

# **JAPAN 2020 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

Japan has a parliamentary government with a constitutional monarchy. On September 16, Yoshihide Suga, the newly elected leader of the Liberal Democratic Party, became prime minister. Upper House elections in 2019, which the Liberal Democratic Party and its coalition partner, Komeito, won with a solid majority, were considered free and fair by international observers.

The National Public Safety Commission, a cabinet-level entity, oversees the National Police Agency, and prefectural public safety commissions have responsibility for local police forces. Civilian authorities maintained effective control over the security forces. There were no reports of abuses committed by security forces.

There were no reports of significant human rights abuses.

The government had mechanisms in place to identify and punish officials who may commit human rights abuses.

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

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

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

### **b. Disappearance**

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

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

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

The government continued to deny death row inmates advance information about the date of execution until that day. The government notified their family members of executions after the fact. The government held that this policy spared prisoners the anguish of knowing when they were going to die.

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

Impunity was not a significant problem in the security forces.

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

Prison conditions generally met international standards, although some prisons continued to lack adequate medical care and sufficient heating in the winter or cooling in the summer.

Long-term detention of foreign nationals at immigration centers continued to be a concern. More than 40 percent of the more than 1,000 foreign nationals held in immigration facilities have been detained for more than six months, some as long as seven years, giving rise to an increasing number of protests, including hunger strikes, among detainees. Some facilities imposed forceful control of detainees, including women, and failed to protect detainees' privacy.

Prisoners and detainees generally have no access to telephones, including to communicate with attorneys or family members.

According to experts, some facilities allowed the provisional release of certain detainees in response to concerns about COVID-19. NGOs noted, however, that released individuals were not granted work permits or health insurance. Legal experts reported that some prisoners expressed concern about the lack of

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information on the COVID-19 pandemic. Experts also raised concerns about inadequate measures to ensure social distancing among detainees at immigration facilities. The Ministry of Justice announced it implemented guidelines to prevent the spread of the COVID-19 outbreak in prisons and immigration detention centers.

**Physical Conditions:** Authorities held women separately from men, and juveniles younger than age 20 separately from adults in prisons, other correctional facilities, and immigration facilities.

From April 2018 through March 2019, third-party inspection committees of prisons and immigration detention centers documented inadequate medical care as a major concern. Inspection committees also raised other issues: the need to give prison officers additional human rights education; some unmet special needs for elderly, lesbian, gay, bisexual, transgender, and intersex (LGBTI) inmates, or those with disabilities; and insufficient heating and cooling supplies. According to the Ministry of Justice, in 2019 there were 290 doctors working at correctional institutions, approximately 90 percent of the required staffing level. Inspection committees also noted concerns about protecting detainees' privacy.

**Administration:** Most authorities permitted prisoners and immigration detainees to submit complaints to judicial authorities and to request investigation of alleged problematic conditions. The president of the Japan Federation of Bar Associations, however, raised concerns in an August statement that authorities controlled the complaint and inspection process at immigration detention centers. Complainants were required to notify detention officers about complaints. Detention officers were also responsible for scheduling on-site inspections by the inspection committees and determining the length of time for the committees to interview detainees. Authorities provided the results of such investigations to prisoners in a letter offering little detail beyond a final determination.

**Independent Monitoring:** The government generally allowed prescheduled visits by elected officials, NGOs, members of the press, and international organizations. By law the Justice Ministry appointed members to inspection committees for government-run prisons and immigration detention centers from outside of the national government. The police supervisory authorities, prefectural public safety

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commissions, appointed members of inspection committees for police detention facilities from outside of the police force. Authorities accepted some recommendations by NGOs in selecting inspection committee members. The Japan Federation of Bar Associations president, however, voiced concern that undisclosed selection criteria and the members themselves impeded nongovernment experts' ability to evaluate if the selected members were appropriately qualified. Authorities permitted the committees, which include physicians, lawyers, local municipal officials, local citizens, and experts, to interview detainees without the presence of prison officers. Their recommendations generally received serious consideration.

NGOs and the UN Committee against Torture continued to raise concerns about the inspection process. For instance, they cited concerns about the requirement to submit previsit notifications to facility authorities. They also raised concerns about a lack of transparency in the selection of committee members.

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

The law prohibits arbitrary arrest and detention. Police officers may stop and question any person who is suspected to have committed or is about to commit a crime, or to possess information on a crime. Civil society organizations continued to urge police to end ethnic profiling and unjustified surveillance of foreigners.

In May police officers of the Shibuya Ward Police Station in Tokyo questioned a Kurdish man with alleged use of force on a street in Shibuya. The man filed a criminal charge with the Tokyo District Court against two Shibuya police station officers for the injury caused by their alleged assault. The Kurdish man also posted online a video clip showing him being questioned by police, which was filmed by another person who was present. The clip contributed to a protest by some 500 persons against national origin and racial discrimination by Shibuya police in early June. In late June, the Kurdish man filed a civil suit with the Tokyo District Court seeking government compensation from the Tokyo Metropolitan Government and the Tokyo Metropolitan Police Department for mental suffering caused by the violent police questioning.

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

Authorities apprehended persons openly with warrants based on evidence and issued by a duly authorized official and brought detainees before an independent judiciary. In urgent cases when there is sufficient basis to suspect that suspects committed specific crimes, including a crime punishable by death, the law allows police to arrest the suspects without obtaining warrants beforehand and requires police to seek to obtain warrants immediately after arrest.

The law allows suspects, their families, or representatives to request that the court release an indicted detainee on bail. Bail is not available prior to indictment. NGOs and legal experts stated bail was very difficult to obtain without a confession. Authorities tended to restrict access to defense counsel for detainees who did not confess. Other elements of the arrest and pretrial detention practices (see below) also tended to encourage confessions. The Public Prosecutors Office reported that in 2019 approximately 67 percent of all criminal suspects who were referred to prosecutors by police did not face indictment. Prosecutors indicted the remaining approximately 33 percent were convicted. The Justice Ministry reported in January that prosecutors indicted suspects only when convictions were highly likely. In most of these cases, the suspects had confessed.

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

The law allows police to prohibit suspects from meeting with persons other than counsel (and a consular officer in the case of foreign detainees) if there is probable cause to believe that the suspect may flee or conceal or destroy evidence (see “Pretrial Detention” below). Many suspects, including most charged with drug offenses, were subject to this restriction before indictment, although some were permitted visits from family members in the presence of a detention officer. There is no legal connection between the type of offense and the length of time authorities may deny a suspect visits by family or others. Those held for organized crime or on charges involving other criminals, however, tended to be denied such

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visits because prosecutors worried that communications with family or others could interfere with investigations.

