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To: United Nations Office of the High Commissioner for Human Rights

Written Information Submitted for the Summary of the Human Rights Situation in Japan to be Prepared by the United Nations Office of High Commissioner for Human Rights

Japan Federation of Bar Associations

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I. BACKGROUND AND FRAMEWORK

A. Scope of International Obligations

1. The government of Japan (“GOJ”) has not yet introduced the individual communication procedures for the international human rights treaties.
2. The GOJ has not ratified the ILO Conventions No. 105 and No. 111.
3. Japan has not signed the Second Optional Protocol to the ICCPR¹ and the ICRMW.²

B. Constitutional and Legislative Framework

4. There are very few judicial precedents in which a Japanese court directly or indirectly applies international human rights treaties ratified by Japan.
5. Violation of international human rights treaties does not constitute grounds for a final appeal to the Supreme Court.

C. Human Rights Protection Infrastructure and Education/Training

6. National Human Rights Institution, following the Paris Principles, has not yet been established.³ A bill to establish a human rights commission was scrapped in 2012 and has not been submitted to the Diet.⁴
7. No satisfactory education or training on international human rights law is provided for the judiciary and law enforcement agencies.
8. Its National Action Plan on Business and Human Rights⁵ does not contain an adequate analysis of the effectiveness of current legal systems and policies. Further, no sufficient consideration has been given to measures to prevent human rights violations in supply chains and provide remedies.

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS

A. Cooperation with Human Rights Mechanisms

9. The GOJ fails to hold a dialogue and cooperate⁶ with the UN Special Rapporteurs.⁷

B. Implementation of International Human Rights Obligations

1. Equality and Non-discrimination

a. LGBT

10. No law prohibits discrimination or exclusion based on sexual orientation and gender identity.⁸ Further, same-sex marriages are not permitted.

b. Hate Speech

11. There is no end to hate speech, especially against Korean residents in Japan. The Hate Speech Elimination Act⁹ is nothing more than a conceptional law without prohibition provisions and lacks effectiveness. The GOJ has not conducted any fact-finding status survey since 2016, and there is no special law or regulation against hate speech on the internet or hate crimes.

c. Buraku Discrimination

12. Discrimination against *Burakumin* remains, for example, in employment, marriage, and housing. Illegal application and acquisition of Certificate of Family Register by third parties for discrimination purposes continue to arise. Further, in addition to discrimination by direct speech or conduct, promotion and incitement of *Buraku* discrimination using the internet continue to occur, such as by posting videos of specific areas on video sharing channels.^{10,11,12}

2. Right to Liberty

a. Criminal Proceedings (Death Penalty, Arbitrary Detention, Etc.)

13. The GOJ has neither abolished the death penalty by reason of public opinion nor suspended executions.¹³ The actual conditions, such as the treatment of death row inmates, remain unchanged.^{14,15,16}
14. The situation continues where inmates are forcibly placed under solitary confinement against their will without clear and specific criteria and without an opportunity to file a complaint.¹⁷ The number of inmates serving life sentences who are granted parole is minimal, and a life sentence is, in essence, life imprisonment without parole.¹⁸
15. Interrogations are frequently prolonged or continued after an indictment by arresting on minor offenses for which the offender would not normally be arrested, or by separating a case into multiple charges to exploit the 23-day incarceration (arrest and detention) period for each charge.^{19,20}
16. There is no court-appointed defense counsel system for the period from arrest until detention, and no pre-indictment bail system has yet been established.
17. There is no movement to review the substitute prison (*Daiyo Kangoku*) system.²¹ There is nobody independent of the police agency to examine complaints of human rights violations filed by those detained at substitute prisons.
18. All requests for the presence of a defense counsel during custodial interrogations are

