cold injuries from chilblains to more severe forms of cold injury. In August 2007 two men in detention facilities that lacked air conditioning or fans died of heatstroke. NGOs, lawyers, and doctors also criticized healthcare in police operated preindictment detention centers and immigration detention centers.

Unlike in past years, there were no reports of rape against prisoners.

Regulations do not require that minors be held separately from adults in immigration detention centers; in practice there were reports of teenagers being held in the same detention facilities as adults.

Prison management regulations stipulate that independent committees inspect prisons and detention centers operated by the Ministry of Justice. These committees included physicians, lawyers, local municipal officials, representatives of local communities, and other local citizens. Prisoner rights advocates reported that the committees visited Ministry of Justice prisons throughout the year. In June 2007 the committees began inspecting police operated detention centers as well. Human rights NGOs reported that compared with past years, there appeared to be an increased flow of correspondence in and out of prisons.

In May 2007 the UN Committee Against Torture (UNCAT) criticized immigration detention centers for alleged violence, the unlawful use of restraining devices, sexual harassment, and lack of access to healthcare. UNCAT also criticized the lack of an independent monitor of immigration detention centers. The Ministry of Justice stated that an adequate system was in place which made an independent inspecting organization unnecessary because detainees may lodge complaints about treatment with the head of the detention facility or, if they object to the judgment given, with the minister of justice.

#### d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions. NGOs focused on legal rights continued to report instances of what appeared to be arbitrary detentions.

#### Role of the Police and Security Apparatus

Civilian authorities maintained effective control over the National Police Agency (NPA) and local police forces, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year. However, some NGOs criticized local public safety commissions for lacking independence from or sufficient authority over police agencies.

#### 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. NGOs focused on legal rights said that in practice warrants were granted at high rates, and detention sometimes occurred even though the evidentiary grounds were weak.

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 usually held suspects in police operated detention centers for an initial 72 hours. A judge must interview a suspect prior to further detention. The judge may extend preindictment custody by up to two consecutive 10 day periods. Prosecutors routinely sought and received these extensions. Prosecutors may also apply for an additional five day extension. NGOs focused on legal rights pointed out that because extensions were routinely granted, the intent of the law for prompt judicial determination of the legality of the detention, was in fact undermined.

The code of criminal procedure allows detainees, their families, or representatives to request that the court release an indicted detainee on bail. However, bail is not available preindictment to persons detained in either police or Ministry of Justice detention facilities. Because judges customarily granted prosecutors requests for extensions, the system of pretrial detention, known as daiyou kangoku (substitute prison), usually continued for 23 days. Suspects in pretrial detention are legally required to face interrogation. Effective January NPA guidelines limit interrogations to a maximum of eight hours and prohibit overnight interrogations.

Preindictment detainees had access to counsel, including court appointed attorneys. Prisoner advocates said that in practice this access improved in terms of the duration and frequency. However, counsel may not be present during interrogations. Family members were allowed to meet with detainees, but only in the presence of a detention officer. Detainees charged with drug offenses were routinely held incommunicado until indictment and were only allowed consular and legal access. In 2007 prosecutors at their discretion started partially recording suspects' confessions, but human rights NGOs pointed out that partial and discretionary recordings could be misleading. On September 1, police in Tokyo and 39 prefectures began testing supervised interrogations.

Safeguards exist to ensure that suspects cannot be compelled to confess to a crime or be convicted when a confession is the only evidence, but a manual of police interrogation procedures showed that police investigators are authorized to use heavy pressure to extract confessions. NGOs have documented techniques used to extract confessions that include beating, intimidation, sleep deprivation, questioning from early morning to late at night, and making the suspect stand or sit in fixed positions for long periods of time. The new NPA guidelines prohibit the police from touching suspects, threatening them, keeping them in fixed postures for long periods of time, verbally abusing them, or offering favors in return for a confession. Several foreign detainees claimed that police urged them to sign statements in Japanese that they could not read and that were not translated adequately.