Police and prosecutors must record the entire interrogation process in cases involving crimes punishable by death or imprisonment for an indefinite period, or punishable by imprisonment for one year or more and in which a victim has died because of an intentional criminal act, or that follow investigations and arrests begun by prosecutors. In such cases, a suspect's statements to police and prosecutors during an interrogation are in principle inadmissible without a recording. According to legal experts, this is intended to prevent forced confessions and false charges. Police are also required to make best efforts to record the interrogation process when suspects have a mental disability. The Japan Federation of Bar Associations acknowledged the positive effects of these recording practices but noted that interrogations are video recorded in only 3 percent of the country's criminal cases. Legal experts therefore continued to express concerns about forced confessions, especially in cases involving white-collar crimes.

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

NGOs and legal experts reported the practice of detaining suspects in pre-indictment detention or *daiyou kangoku* (substitute prison) continued. Because judges customarily granted prosecutors' requests for extensions, pre-indictment detention usually lasts for 23 days for nearly all suspects, including foreigners. Moreover, the 23-day detention period may be applied on a per charge basis, so individuals facing multiple charges may be held far longer. NGOs and foreign observers continued to report that for persons in *daiyou kangoku*, access to persons other than their attorneys was routinely denied.

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

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

#### **Trial Procedures**

The law provides for the right to a fair and public trial, and an independent judiciary generally enforced this right. Defendants are legally presumed innocent until proven guilty, but NGOs and lawyers continued to suggest that this was not the case because of the pressure on suspects to confess prior to trial. Foreign suspects with time-limited visas often confessed in exchange for a suspended sentence in order to close the case before their visas, which are not extended for trial, expire.

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

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

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

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Several defense counsel and defendants called on judges to allow them to take off face masks or use an alternative COVID-19 preventive measure in trials, arguing that facial expressions affect how judges assess testimony and that covering faces could cause prejudice. They also expressed concern that face coverings could make it psychologically easier for hostile witnesses to give intentionally baseless testimony against defendants. In June a chief judge at the Tokyo Regional Court allowed a defendant to testify with a transparent face shield in lieu of a mask at the request of the defense counsel.

NGOs expressed concern about the retrial process for inmates on death row because execution is not stayed for a pending petition of retrial, which the Japan Federation of Bar Associations said calls into question the validity of executions.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

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

There is an independent and impartial judiciary in civil matters. There are both administrative and judicial remedies for alleged wrongs. Individuals may file lawsuits seeking damages for, or cessation of, a human rights violation with domestic courts.

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

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

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

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

The constitution provides for freedom of speech and expression, including for the press, and the government generally respected these freedoms. The independent

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press, an effective judiciary, and a functioning democratic political system combined to sustain freedom of expression.

**Freedom of Speech:** There is a hate speech law designed to eliminate hate speech against persons originating from outside the country by developing government consultation systems and promoting government awareness efforts. The law, however, neither penalizes nor prohibits hate speech, so as not to impede freedom of speech. Legal experts acknowledged a continued decrease in hate speech at demonstrations since the law came into effect. In contrast hate speech increased in propaganda, election campaigning, and online, while crimes targeting members of specific ethnicities also continued, according to experts. They called on the government to implement more effective deterrent measures and conduct a survey on hate speech incidents. The government has not conducted such a survey since 2016.

According to legal experts, hate speech and hate crimes against ethnic Koreans, especially against Korean women and students, were numerous, but there were also incidents directed at other racial and ethnic minorities. Legal experts pointed out that hate speech against Chinese and Ainu also increased after the COVID-19 outbreak and the opening of the government-run National Ainu Museum in July, respectively.

As of October, three local governments had ordinances to prevent hate speech-- Osaka City, Tokyo Metropolitan, and Kawasaki City. In January a public center for exchange programs with foreign nationals run by the city of Kawasaki received letters threatening the genocide of ethnic Koreans in Japan. This came after the city government became the first municipality to pass an ordinance with a penalty (a fine) for repeat offenders of hate speech in public places. In July, Kawasaki authorities arrested a suspect for violating the ordinance. Moreover, the Kawasaki city government requested in October that Twitter delete two messages the city identified as hate speech against an ethnic Korean woman. This was the first such request the city submitted to a social media company since the ordinance went into effect.

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

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While no such cases have ever been pursued, the law enables the government to prosecute those who publish or disclose government information that is a specially designated secret. Those convicted face up to five years' imprisonment with work and a substantial fine.

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

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

### Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority. In March the Ministry of Justice reported that the number of human rights violations via the internet increased by 3.9 percent in 2019.

### Academic Freedom and Cultural Events

There were no reported incidents of governmental restriction of academic freedom or cultural events.

Using updated education guidelines, the Ministry of Education continues to screen and approve textbooks. As has been the case in the past, the approval process for history textbooks, particularly its treatment of the country's 20th century colonial and military history, continued to be a subject of controversy.

### b. Freedoms of Peaceful Assembly and Association

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

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### c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

### d. Freedom of Movement

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights, except for travel restrictions implemented by the government from and to the country as COVID-19 infection prevention measures.

**In-country Movement:** In an effort to prevent COVID-19 infections, the government requested individuals refrain from interprefectural travel for certain periods during the year, but such requests did not carry the force of law.

**Foreign Travel:** The government's COVID-19 infection prevention measures restricted entry to the country by all foreign nationals, including re-entry by residents, from April to September 1. Citizens were not subject to foreign travel restrictions.

### e. Status and Treatment of Internally Displaced Persons

The government generally provided adequate shelter and other protective services in the aftermath of natural disasters in accordance with the UN Guiding Principles on Internal Displacement. As of January, 709 persons were living in temporary housing as a result of the 2011 earthquake, tsunami, and nuclear power plant disaster in the northeastern part of the country.

### f. Protection of Refugees

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

**Abuse of Migrants and Refugees, and Stateless Persons:** NGOs and civil society groups expressed concern about the indefinite detention of refugees and

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asylum-seekers and conditions in detention facilities. Legal experts and UNHCR noted that lengthy detention led to detainee protests, including by hunger strikes, generally intended to create a health concern that would warrant medical release. According a March report by the Immigration Services Agency, authorities temporarily released some detainees from immigration facilities when they refused to eat and refused medical intervention. Legal experts reported that as of September, 198 detainees engaged in hunger strikes in immigration facilities around the nation to protest their detention.

In August the UN Human Rights Council Working Group on Arbitrary Detention (Working Group) concluded that the government's detention of an Iranian and a Kurdish applicant for refugee status for a cumulative total of nearly five years--until April and June--was "arbitrary." Although the government argued the detention was in accordance with domestic law, the Working Group maintained the detentions lacked necessity and reasonable grounds.