rejected.^{22,23}

19. The Code of Criminal Procedure requires video-recording of interrogations under arrest and detention only for major crime cases, and they account for less than 0.3% of all cases in which prosecutors and police officers conduct interrogations.²⁴
20. Defendants in custody are handcuffed with a rope tied around the waist when entering and leaving courtrooms and are under the watchful eyes of those concerned in the litigation, including courtroom observers and judges.²⁵
21. Under the evidence disclosure procedure, prosecutors are not required to disclose all the evidence collected by the investigating authorities to the defendants and defense counsels.
22. The right to consult with attorneys freely and completely confidentially is infringed, the exchange of documents is restricted, private interviews with death row inmates by defense counsels for retrial are obstructed, and the use of electronic devices during such interviews is prohibited in principle.
23. Prosecutors can appeal not-guilty-judgments due to factual error, and the defendants are at risk of being convicted even though the lower courts find not guilty.

b. Arbitrary Detention

(Compulsory Hospitalization and Detention in Immigration Facilities)

24. There exists legislation that allows for the hospitalization of persons with mental disabilities for an indefinite period without their consent. Such involuntary hospitalization is permitted solely at the discretion of a doctor without due processes, such as a judicial review. In case of ‘Hospitalization for Medical Care and Protection’,²⁶ the patients and/or their families must bear expenses for such hospitalization.^{27,28} Virtually no effort is being made to allow for the deinstitutionalization of persons with mental disabilities, and the issue of their long-term hospitalization has not been resolved.
25. The Immigration Control and Refugee Recognition Act allows for detention for an indefinite period by written deportation orders, and provisional release is rarely permitted.²⁹ Instead of adhering to the principle of general detention³⁰, long-term detention should be avoided as much as possible by defining the criteria for detention, introducing judicial review when starting and continuing detention, by setting an upper limit on the period of detention, and granting provisional release.^{31,32,33} Further, efforts should be made to improve the medical care system within the detention facilities, such as securing full-time doctors.

c. Right of Permanent Foreign Residents to Vote, Hold Public Office and Participate in Judicial System

26. Suffrage for national and local elections is limited to Japanese nationals.³⁴ Permanent foreign residents, including those from former colonies,³⁵ should be guaranteed the right to vote at least in local elections,³⁶ considering their historical background and actual living conditions.
27. Permanent foreign residents, including those from former colonies, are widely excluded from public office without legal grounds. The courts also have refused to appoint attorneys who do not hold Japanese nationality as conciliation commissioners and judicial commissioners.³⁷ Such practices are against the rule of law and fall under unfair discriminatory treatment and should be corrected immediately.³⁸

d. Laws Relating to Digital Reforms; the Act on the Review and Regulation of Real Estate Surrounding Important Facilities

28. The legal basis for integrated management of personal information is created by the six Laws Relating to Digital Reforms.³⁹ Under the law,⁴⁰ the national government has the authority to review the personal information of users related to land and buildings surrounding important facilities⁴¹ and regulates them with criminal penalties. Both provide inadequate protection of privacy and personal information, and the former should be modified,^{42,43} and the latter should be abolished.

3. Social Rights

a. Labor Issues

29. The Labor Standards Act⁴⁴ provides for overtime work regulations, but in addition to allowing for exceptions due to temporary extraordinary circumstances, the upper limit is at a level comparable to the standard applied in the administrative procedure in finding death from overwork.⁴⁵
30. Concerning workplace harassment,⁴⁶ the legislation only provides for employers' obligations to establish measures to prevent harassment as employment management. However, there are neither direct prohibition provisions nor punitive clauses.⁴⁷ An effective legal system should be established, including ratifying ILO Convention No. 190 and defining types of harassment to be prohibited.⁴⁸

b. Right to Social Security/Health (COVID-19-related)