#### e. Denial of Fair Public Trial

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

### Trial Procedures

The law provides the right to a fair trial for all citizens and ensures that each charged individual receives a public trial by an independent civilian court, has access to defense counsel, and has the right to cross examine witnesses. A defendant is presumed innocent until proven guilty in a court of law, and defendants cannot be compelled to testify against themselves.

UNCAT, NGOs, and lawyers questioned whether defendants were presumed innocent in practice. According to legal advocacy NGOs, the majority of detainees who were indicted confessed while in police custody.

The language barrier was a serious problem for foreign defendants. No guidelines existed to ensure effective communication between judges, lawyers, and non Japanese speaking defendants. No standard licensing or qualification system existed for court interpreters, and trials proceeded even if no translation or interpretation was provided.

The use of police operated detention centers, which puts suspects in the custody of their interrogators, has been on the rise for more than 30 years. According to government statistics, more than 98 percent of arrested suspects were sent to police detention facilities. The other 2 percent were held in Ministry of Justice-operated preindictment detention centers. More than 99 percent of cases that reached a trial court resulted in conviction. The judiciary also gives much weight to confessions.

During the year there were media reports of persons convicted on the basis of police-obtained confessions but who were later proved innocent. In October a man was acquitted in a 2002 rape case in which police forced him to confess. The actual rapist subsequently was caught.

Trial procedures favor the prosecution. Although the law provides for access to counsel, a significant number of defendants reported that this access was insufficient. The law does not require full disclosure by prosecutors, and material that the prosecution does not use in court may be suppressed. The legal representatives of some defendants claimed that they did not receive access to relevant material in the police record. In appeal attempts, defense attorneys were not granted access to possible exculpatory DNA evidence. The police responded that all evidence was destroyed after the initial trial.

### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

### Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary in civil matters. Cases involving human rights violations have been brought before these courts.

#### 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. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

Ultrationalists exerted pressure on local governments from time to time in ways which effectively curtailed freedom of speech. In January a far right-wing group intimidated Tsukubamirai City into banning a lecture on preventing domestic violence.

#### Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e mail. Internet access was widely available including via cell phones. During the year almost 74 percent of the population used the Internet.

#### Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events. The requirement for Ministry of Education approval of history textbooks continued to be a subject of controversy, particularly regarding the treatment of certain subjects pertaining to the 20th century. The national anthem ("Kimi ga Yo") and the national flag (Hi no Maru) continued to be controversial symbols. Since 2003 almost 400 teachers have been disciplined for refusing to sing the national anthem in front of the flag. In February 2007 the Supreme Court held that a music teacher who refused to play the national anthem on the piano could be reprimanded, without violating Article 19 of the constitution, which guarantees freedom of thought and conscience to all citizens.

In April a right-wing group pressured theaters into banning a movie critical of the Yasukuni Shrine.

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

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

The Association of Korean Human Rights in Japan claimed that several local governments rejected the use of municipal halls when Korean residents applied.

#### c. Freedom of Religion

The law provides for freedom of religion, and the government generally respected this right in practice.

#### Societal Abuses and Discrimination

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 2008 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

#### d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the

government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, and other persons of concern.

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 the expulsion or return of refugees to countries where their lives or freedom would be threatened. However, in May 2007 UNCAT noted that the law does not expressly prohibit deportation to countries where there is a risk of torture. The response of the government has been that the law clearly specifies that no foreign nationals will be returned to territories where their lives would be threatened. In practice a number of ethnic Rohingyas were deported to Burma. In addition UNCAT criticized the lack of an independent body to review applications for refugee status, the fact that the Ministry of Justice does not allow applicants for refugee status to select legal representatives for appeal, and the restrictions on government legal assistance for nonresidents. UNCAT, NGOs, and lawyers criticized the indefinite and often long period of detention between the rejection of an application for asylum and deportation.

Of 816 applications for refugee status during the year, 41 persons were granted refugee status and 88 were allowed to stay on humanitarian grounds.

Refugees faced the same patterns of discrimination that ethnic minorities did in the country: reduced access to housing, education, and employment. Persons whose refugee status was pending or on appeal did not have the legal right to work or receive social welfare, rendering them completely dependent on overcrowded government shelters or the support of NGOs.