In June an expert panel appointed by the justice minister to address lengthy detentions and poor conditions in immigration facilities submitted recommendations that took into account recommendations from the UN Working Group and Japan Federation of Bar Associations. Persons under deportation order had the right to refuse deportation and most did, often because of fear of returning home or because they had family in the country. According to Justice Ministry statistics released in June, in 2019 a substantial majority of those under deportation orders refused deportation. Of those who refused deportation, 60 percent in 2019 were in the process of applying for refugee status. By law the government may not deport those who are subject to deportation orders while their refugee applications are pending.

In October the president of the Federation of Bar Associations urged the government to respond seriously to the Working Group's conclusions and amend the immigration law accordingly. The same month, however, the justice minister commented publicly that the prolonged detention issue would end if those who were subject to deportation orders accepted deportation.

**Access to Asylum:** The law provides for granting asylum or refugee status. The country's refugee screening process was, however, strict; in 2019 the government

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granted 44 applicants refugee status out of 10,375 applications and appeals (vice 42 out of 10,493 in 2018). NGOs and UNHCR expressed concern about the low rate of approval. Civil society and legal groups expressed concern about the restrictive screening procedures that led applicants to voluntarily withdraw their applications and accept deportation, specifically claiming that the government's interpretation of "fear of persecution" used when adjudicating refugee claims was overly restrictive. Civil society groups reported that it takes an average of three years for an applicant to be recognized as a refugee, and some cases involving multiple appeals have lasted 10 years.

Immigration authorities administered the first round of hearings on whether to grant refugee status. Refugee and asylum applicants were not allowed to have lawyers participate in the first round of hearings, except for applicants in vulnerable positions, including minors age 15 or younger who have no guardians and applicants with disabilities, who may ask for approval for lawyers to participate in their first round of hearings. Yet legal experts reported there had been only one case where the government allowed the participation of a lawyer in the first hearing.

Immigration authorities also conducted hearings to review complaints from applicants about problems with the process.

A panel, the Refugee Examination Counselors, appointed by the justice minister from outside (by law) the ministry, conducted second hearings to review appeals from persons denied refugee status at their first hearing. All persons appearing before the counselors had the right to an attorney. The counselors included university professors, former prosecutors, lawyers, former diplomats, and NGO representatives, according to the Justice Ministry. The minister is obliged to hear, but not to accept, the opinions of the counselors. Legal experts questioned whether the review system delivered fair judgements, citing Justice Ministry statistics showing it granted refugee status to only one of the 8,291 applicants who filed appeals in 2019.

As government-funded legal support was not available for most refugee and asylum-seekers requesting it, the Federation of Bar Associations continued to fund a program that provided free legal assistance to applicants who could not afford it.

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While refugee applicants arriving in the country illegally or without a visa allowing for residency are subject to detention, applicants for refugee status increasingly had valid visas before they submitted their asylum applications. The Justice Ministry announced that in 2019, approximately 97 percent (10,073 of the 10,375 applicants) had legitimate visas, including as temporary visitors or temporary workers.

In 2019 the government granted humanitarian-based permission to stay to 37 applicants who were not given refugee status, including to some applicants who were not legally in the country. The remaining applicants were potentially subject to deportation but could re-apply for refugee status. According to the Justice Ministry, in 2019 there were 8,967 voluntary repatriations and 516 involuntary deportations. As of December 2019, 2,217 persons subject to deportation orders were allowed to live outside of immigration facilities; 942 persons under deportation orders were held in immigration detention facilities. There is no legal limit to the potential length of detention. In response to COVID-19, more detainees were permitted to stay outside the facilities to prevent the spread of infections, the justice minister stated.

In addition to the regular asylum application system, the government may accept refugees under a third-country refugee resettlement program. In April the government increased the cap on refugees accepted under this program from 30 to 60, which NGOs applauded, while continuing to voice concern about the low overall numbers of refugees accepted. COVID-19 related concerns delayed implementing the increase. Approximately 300 Rohingya Muslims were also living in the country under special stay permits on humanitarian grounds or temporary stay visas on the basis of ethnic and religious persecution in Burma. Fewer than 20 Rohingya have been granted refugee status; approximately the same number of Rohingya asylum-seekers are out of detention centers on temporary release but are not permitted to work and could be redetained.

The Ministry of Justice, the Federation of Bar Associations, and the NGO Forum for Refugees Japan continued to cooperate to implement the Alternatives to Detention project to provide accommodations, advice on living in the country, and legal services for individuals who arrived at Narita, Haneda, Chubu, and Kansai airports; received temporary landing or provisional stay permission; and sought

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refugee status. Government-subsidized civil organizations and donations fund the project. NGOs expressed concern about a lack of government statistics on the number of refugee applicants arriving at air and seaports since July 2018.

**Freedom of Movement:** Asylum applicants granted a residency permit may settle anywhere and travel in the country freely with conditions, including reporting their residence to authorities. Asylum-seekers in detention and under deportation orders may be granted provisional release from detention for illness, if the applicant was a trafficking victim, or in other circumstances as determined on an ad hoc basis by the Ministry of Justice. Provisional release does not provide a work permit and has several restrictions, including an obligation to appear monthly at the Immigration Bureau, report in advance any travel outside the prefecture in which she or he resides, and report any change of residence to the Immigration Office. The system of provisional release also requires a deposit that may amount to three million yen (\$28,000) depending on the individual case. A refugee or asylum-seeker who does not follow the conditions may be returned to detention and the deposit is subject to confiscation. Lawyers noted that in recent cases those found working illegally were punished with a minimum of three years' detention.

Persons granted refugee status may travel freely within the country, as well as abroad, contingent upon meeting certain requirements.

**Employment:** Applicants who have a valid visa at the time of their asylum application and whom authorities have determined may be recognized as refugees may apply for work permits within two months of, or eight months after, the date they were determined to qualify potentially as refugees. An individual must apply for permission to engage in income-earning activities before the visas expire. Individuals must have a work permit in order to work. In the interim before approval, the Refugee Assistance Headquarters, a section of the government-funded Foundation for the Welfare and Education of the Asian People, provided small stipends to some applicants who faced financial difficulties.

Persons granted refugee status have full employment rights.

**Access to Basic Services:** Excepting those who met right-to-work conditions, applicants for refugee status received limited social welfare benefits, not including

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health care. This status rendered them dependent on overcrowded government-funded shelters, illegal employment, government financial support, or NGO assistance.

Persons granted refugee status faced the same discrimination patterns often seen by other foreigners: reduced access to housing, education, and employment.

**Temporary Protection:** The government provided temporary protection to 37 individuals in 2019 who may not qualify as refugees. Of the 37, 27 were married to Japanese citizens or their children were citizens. The remaining 10 were granted permission to stay on the basis of situations in their home countries, including seven individuals from Syria. They may live and work in the community.

### **g. Stateless Persons**

The Justice Ministry announced that 646 individuals were stateless in 2019 based on immigration provisions. Legal experts argued, however, that stateless persons potentially exceeded the official count because the figure was limited to stateless persons with legitimate residence permits.