31. The relative poverty rate in Japan has been improving slightly but remains high at 15.4%,⁴⁹ and poverty among elderly households consisting of those aged 65 or older, single-person households, and single-parent households are dire.^{50,51} The impact of the spread of COVID-19 infections is large on such poor and vulnerable groups, and the issues of poverty and disparities are expanding and becoming even more serious.⁵²

c. Radiation Exposure

32. Ten years after the nuclear power plant accident, 36,000 people of Fukushima Prefecture are still forced to remain in evacuation.^{53,54} Clearance work at the accident site and reconstruction are still only halfway completed. There is concern over the remaining environmental pollution of soil and water and in forests and its impact on people's health and recovery of their livelihoods.⁵⁵
33. In addition to the issues of uncertainty in the decommissioning process, measures against contaminated water, and lifting evacuation orders in "difficult-to return areas," the decision to discharge treated water into the sea⁵⁶ has been met with opposition by agricultural, forestry, and fishery workers.⁵⁷ Neighboring countries and the Special Rapporteurs also express their concerns to the UN Human Rights Council.^{58,59,60,61,62,63,64}
34. In recent years, the radiation exposure suffered by fishers at the hydrogen bomb test around Bikini Atoll in 1954 came to light, but no relief has yet been provided.^{65,66}

d. Environment

35. The GOJ does not implement sufficient measures to address issues that will have a significant environmental impact on future generations, such as climate change, marine plastic pollution, loss of biodiversity like the extinction of species, and disposal of radioactive waste. On the contrary, it maintains the construction of new coal-fired power plants.⁶⁷ Specific measures need to be taken to realize a sustainable society, including canceling such plans.^{68,69,70}

e. Educational Environment

36. Regarding the long working hours of teachers, no reform has been carried out to increase the absolute number of regular teachers. It is necessary to mitigate their burden, such as by reducing classroom hours they are in charge of, but no such measures have been taken.⁷¹

37. A system to reduce the number of students in each classroom to 35 has not expanded to junior high schools. Consideration to reduce the number of students per class from the current 35 is insufficient.
38. Tuition fees for tertiary education are expensive, while scholarships are insufficient. It is necessary to amend laws and create a system to implement tuition-free tertiary education.

4. Rights of Specific Individuals or Groups

a. Women

39. No law provides for a comprehensive definition of discrimination against women. The provision to criminalize artificial abortion⁷² and inflict penalties only on prostitutes⁷³ should be deleted.⁷⁴ The provision to prohibit only women from remarrying for 100 days after a divorce⁷⁵ should also be repealed. The Supreme Court determined that the law requiring married couples to use the same surname⁷⁶ does not violate Article 24 of the Constitution, but it discriminates against women in effect, and the legal amendment is necessary.⁷⁷
40. Under the Act on the Prevention of Spousal Violence,⁷⁸ the specific content of “words and deeds that cause psychological or physical harm” stipulated in the definition of “spousal violence” similar to physical violence is unclear, and relief of victims is insufficient.^{79,80} The Act should be amended to stipulate that economic violence and social isolation also fall under the definition.⁸¹
41. Concerning the sexual exploitation of women, it is necessary to investigate the actual state of trafficking for sexual exploitation and the sex industry, take measures against them, and protect victims. It is also necessary to take measures against revenge porn and other forms of exploitation on the internet.
42. In politics, Japan is ranked low in the Global Gender Gap Index, particularly in politics.⁸² Discriminatory remarks against women are still frequently made by politicians,⁸³ and increased participation by women in politics is urgently needed.⁸⁴
43. The gender wage gap among general workers⁸⁵ is 74.3% (2020) and is almost unchanged from 73.4% in the previous examination (2017).^{86,87} Wage gaps are not included in disclosures required under the Act on Promotion of Women’s Participation. Prohibition of indirect gender discrimination stipulated by law⁸⁸ is limited in scope and has not been expanded since 2014.
44. Women account for 68.1% of non-regular employees.⁸⁹ While the percentage of non-

regular workers among women is 54.4%, that for men is only 22.2%.⁹⁰ While the scheduled wages of women other than regular employees/staff are 1,933,000 yen per year, regular male employees/staff are 3,507,000 yen per year, meaning that women's wages are 55% of those of men.^{91,92} There is a significant gender gap in employment status and wage amounts.