#### 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 based on universal suffrage.

#### Elections and Political Participation

In July 2007 the country held elections for the upper house of the Diet. The elections were considered generally free and fair.

Political parties operated without restriction or outside interference.

Women held 45 of 480 seats in the lower house of the Diet and 43 of the upper house's 242 seats. At year's end there were three female governors. There were two women in the 18 member cabinet. Because some ethnic minorities are of mixed heritage and do not self-identify, it was difficult to determine the number of minorities that served in the Diet. There were three foreign-born Diet members.

#### Government Corruption and Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. There were several reports of government corruption during the year. According to NPA figures for 2007, there were 47 cases involving bribery and 26 cases of bid rigging, compared with 74 for bribery and 42 for bid rigging during 2006. During the first half of the year the NPA reported 23 cases of bribery and 18 cases of bid rigging. There were regular media reports of financial accounting scandals involving politicians and government officials.

Financial disclosure laws exist but suffered from lax enforcement. Cooperation with international law enforcement on suspicious transactions and money laundering cases was also poor.

The public has the legal right to access 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. Human rights groups pointed out that the country has not yet established an independent national human rights institution. The existing Human Rights Commission reports to the Ministry of Justice.

During the year the UN Human Rights Council and NGOs, including Amnesty International and Vital Voices, criticized the country's apologies to and compensation for "comfort women" as inadequate. Japan provided compensation payments through a government-initiated private fund, expressed remorse, and extended apologies, to the victims of forced prostitution during World War II beginning with the Kono Declaration in 1993, and in a 2001 letter from then prime minister, Junichiro Koizumi, sent to all identifiable victims. Prime Minister Koizumi wrote: "As Prime Minister of Japan, I extend anew my most sincere apologies and remorse to all the women who underwent immeasurable and painful experiences and suffered incurable physical and psychological wounds as comfort women. (Japan) must not evade the weight of the past, nor should we evade our responsibilities for the future."

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

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, ethnic minority groups, and foreigners remained a problem.

##### Women

The law criminalizes all forms of rape, including spousal rape, and the government generally enforced the law effectively. According to government statistics, there were 747 cases reported during the first half of 2008 compare with 1,766 rapes reported in 2007. Many police stations had female officers to provide confidential assistance to female victims.

Although prohibited by law, domestic violence against women remained a problem. District courts may impose six month restraining orders on perpetrators of domestic violence and impose sentences of up to one year in prison or fines of up to one million yen (approximately \$8,500). In 2007 courts granted 2,186 out of 2,779 petitions for protection orders. Through August, 1,690 of 2,145 petitions for protection orders had been granted. The law, which covers common law marriages and divorced individuals, was amended in July 2007 to include protection not only

for victims of abuse but also for persons threatened with violence. According to NPA statistics, in 2007 there were 20,992 reported cases of domestic violence. Spousal violence consultation assistance centers reported 35,071 consultations during the first half of the year compared with 62,078 consultation cases in 2007.

Prostitution is illegal but narrowly defined. Many sexual acts for pay that would be considered to be prostitution in other countries are legal.

Sexual harassment in the workplace remained widespread. In fiscal year (FY) 2007 the Ministry of Health, Labor, and Welfare (MHLW) received 15,799 reports of such harassment. The law includes measures to identify companies that failed to prevent sexual harassment, but it does not include punitive measures to enforce compliance other than publicizing the names of offending companies. The government established hot lines and designated ombudsmen to handle complaints of discrimination and sexual harassment.

The law prohibits sexual discrimination and generally provides women the same rights as men. A Council for Gender Equality existed to monitor enforcement; its high level members included the chief cabinet secretary, cabinet ministers, and Diet members. During the year the council regularly met to examine policies and monitor progress on gender equality. Human rights groups pointed to discrepancies such as women being prohibited from marrying for six months following a divorce (men have no such waiting periods) and differing minimum age for marriage (18 for men and 16 for women).

Inequality in employment remained entrenched in society. Women composed 41.5 percent of the labor force, and their average monthly wage was 222,600 yen (approximately \$1,988), less than two thirds of the monthly wage earned by men (337,700 yen or \$3,015).