By law a stateless person age 20 or older is qualified for naturalization when she or he has met certain criteria, including having lived in the country for at least five consecutive years, good conduct, and financial stability.

In January the Tokyo High Court ruled a deportation order for a stateless man who had been denied refugee status was invalid, adding, “it was obvious that the man would have had nowhere to go on this earth.” Further, the court acknowledged that he would not be able to build a life in his home country, Georgia, and declared the order was “defective.”

Japan-born children of ethnic Koreans who had their Japanese citizenship revoked following the end of Japanese colonial rule in Korea at the end of World War II are deemed foreign nationals. They do not have suffrage rights and may not hold positions in government service. Those who did not pledge allegiance to either South or North Korea following the division of the Korean Peninsula fall under the special category of “citizens of the Korean Peninsula (Korea or *Chosen*).” These Koreans, regarded as de facto stateless by legal experts, may opt to claim South

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Korean citizenship or to pursue Japanese citizenship. Although they hold no passports, these ethnic Koreans may travel overseas with temporary travel documents issued by the government.

Children born to Rohingya living in the country remain effectively stateless.

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

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

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

**Recent Elections:** A snap election for the Lower House of the Diet called by the government in 2017 was free and fair according to international observers. Upper House elections in July 2019, in which the Liberal Democratic Party and its coalition partner, Komeito, won a solid majority, also were considered free and fair.

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

The law calls on political parties to make their best efforts to have equal numbers of male and female candidates on the ballot in national and local elections. Women held 46 of 465 seats in the Diet's Lower House, down one from the previous year, and continued to hold 56 of 245 seats in the Upper House (unchanged from the previous year). Women held two of 21 seats in the cabinet; none of the four senior posts in the ruling Liberal Democratic Party was held by a woman. At the end of 2019, of 2,668 assembly members across the 47 prefectures, 303 were women. There were two female governors in the 47 prefectures and 35 of 1,740 mayors were women.

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Very few individuals with disabilities run as candidates. In the July 2019 election, two wheelchair-bound candidates were elected to the Diet, becoming the first lawmakers in wheelchairs elected since 2005.

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

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

The law provides criminal penalties for corruption by officials, and the government generally implemented the law effectively. There were documented cases of corruption by officials.

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

**Corruption:** In March the Japan Maritime Self-Defense Force announced the dismissal of an officer on suspicion of breaking the law by leaking classified information and running a prostitution business for the previous 10 years. He later confessed, stating that he wanted extra income.

In June spouses Katsuyuki Kawai, a member of the House of Representatives, and Anri Kawai, a member of the House of Councilors, were arrested and indicted on charges of paying cash for votes in Anri Kawai's election. They pled not guilty but resigned from the Liberal Democratic Party while announcing their intention to retain their Diet seats. In June an aide to Anri Kawai was convicted and sentenced to 18 months in prison for illegally paying election campaigners, a ruling that was upheld on appeal.

**Financial Disclosure:** The law requires members of the Diet to disclose publicly their income and assets (except for ordinary savings), including ownership of real estate, securities, and means of transportation. Local ordinances require governors

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of all 47 prefectures, prefectural assembly members, mayors, and assembly members of 20 major cities to disclose their incomes and assets; assembly members of the remaining approximately 1,720 municipalities are not required to do the same. There are no penalties for false disclosure. The law does not apply to unelected officials. Separately, a cabinet code provides that cabinet ministers, senior vice-ministers, and parliamentary vice-ministers publicly disclose their, their spouses', and their dependent children's assets.

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

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

**Government Human Rights Bodies:** The Justice Ministry's Human Rights Counseling Office has more than 300 offices across the country. Approximately 14,000 volunteers fielded questions in person, by telephone, or on the internet, and provided confidential consultations. Counselling in 10 foreign languages was available in 50 offices. These consultative offices fielded queries, but they do not have authority to investigate human rights abuses by individuals or public organizations without consent from parties concerned. They provide counsel and mediate, and collaborate with other government agencies, including child consultation centers and police. Municipal governments have human rights offices that deal with a range of human rights problems.

According to the Ministry of Justice, regional legal affairs bureaus nationwide initiated relief procedures in 15,420 cases of human rights violations in 2019. Of those, 1,985 were committed online, and 454 were cases of sexual harassment. In one example publicized by the ministry, a regional legal affairs bureau requested that online video-sharing platform companies remove videos of a preteenage boy after it was contacted by his mother, investigated the case, and found that the videos of the boy were filmed and posted without his or his mother's knowledge.

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The bureau recognized posting such videos as a violation of his privacy and defamation of his character. The video-sharing companies removed the videos following the request.

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

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

#### **Women**

**Rape and Domestic Violence:** The law criminalizes various forms of rape, regardless of the gender of a victim. The law also criminalizes custodial rape of a minor younger than age 18. The law does not deny the possibility of spousal rape, but no court has ever ruled on such a case, except in situations of marital breakdown (i.e., formal or informal separation, etc.). The law mandates a minimum sentence of five years' imprisonment for rape convictions. Prosecutors must prove that violence or intimidation was involved or that the victim was incapable of resistance. Domestic violence is also a crime for which victims may seek restraining orders. Convicted assault perpetrators face up to two years' imprisonment or a modest fine. Convicted offenders who caused bodily injury faced up to 15 years' imprisonment or a modest fine. Protective order violators faced up to one year's imprisonment or a moderate fine.

Suicide rates among women rose in July and August by 40 percent as compared with the corresponding months of 2019, according to National Police Agency statistics. In October the Japan Suicide Countermeasures Promotion Center, which was commissioned by the Ministry of Health, Labor, and Welfare to analyze trends in suicides since July, stated that more severe domestic violence, an increased struggle to raise children, and financial difficulty--all due to COVID-19--along with the impact of a series of celebrity suicides in recent months, were potential factors leading to the increase in suicides among women living with one or more persons, unemployed women, and teenage girls.

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On October 1, the Cabinet Office upgraded the office for countering violence between men and women in the Ministry of Gender Equality to a division. Minister Seiko Hashimoto and Chief Cabinet Secretary Katsunobu Kato announced the change as an effort to strengthen government efforts to address sexual crimes and violence, including domestic violence. The division plans to enhance counseling services and collaboration with private supporting organizations.

In October the gender equality bureau director general in the Cabinet Office confirmed that government consultation bodies around the nation received 1.6 times more inquiries about domestic violence in May and June than during the same months in 2019. She expressed concern about the increase in the number and degree of severity of domestic violence cases, attributing the change to stress and anxiety about life in the future stemming from COVID-19. As preparedness measures, in April the Cabinet Office's Gender Equality Bureau extended hotline services to 24 hours a day and in May launching additional consultation services via social network services in Japanese and 10 foreign languages. The Ministry of Internal Affairs and Communications allowed victims fleeing domestic violence to receive an across-the-board one-time stipend of 100,000 yen (\$920) per person as a COVID-19 financial relief measure. NGOs reported, however, that the stringent requirements for the stipend made it difficult for some victims to qualify.

Several acquittals in rape cases in 2019 drew the attention of legislators and the public to the high legal standard and prosecutorial burden in such cases. In March the Nagoya High Court overturned a lower court's controversial 2019 acquittal of a father accused of raping his 19-year-old daughter. The High Court convicted the father after concluding that she had no option other than to submit and sentenced him to 10 years in prison. The father appealed to the Supreme Court.

The Ministry of Justice launched an expert panel in June to identify potential revisions to criminal legislation on all sexual crimes, as part of the government's efforts to strengthen measures against sexual crimes and violence. The expert panel includes a survivor of sexual abuse, lawyers, academics, and government officials.

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Rape and domestic violence are significantly underreported crimes. Observers attributed women's reluctance to report rape to a variety of factors, including fear of being blamed, fear of public shaming, a lack of victim support, potential secondary victimization through the police response, and court proceedings that lacked empathy for rape victims.

Victims of abuse by domestic partners, spouses, and former spouses could receive protection at shelters run by either the government or NGOs.

**Sexual Harassment:** Sexual harassment was generally perceived as a workplace issue after a 2007 amendment to equal employment opportunity law required employers to establish preventive measures against sexual harassment in workplaces. Sexual harassment in the workplace persisted (see section 7.d.).

Sexual harassment also persisted in society. One of the most pervasive examples was men groping women on subway trains. Many major train lines have introduced women-only cars to combat *chikan*, or groping; however, it continued during the year.

In April, Liberal Democratic Party Lower House members toured a facility for teenage survivors of sexual abuse. During the visit, members of the group were accused of sexist behavior and harassment, including an allegation that the former minister of education, culture, sports, science, and technology placed his hands on an underage girl's waist. He later apologized for "causing [her] discomfort" but added that he had no memory of putting his hands on her waist. Then prime minister Abe, in his capacity as head of the Liberal Democratic Party, also apologized on the former minister's behalf.

**Reproductive Rights:** Couples and individuals have the right to decide the number, spacing, and timing of their children; to manage their reproductive health; and have the information and means to do so, free from discrimination, coercion, and violence. Women had access to contraception and maternal health services, including skilled attendance during childbirth, prenatal care, and essential obstetric and postpartum care.

The government subsidizes sexual or reproductive health care services for survivors of sexual violence when the survivors seek help from the police or

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government-designated centers supporting sexual violence survivors located in each prefecture. Services subsidized by the government include medical examinations and emergency contraception.

**Coercion in Population Control:** There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

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

Despite the law and related policies, NGOs continued to allege that implementation of antidiscrimination measures was insufficient, pointing to discriminatory provisions in the law, unequal treatment of women in the labor market (see section 7.d.), and low representation of women in high-level elected bodies.

NGOs continued to urge the government to allow married couples to choose their own surnames. The postwar constitution provides for equality between men and women, and relevant laws state that a husband and wife may choose either spouse's surname as the legal surname for both of them. Separate surnames for a married couple, however, are not legal. According to the government, 96 percent of married couples adopt the husband's family name. Experts cited workplace inconveniences and issues of personal identity that disproportionately affect women as a result of the law.

In what became known as the “potato salad controversy,” there was a widespread outcry over perceived pervasive misogyny when an individual posted on social media about overhearing an elderly man admonishing a woman with an infant who was buying prepared potato salad instead of making it from scratch. The man reportedly chided the woman, suggesting that she was not a good mother for choosing not to spend time and labor to make the potato salad herself. Media speculated that the comment prompted so many responses because many women have had similar experiences. One prominent newspaper posited that misogynistic attitudes among men underpin such comments, adding that the notion that women are inferior is a persistent undercurrent in society.

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### Children

**Birth Registration:** The law grants citizenship at birth to: a child of a Japanese father who either is married to the child's mother or recognizes his paternity; a child of a Japanese mother; or, a child born in the country to parents who are both unknown or are stateless. The law also grants citizenship to a person born in the country with no nationality at the time of birth but who has resided in the country for three consecutive years or more since his or her birth. The law requires registration within 14 days after in-country birth or within three months after birth abroad, and these deadlines were generally met. Individuals were allowed to register births after the deadline but were required to pay a nominal fine.

The law requires individuals to specify whether a child was born in or out of wedlock on the birth registration form. The law presumes that a child born within 300 days of a divorce is the divorced man's child, resulting in the nonregistration of an unknown number of children.

**Child Abuse:** Reports of child abuse continued to increase, which NGOs attributed in part to stay-at-home COVID-19 policies. Legislators expressed concern about sexual crimes and violence against children. According to official data, police investigated 1,957 child abuse cases in 2019, a 42 percent increase from the previous year. Of the cases, 1,629 involved physical violence; 243 involved sexual abuse; 50, psychological abuse; and 35, neglect.

Reports of sexual abuse of children by teachers continued. Local education boards around the nation imposed disciplinary actions on 280 public school teachers, the highest number on record, for sexual misconduct with children from April 2018 through March 2019, an increase of 70 from the previous period, according to the Ministry of Education, Culture, Sports, Science, and Technology. The ministry dismissed 57 percent of the disciplined teachers from their teaching posts. By law their teaching licenses were invalidated, but they may obtain teaching licenses again after three years. In September a parental group submitted to the ministry approximately 54,000 signatures calling for legislative revisions to prohibit re-issuing teaching licenses to teachers dismissed for sexual misconduct with children.

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Known as *taibatsu*, corporal punishment in sports has been a longstanding concern. In June a report detailed widespread, systemic corporal punishment of child athletes. A law enacted in April established a ban on corporal punishment, which extends to abuse in sports; however, NGOs pointed to broad ignorance of the law among the perpetrators and argued that it does not explicitly state its application to organized sports, undermining its effectiveness. Additionally, government and sports organizations have not taken steps to ensure compliance, and abuse reporting may be limited by requirements to submit claims by post or fax, which are not necessarily available to children.

Children were also subject to human rights violations via the internet. Violations included publishing photographs and videos of elementary school students in public places without their consent. The government requested site operators to remove such images, and many reportedly complied.

**Child, Early, and Forced Marriage:** The law stipulates that to marry, the male partner must be age 18 or older and the female partner 16 or older. A person younger than 20 may not marry without at least one parent's approval. A law creating gender parity in the legal age to marry, 18 for both sexes, comes into force in 2022.