#### Children

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

Reports of child abuse continued to increase. In FY 2007 there were 40,639 possible cases of child abuse by parents or guardians reported to the National Child Discussion Center. In 2007, 300 cases of child abuse were under investigation for prosecution. According to the NPA, 35 children died in FY 2007 after being abused. 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 mandates that anyone aware of suspicious circumstances must report the information to a nationwide local child counseling center or municipal welfare center.

Although the distribution of child pornography is illegal, the law does not criminalize the simple possession of child pornography, which often depicts the brutal sexual abuse of small children. The absence of a statutory basis makes it difficult for police to obtain search warrants, preventing them from effectively enforcing existing child pornography laws or participating in international law enforcement efforts in this area. Internet service providers acknowledged that the country has become a hub for child pornography, leading to greater victimization of children both domestically and abroad.

Discrimination against children borne out of wedlock with regard to inheritance rights continued. On June 4, the Supreme Court ruled unconstitutional a provision of the law that denied citizenship to a child borne out of wedlock to a citizen father and noncitizen mother. On December 5, a revised nationality law was enacted enabling a child born under such circumstances to obtain citizenship if the father acknowledges his paternity.

#### Trafficking in Persons

The law establishes human trafficking both for sexual and labor exploitation as a criminal offense. Nonetheless, human trafficking remained a significant problem despite government efforts. The country remained a destination and transit country for men, women, and children trafficked for commercial sexual exploitation and other purposes. Victims came from China, the Republic of Korea, Southeast Asia, Eastern Europe, and to a lesser extent, Latin America. There were also reports of internal trafficking of girls for sexual exploitation. The majority of identified trafficking victims were foreign women who migrated to the country seeking work but upon arrival were subjected to debt bondage and forced prostitution. Male and female migrant workers were subjected to conditions of forced labor.

Agents, brokers, and employers involved in trafficking for sexual exploitation often had connections with organized crime syndicates (the Yakuza).

Most women trafficked into the sex trade had their travel documents taken away and their movements strictly controlled by their employers. Victims were threatened with reprisals 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. NGOs reported that in some cases brokers used drugs to control victims.

Debt bondage was another means of control. Before arrival in the country, trafficking victims generally did not understand the size of the debts they would owe, 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. Women faced debts of up to 4.5 million yen (approximately \$40,000). In addition, they had to pay their employer for their living expenses, medical care (when provided by the employer), and other necessities. "Fines" for misbehavior added to the original debt and the process that employers used to calculate these debts was not transparent. Employers also sometimes "resold," or threatened to resell, troublesome women or women found to be HIV-positive, thereby increasing the victims' debts and often leading to even worse working conditions.

In response to increased police enforcement, many sex business operators shifted from store-front businesses to "delivery" escort services. This shift to Internet-based solicitation and procurement made it much harder to measure the extent to which employers were exploiting victims of trafficking.

There was no noticeable improvement in the country's prosecution of sex trafficking. In 2007 11 sex trafficking cases were prosecuted, and 12 trafficking offenders were convicted, compared with 17 prosecutions and 15 convictions in 2006. Most authorities attributed this decline to a crackdown on the "entertainment" visa category. Of the 12 2007 convictions, seven offenders received prison sentences of two to four years with labor; five received suspended sentences.

Labor exploitation was widely reported by labor activists, NGOs, shelters, and the media (see section 6.e.). There were two convictions for labor trafficking during the past two years, although Labor Standard Inspection Bodies identified more than 1,209 violations of labor laws in 2006 alone.