**Sexual Exploitation of Children:** Child prostitution is illegal, with penalties including prison sentences or moderate fines. Statutory rape laws criminalize sexual intercourse with a girl younger than age 13, notwithstanding her consent. The penalty for statutory rape is a sentence of not less than three years' imprisonment with mandatory labor. The law was enforced. Additionally, national law and local ordinances address sexual abuse of minors. Possession of child pornography continues to be a crime. The commercialization of child pornography remains illegal with the penalty of imprisonment with labor for not more than three years or a moderate fine. Police continued to crack down on this crime and noted that instances of sexual exploitation via social networking services continued to rise. NGOs continued to express concern that preventive efforts more frequently targeted victims rather than perpetrators.

The continued practice of *enjo kosai* (compensated dating) and the existence of websites for online dating, social networking, and "delivery health" (a euphemism

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for call-girl or escort services) facilitated the sex trafficking of children and other commercial sex industries. NGOs reported that unemployment and stay-at-home orders established because of the COVID-19 crisis fueled online sexual exploitation of children. The government's interagency taskforce to combat child sex trafficking in *joshi kosei* (or "JK" businesses)--dating services connecting adult men with underage girls--and in forced pornography continued to strengthen its crackdown on such businesses. In 2019 authorities identified 162 of these operations nationwide, up by 18 percent from the previous year. Eight individuals alleged to have been engaged in unspecified criminal activities surrounding the JK business were arrested, down from 69 in 2018. Seven major prefectures have ordinances banning JK businesses, prohibiting girls younger than age 18 from working in "compensated dating services," or requiring JK business owners to register their employee rosters with local public safety commissions. NGOs helping girls in the JK business reported a link between these activities and the commercial sexual exploitation of children in prostitution.

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

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

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

**International Child Abductions:** The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

### Anti-Semitism

The total Jewish population is approximately 3,000 to 4,000. There were no reports of anti-Semitic acts.

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### Trafficking in Persons

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

### Persons with Disabilities

A law prohibits discrimination against persons with physical, intellectual, mental, or other disabilities affecting body and mind and bars infringement of their rights and interests on the grounds of disability in the public and private sectors. The law requires the public sector to provide reasonable accommodations and the private sector to make best efforts in employment, education, access to health care, or the provision of other services. The laws do not stipulate remedies for persons with disabilities who experience discriminatory acts, nor do they establish penalties for noncompliance. Advocates reported the COVID-19 outbreak increased unemployment among persons with disabilities; the Ministry of Health reported that from February to June, more than 1,100 persons with disabilities were laid off, an increase of approximately 150 compared with the same period in the previous year (see section 7.d.).

Accessibility laws mandate that construction projects for public-use buildings must include provisions for persons with disabilities. The government may grant low interest loans and tax benefits to operators of hospitals, theaters, hotels, and other public facilities if they upgrade or install features to accommodate persons with disabilities. The government revised a law in May to require accessibility in public elementary and junior high school buildings. Nonetheless, persons with disabilities faced limited access to some public-sector services.

Abuse of persons with disabilities was a serious concern. Persons with disabilities around the country experienced abuse by family members, care-facility employees, and employers. Private surveys indicated discrimination against and sexual abuse of women with disabilities. Legislators expressed concern about sexual crimes and violence, especially against persons with disabilities by their relatives, schoolteachers, sports coaches, or care-facility staff.

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

Disability rights advocates reported that women with disabilities faced higher unemployment and more abuse and discrimination than men with disabilities, including insufficient access to support, and continued harassment at workplaces. Mental-health-care professionals asserted the government's efforts to reduce the stigma of mental illness and inform the public that depression and other mental illnesses are treatable and biology based were insufficient.

### **Members of National/Racial/Ethnic Minority Groups**

Members of minority groups experienced varying degrees of societal discrimination.

The law specifically addresses discrimination against *Buraku* (the descendants of feudal-era outcasts). It obligates national and local governments to study discrimination against Buraku, implement awareness education, and enhance the counseling system.

Buraku advocacy groups continued to report that despite socioeconomic improvements achieved by many Buraku, widespread discrimination persisted in employment, marriage, housing, and property assessment. Although the Buraku label was no longer officially used to identify individuals, the family registry system could be used to identify them and facilitate discriminatory practices. Buraku advocates expressed concern that employers who required family registry information from job applicants for background checks, including many government agencies, might use this information to identify and discriminate against Buraku applicants.

Despite legal safeguards against discrimination, foreign permanent residents in the country and nonethnically Japanese citizens, including many who were born, raised, and educated in the country, were subjected to various forms of entrenched societal discrimination, including restricted access to housing, education, health-care, and employment opportunities. Foreign nationals and “foreign looking”

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citizens reported they were prohibited entry--sometimes by signs reading “Japanese Only”--to privately owned facilities serving the public, including hotels and restaurants. Legal experts noted that there is no legal prohibition on such restrictions.

There was no indication of increased societal acceptance of ethnic Koreans. Representatives of the ethnic Korean community said hate speech against Koreans in public and on social networking sites persisted. In August the Fukuoka Legal Affairs Bureau recognized a 2019 address by Makoto Sakurai, then chairman of the Association of Residents Who Reject Special Privileges of Zainichi Koreans (known as *Zaitokkai*), as hate speech. In the address he targeted students heading to a school in Kitakyushu run by the North Korean government’s General Association of Korean Residents in Japan, telling them to “get out of Japan.” Sakurai ran in the July Tokyo gubernatorial election, seeking to abolish welfare for foreigners and placing fifth with 178,784 votes. Experts expressed concern that his campaign speech potentially threatened the safety of minority group members and fueled discrimination against them. Ethnic Koreans who chose not to naturalize faced difficulties in terms of civil and political rights and regularly encountered discrimination at work and in access to housing, education, and other benefits.

In June public broadcaster NHK came under fire, and later apologized, for airing a segment about racism that lacked context and used offensive and insensitive caricatures. The voice used in the narrative was one typically used for ruffians in Japanese animation, and images portrayed black men and women as angry, aggressive, and unkempt, while showing white characters as innocent and well dressed. In addition to issuing an apology, NHK removed the video and aired subsequent programming that more appropriately and effectively addressed diversity issues.

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

### **Indigenous People**

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The law recognizes Ainu as indigenous people, prohibits discrimination against them, prohibits the violation of Ainu rights, and protects and promotes their culture. The law requires the national and local governments to take measures to support communities and boost local economies and tourism. The law does not provide for self-determination or other tribal rights, nor does it stipulate rights to education for Ainu.

Ainu continued to face poverty and barriers to education. Seeking to restore traditional practices and rights abolished during the Meiji era, in August a group of Ainu filed a lawsuit seeking an exemption from a ban on commercial salmon fishing in rivers. It was the first such lawsuit by Ainu related to their indigenous rights. The state, however, asserted that because Ainu villages disappeared due to the Meiji-era assimilation policy, there are no tribes with land and salmon-fishing rights.

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

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

The law requires transgender persons to be without reproductive capacity, effectively requiring surgical sterilization for most persons, in order to have their gender identity legally recognized. They also must meet additional conditions, including undergoing a psychiatric evaluation and receiving a diagnosis of “gender identity disorder,” a disorder not recognized in the International Classification of Diseases; being unmarried and older than age 20; and not having any children younger than age 20.

No law prohibits discrimination based on sexual orientation or gender identity, and there are no penalties associated with such discrimination. LGBTI advocacy organizations reported instances of discrimination, outing, bullying, harassment, and violence. A letter signed by 96 human rights and LGBTI organizations and sent to the prime minister in April urged the Liberal Democratic Party to introduce

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legislation to protect against discrimination on the basis of sexual orientation and gender identity.

The parents of a student who fell from a school building in 2015 after his classmates disclosed he was gay appealed the Tokyo District Court's 2019 dismissal of their civil lawsuit seeking damages from Hitotsubashi University. As of November the case was pending at an appellate court.

In April, two all-women national universities in the country, Ochanomizu University in Tokyo and Nara Women's University in Nara, started accepting transgender students.

According to a government survey, just more than 10 percent of companies have policies aimed at protecting the rights of sexual minorities. LGBTI rights advocates welcomed an increasing number of municipalities that introduced ordinances to ban discrimination based on gender identity or sexual orientation and recognized same-sex partnership. The Ministry of Justice received a few inquiries about potential human rights violations based on sexual orientation and gender identity in 2019, providing the inquirers with legal advice.

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

There are two openly LGBTI national legislators, both of whom are members of the opposition Constitutional Democratic Party of Japan.

### **HIV and AIDS Social Stigma**

No law prohibits discrimination against persons with HIV/AIDS; nonbinding health ministry guidelines state that firms should not terminate or fail to hire individuals based on their HIV status. Courts have awarded damages to individuals fired from positions due to their HIV status.

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

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

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

### **Section 7. Worker Rights**

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

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

The law restricts the right of public-sector workers and employees of state-owned enterprises to form and join unions of their choice. Public-sector employees may participate in public-service employee unions, which may negotiate collectively with their employers on wages, hours, and other conditions of employment. The International Labor Organization raised concerns that the amended Local Public Service Act, which entered into force on April 1, could further restrict some public-sector employees' labor rights. Public-sector employees do not have the right to strike; trade union leaders who incite a strike in the public sector may be dismissed and fined or imprisoned. Firefighting personnel and prison officers are prohibited from organizing and collectively bargaining.

Workers in sectors providing essential services, including electric power generation and transmission, transportation and railways, telecommunications, medical care and public health, and the postal service, must give 10 days' advance notice to authorities before conducting a strike. Employees involved in providing essential services do not have the right to collective bargaining.

The law prohibits antiunion discrimination and provides for the reinstatement of workers fired for legal union activities.

The government effectively enforced laws providing for freedom of association, collective bargaining, and legal strikes. Government oversight and penalties were commensurate with those for other laws involving denials of civil rights.

Collective bargaining was common in the private sector.

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In the case of a rights violation, a worker or union may lodge an objection with the Labor Committee, which may issue a relief order requiring action by the employer. If the employer fails to act, a plaintiff may then take the matter to a civil court. If a court upholds a relief order and determines that a violation of that order has occurred, it may impose a fine, imprisonment, or both.

The increasing use of short-term contracts undermined regular employment and frustrated organizing efforts.

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

The law prohibits all forms of forced or compulsory labor. The law, however, does not expressly define what would constitute forced or compulsory labor, allowing for prosecutorial discretion when pursuing such cases.

In general, however, the government effectively enforced the law, but enforcement was lacking in some sectors, especially those in which foreign workers were commonly employed. Legal penalties for forced labor varied depending on its form, the victim(s), and the law used to prosecute such offenses. Some were not commensurate with those for other analogous serious crimes. For example, the law criminalizes forced labor and prescribes penalties of up to 10 years' imprisonment, but it also allows for moderate fines in lieu of incarceration. NGOs argued that reliance on multiple and overlapping statutes hindered the government's ability to identify and prosecute trafficking crimes, especially for cases involving forced labor with elements of psychological coercion.

Indications of forced labor persisted in the manufacturing, construction, and shipbuilding sectors, primarily in small- and medium-size enterprises employing foreign nationals through the Technical Intern Training Program (TITP). This program allows foreign workers to enter the country and work for up to five years in a de facto guest worker program that many observers assessed to be rife with vulnerabilities to trafficking and other labor abuses.

Workers in the TITP experienced restrictions on freedom of movement and communication with persons outside the program, nonpayment of wages, excessive working hours, high debt to brokers in countries of origin, and retention of identity documents, despite government prohibitions on these practices. For example,

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some technical interns reportedly paid up to one million yen (\$9,200) in their home countries for jobs and were employed under contracts that mandated forfeiture of those funds to agents in their home country if workers attempted to leave, both of which are illegal under the TITP. Workers were also sometimes subjected to “forced savings” that they forfeited by leaving early or being forcibly repatriated.

The Organization for Technical Intern Training oversees the TITP, including conducting on-site inspections of TITP workplaces. The organization maintained its increased workforce, including inspectors, but labor organizations continued to cite concerns that it was understaffed, insufficiently accessible to persons who do not speak Japanese, and ineffective at identifying labor rights violations.

To assist workers in the TITP who became unemployed during the economic downturn caused by the COVID-19 pandemic, the government allowed them to find employment with other employers and to switch designated job categories.

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

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

The law prohibits all of the worst forms of child labor. Children ages 15 to 18 may perform any job not designated as dangerous or harmful, such as handling heavy objects or cleaning, inspecting, or repairing machinery while in operation. They are also prohibited from working late night shifts. Children ages 13 to 15 years may perform “light labor” only, and children younger than age 13 may work only in the entertainment industry.

The government effectively enforced these laws. Penalties for child labor violations included fines and imprisonment and were commensurate with those for other analogous serious crimes.

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

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

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The law prohibits discrimination with respect to employment and occupation but does not explicitly prohibit discrimination with respect to employment and occupation based on religion, sexual orientation or gender identity, HIV-positive status, or language.

The law prohibits gender-based discrimination in certain circumstances, including recruitment, promotion, training, and renewal of contracts. It does not address mandatory dress codes. The law imposes some restrictions on women's employment. The law restricts women from performing certain tasks in underground mining as well as work that requires lifting very heavy objects or spraying 26 specified hazardous materials such as PCB. Additional restrictions apply to pregnant women and those who gave birth within the prior year.