The number of trafficking victims identified by the government declined for the second consecutive year. Law enforcement authorities identified 43 victims in 2007, down from 58 in 2006 and 116 in 2005. There continued to be reports that police and immigration officers failed to identify victims adequately. The National Police University began teaching a class in trafficking in persons. Both the NPA and trafficking NGOs agreed that winning the trust of potential victims was a difficult and time consuming process. The country has not adopted formal victim identification procedures, although it is cooperating with the International Organization for Migration (IOM) in victim identification. The country does not dedicate government law enforcement or social services personnel specifically to human trafficking, although there were individuals in various branches of the government and police who focused mainly on human trafficking. NGOs working with trafficking victims continued to assert that the government was

not proactive in searching for victims among vulnerable populations, such as foreign women in the sex trade or migrant laborers. NGOs reported that police and immigration officers occasionally neglected to classify women working in exploitative conditions as victims because they willingly entered the country to work illegally. Both trafficking NGOs and the NPA agreed that there was a "gray area" in which victim identification could be difficult.

The MHLW encouraged police and immigration officers to use its network of shelters for domestic violence victims as temporary housing for foreign trafficking victims awaiting repatriation. Forty of the 43 identified trafficking victims in 2007 were provided services by government shelters. A significant percentage of the foreign women listed as victims of domestic violence were probably trafficking victims, and were provided shelter. The government paid for victims' medical care and subsidized repatriation through a grant to the IOM. Sixteen of the 43 identified trafficking victims were repatriated without referring them to the IOM for risk assessment and formal processing.

Typically, government shelters lacked the resources needed to provide adequate services to trafficking victims. NGO shelters that specialized in assisting victims of human trafficking had full time staff able to speak seven or more languages, but the MHLW shelters had to rely on interpretation services from outside providers. While some victims received psychological care in government facilities, the large majority did not have adequate access to trained psychological counselors with native language ability, a weakness the government is beginning to address. Due to the lack of counseling in their native language by professionals familiar with the special needs of trafficking victims, the isolation of victims from fellow nationals and other trafficking victims, and the lack of alternatives—particularly any option to work or generate income—foreign women staying at government shelters elected to repatriate as quickly as possible. Although the government reserved funds to subsidize victims' stays in private shelters, most victims were referred to public shelters. While the government asserted that victims were eligible for special stay status as a legal alternative to repatriation in cases where victims would face hardship or retribution, there were very few cases of a victim staying in country for more than a few months, and these usually were victims who were being sheltered in private shelters or who had found NGO support.

The State Department's annual Trafficking in Persons Report can be found at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### 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 generally enforced these provisions; however, the federation of bar associations complained that discrimination is undefined and thus not enforceable through judicial remedies.

Persons with disabilities were not generally subject to overt discrimination in employment, education, or provision of other state services; however, in practice they faced limited access to these services. Persons with disabilities made up less than 0.2 percent of university students.

The law mandates that the government and private companies hire minimum proportions of persons with disabilities (including mental disabilities). Companies with more than 300 employees that do not comply must pay a fine of 50,000 yen (\$425) per vacant position per month. Public employment of persons with disabilities exceeded the minimum, but according to MHLW statistics the private sector lagged in spite of increases over last year. A survey found that in private companies with more than 56 workers, 1.6 percent of employees had disabilities.

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

Recent surveys showed that people with mental disabilities might account for up to 60 percent of the repeat offender population in some prisons. According to human rights NGOs, there were an estimated 20,000 homeless people who could not receive old-age pensions, disability pensions, and livelihood protection allowances because they were considered to be without residence. Surveys also showed a significant percentage of repeat offenders were homeless persons who had fallen through the social service net.

According to mental health NGOs and physicians, persons with mental illnesses also faced stigmatization and both educational and occupational barriers. Mental health professionals said that insufficient efforts were being made to reduce the stigma of mental illness and to inform the public that depression and other mental illnesses were treatable, biologically based illnesses.

#### National/Racial/Ethnic Minorities

Burakumin (descendants of feudal era "outcasts") and ethnic minorities experienced varying degrees of societal discrimination. The approximately three million burakumin, although not subject to governmental discrimination, frequently were victims of entrenched societal discrimination, including restricted access to housing, education, and employment opportunities. NGOs reported that discrimination was still extensive outside major metropolitan areas.