In March, Japan Airlines announced that its dress code, which requires women to wear high heels and skirts, would be relaxed, allowing women to choose footwear that “best fits their needs” and to wear pants. The airline was the first major company to relax its dress code in response to a public campaign.

The government established a program for subcontracting freelance workers to receive 4,100 yen (\$38) a day if they were unable to work due to school closures related to COVID-19. The government excluded hostesses and sex industry workers from it, a move criticized by the advocates for such workers. The sex industry often employs women struggling financially, and advocates noted that such women were some of the most vulnerable in society. The government cited concerns about past cases of providing subsidies to businesses with potential legal issues, such as possible ties to crime syndicates, but advocates argued that such concerns involve owners and managers, not workers and their children.

The law mandates equal pay for men and women; however, the International Labor Organization viewed the law as too limited because it does not capture the concept of “work of equal value.” Women's average monthly wage was approximately 74 percent of that of men in 2019. The equal employment opportunity law includes prohibitions against policies or practices that have a discriminatory effect, even if unintended (called “indirect discrimination” in law), for all workers in recruitment, hiring, promotion, and changes of job type. Women continued to express concern about unequal treatment in the workforce, including sexual and pregnancy

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harassment. The law does not criminalize sexual harassment but includes measures to identify companies that fail to prevent it.

The women's empowerment law requires national and local governments, as well as private-sector companies that employ at least 301 persons, to analyze women's employment in their organizations and release action plans to promote women's participation and advancement. Revisions to this law passed in 2019 increased the number of disclosure items for large companies in April and will expand the reporting requirements to small and medium-sized enterprises (SMEs) that employ at least 101 persons in April 2022.

In response to a record number of requests from government employees for consultations about power harassment, the Diet passed a set of labor law revisions in 2019 requiring companies to take preventive measures for power harassment in the workplace and creating additional requirements for companies to prevent sexual harassment. The revisions regarding power harassment went into effect in June, making it mandatory for large companies and an "obligation to make efforts" for SMEs until the end of March 2022. It is scheduled to become mandatory for SMEs from April 2022. The revisions regarding taking additional measures for preventing sexual harassment went into effect in July for all companies regardless of company size.

Media continued to report that sexual harassment targeting students during job-hunting activities was widespread. The government requires companies to prevent sexual harassment in the workplace, but the regulations do not apply to students looking for jobs. To address this, universities issued warnings to students, and some companies revised conduct rules for employees interviewing student job applicants. According to a survey conducted by the Japanese Trade Union Confederation in May 2019, 10.5 percent of job seekers said they experienced sexual harassment. In June a revised law went into effect requiring companies to implement counseling, general workplace harassment training, and to investigate harassment complaints. According to a survey of 110 major companies, 67 percent reported they had already taken measures to protect student applicants, 13 percent reported they were planning to take protective steps, and 13 percent reported they had no plans to implement any changes. Some efforts include requiring that one-on-one meetings take place at company facilities, prohibiting alcohol consumption

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at meetings, and requiring same-sex only meetings. Tokyo Metropolitan Government began to allow job seekers to report sexual harassment using social media during the year.

Workers employed on term-limited contracts, known as “nonregular” workers, continued to receive lower pay, fewer benefits, and less job security than their “regular” colleagues performing the same work. The law was amended to include provisions to obligate employers to treat regular and nonregular workers equally when the job contents are the same and the scope of expected changes to the job content and work location are the same, and prohibit “unreasonable” differences in treatment. The labor law revisions related to equal pay for equal work for regular and nonregular workers went into effect in April for large companies and is scheduled to go into effect in April 2021 for SMEs.

To increase legitimate government hiring of persons with disabilities, as of 2019 the law requires verification of disability certificates to ensure the job candidate’s disability. Health and Labor Ministry statistics showed nearly 40 percent of government institutions missed hiring targets for persons with disabilities in 2019. The law mandates that both government and private companies hire at or above a designated minimum proportion of persons with disabilities (including mental disabilities). The law requires the minimum hiring rate for the government to be 2.5 percent and for private companies to be 2.2 percent. By law companies with more than 100 employees that do not hire the legal minimum percentage of persons with disabilities must pay a moderate fine per vacant position per month. Disability rights advocates claimed that some companies preferred to pay the mandated fine rather than hire persons with disabilities.

There is no penalty for government entities failing to meet the legal minimum hiring ratio for persons with disabilities.

When a violation of equal employment opportunity law is alleged, the Labor Ministry may request the employer report on the matter, and the ministry may issue advice, instructions, or corrective guidance. If the employer fails to report or files a false report, the employer may be subject to a fine. If the employer does not follow the ministry’s guidance, the employer’s name may be publicly disclosed. Government hotlines in prefectural labor bureau equal employment departments

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handled consultations concerning sexual harassment and mediated disputes when possible.

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

The law establishes a minimum wage, which varies by prefecture but in all cases allows for earnings above the official poverty line. The government effectively enforced the minimum wage.

The law provides for a 40-hour workweek for most industries and, with exceptions, limits the number of overtime hours permitted in a fixed period. The law imposing caps on overtime work on large employers was extended to SMEs in April. Violators may face penalties including fines and imprisonment commensurate with those for similar crimes. Labor unions continued to criticize the government for failing to enforce the law regarding maximum working hours; workers, including those in government jobs, routinely exceeded the hours outlined in the law.

The government sets occupational safety and health (OSH) standards. Workers may remove themselves from situations that endanger health or safety without jeopardy to their employment.

The Ministry of Health, Labor, and Welfare is responsible for enforcing laws and regulations governing wages, hours, and OSH standards in most industries. The National Personnel Authority covers government officials. The Ministry of Economy, Trade, and Industry covers OSH standards for mining, and the Ministry of Land, Infrastructure, Transport, and Tourism is responsible for OSH standards in the maritime industry.

The government effectively enforced OSH laws, and penalties for OSH violations were commensurate with those for similar crimes. While inspectors have the authority to suspend unsafe operations immediately in cases of flagrant safety violations, in lesser cases they may provide nonbinding guidance. Inspectors have the authority to make unannounced inspections and initiate sanctions. Government officials acknowledged their resources were inadequate to oversee more than 4.3 million firms and that the number of labor inspectors was not sufficient to deter violations.

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Reports of OSH violations in the TITP were common, including injuries due to unsafe equipment and insufficient training, nonpayment of wages and overtime compensation, excessive and often spurious salary deductions, forced repatriation, and substandard living conditions (also see section 7.b.).

There were 125,611 major industrial accidents in 2019 resulting in the death or injury of workers requiring them to be absent from work for more than four days (845 deaths). Falls, road traffic accidents, and injuries caused by heavy machinery were the most common causes of workplace fatalities. The Ministry of Health, Labor, and Welfare also continued to grant formal recognition to victims of *karoshi* (death by overwork). Their former employers and the government paid compensation to family members when conditions were met.