Despite legal safeguards against discrimination, the country's large populations of Korean, Chinese, Brazilian, and Filipino permanent residents--many of whom were born, raised, and educated in Japan--were subject to various forms of deeply entrenched societal discrimination, including restricted access to housing, education, and employment opportunities. There was a widespread perception among citizens that "foreigners," often members of Japan born ethnic minorities, were responsible for most of the crimes committed in the country. The media fostered this perception although Ministry of Justice statistics showed that the "foreigner" committed crime rate, excepting crimes like illegal entry and overstay, was lower than the crime rate for citizens.

Many immigrants struggled to overcome obstacles to naturalization, including the broad discretion available to adjudicating officers and the great emphasis on Japanese language ability. Aliens with five years of continuous residence are eligible for naturalization and citizenship rights. Naturalization procedures also require an extensive background check, which includes inquiries into the applicant's economic status and assimilation into society. The government defended its naturalization procedures as necessary to ensure the smooth assimilation of foreigners into society.

#### Indigenous People

Although the Ainu enjoyed the same rights as all other citizens, when clearly identifiable as Ainu they faced the same patterns of discrimination that all ethnic minorities encountered. On June 11, the Diet unanimously passed a law recognizing the Ainu as an indigenous people.

#### Other Societal Abuses and Discrimination

NGOs that advocate for gay, lesbian, bisexual, and transgender persons noted that such persons suffered from bullying, harassment, and violence.

There were no reports of societal violence or discrimination against persons with HIV/AIDS.

#### 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, and the government effectively enforced the law. Unions were free of government control and influence; however, public service employees' basic union rights, governed by a separate law, are restricted in ways that "effectively require prior authorization" to form unions. Approximately 18 percent of the total workforce was unionized in 2006.

Unions in the private sector have the right to strike, and workers exercised this right in practice. Public sector employees do not have the right to strike.

b. The Right to Organize and Bargain Collectively

Except for public sector workers and employees of state owned enterprises, the law allows unions to conduct their activities without interference, and the government protected this right. Collective bargaining is protected by law and was freely practiced.

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. Labor rights NGOs alleged that some companies forced foreign laborers to work illegal overtime, refused to pay allowances, controlled their movement and travel documents, and forced them to deposit paychecks into company-controlled accounts. The law and ministry of justice guidelines prohibit these practices.

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. By law, children between the ages of 15 and 18 may perform any job that is not designated as dangerous or harmful. Children between the ages of 13 and 15 may perform "light labor" only, and children under 13 may work only in the entertainment industry. Other than victims of human trafficking and child pornography, child labor was not a problem.

e. Acceptable Conditions of Work

Minimum wages are set on a prefectural and industry basis, with the input of tripartite (workers, employers, and 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 618 yen (approximately \$5.74) to 739 yen (approximately \$6.54) 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 above 40 in a week or eight in a day. However, it was widely accepted 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. According to 2007 MHLW statistics 147 workers suffered karoshi (death from overwork) during the year.

According to the Japanese Trade Union Confederation, companies increasingly hired workers on a part-time, nonregular basis. Such workers reportedly made up one-third of the labor force, and worked for lower wages, often enduring precarious working conditions. Temporary employees reportedly also faced similar working conditions.

Activist groups claimed that employers exploited illegal foreign workers, who often had little or no knowledge of the Japanese language or their legal rights.

NGOs and the media reported abuses of the foreign trainee program, a government-sponsored training program supervised by the Japan International Training Cooperation Organization. In some companies, trainees reportedly were forced to work unpaid overtime and made less than the minimum wage. Moreover, their wages were automatically deposited in company controlled accounts, despite the fact that forced deposits are illegal. According to labor rights NGOs, trainees sometimes had their travel documents taken from them and their movement controlled to prevent escape. The government undertook a review of the program, and in December 2007 the Ministry of Justice released a list of prohibited acts to govern the foreign trainee program. However, there are no criminal penalties for companies found in violation of the regulation. Although Labor Standard Inspection Bodies identified more than 1,209 violations of labor laws in 2006 alone, there were only two convictions for labor trafficking during the past two years. NGOs and labor unions working with foreign workers noted no noticeable improvement in some companies' treatment of foreign workers in the trainee program.

The government sets occupational health and safety standards, and the Ministry of Labor effectively administered the 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.