45. Statistics on wages and income of women and men are prepared using a different basis for general workers (on a yearly basis)⁹³ and part-time workers (on an hourly basis)⁹⁴, and in the statistics on annual income by employment status, the lowest range includes those with income of fewer than 4,000,000 yen in total and therefore the actual status of the gap is unclear.⁹⁵ Gender statistics should be prepared differently so that the gender gap is identified regardless of the employment status.
46. While the rate of women taking child-care leave is 81.6%, that of men is only 12.65%, of which men who took less than five days of leave account for 28.33%.⁹⁶
47. In education, it was revealed that disadvantageous treatment based on gender was applied in entrance examinations for medical schools, and measures to prohibit discrimination are necessary.⁹⁷

b. Children

48. A comprehensive coordination body for child policies and an independent monitoring body for children's rights should be established, and a basic law should be enacted that clearly defines children as holding rights.^{98,99}
49. Suicide among young people is increasing,¹⁰⁰ and there is a possibility that changes in home and school environments due to the COVID-19 pandemic are affecting children. Psychological care for children and suicide prevention education should be promoted.
50. The number of bullying cases recognized is increasing,¹⁰¹ and there seems to be no end to suicide cases resulting from bullying. Legislation to enable effective handling of bullying cases and education to prevent bullying should be implemented.
51. Prohibition of corporal punishment by persons with parental authority has been stipulated,¹⁰² but the number of child abuse cases is increasing,¹⁰³ and violence against children is not being eliminated. The provision of the Civil Code stipulating disciplinary rights should be deleted, and the prohibition of all forms of violence by all adults, should be stipulated.¹⁰⁴

c. Persons with Disabilities

52. The Persons with Disabilities Discrimination Elimination Act¹⁰⁵ does not provide adequate remedies for rights violations.¹⁰⁶ A national human rights institution should be established following the Convention on the Rights of Persons with Disabilities.¹⁰⁷
53. Redress for the former Eugenic Protection Act (1948-1996)¹⁰⁸ remains insufficient, as the court denied claims because of the statute of limitations, and even the new Redress Act does not provide sufficient compensation, such as artificial abortion not being covered by the Act.¹⁰⁹
54. It is necessary to promptly enforce such provision of reasonable accommodation by private businesses as required by the amended Persons with Disabilities Discrimination Elimination Act and develop an effective system for elimination of discrimination by establishing a dispute resolution body, independent of the government.¹¹⁰
55. There is no effort to discontinue involuntary hospitalization and physical restraints because of mental disability.¹¹¹ Due to the dependence on medical care by hospitalization, there is insufficient welfare and medical support to guarantee to live in communities for persons with mental disabilities.
56. Inclusive education should be promoted, and education and policies to eliminate discrimination and prejudice against persons with disabilities should be reinforced.¹¹²

d. Indigenous Peoples

57. Since discriminatory remarks against the Ainu people,¹¹³ employment discrimination, and inequality in education due to economic disparities¹¹⁴ are still observed, social, cultural, political, and educational measures should be promoted comprehensively in light of the historical background and indigenous nature of the Ainu people, including new legislation such as a law to prohibit discrimination against the Ainu people.

e. Foreign Nationals

58. Legislation to prohibit racial discrimination and promote multiethnic coexistence has not progressed, and policy measures in labor, education, social security, judicial access, etc., are insufficient.¹¹⁵ Moreover, the status of residence that imposes restrictions on the residence of foreign residents' families is forcing foreign workers, in particular, to live separately from their families for long periods.

f. Migrants, Refugees and Applicants for Refugee Recognition

59. The technical intern training system¹¹⁶ has been admonished by the Convention

Committee to fall under forced labor and trafficking¹¹⁷ and has to be abolished as soon as possible.¹¹⁸

60. There is concern that the “Specified Skilled Worker” status of residence may violate the human rights of foreign workers.¹¹⁹
61. The refugee recognition rate is meager.^{120,121} Refugee recognition procedures under international standards should be established, governed by an independent third-party body rather than the Immigration Services Agency of Japan. Further, unjust restrictions on work and residence for applicants for refugee recognition should be abolished.¹²²

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- ¹ Refers to the Second Optional Protocol to International Covenant on Civil and Political Rights.
- ² Refers to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- ³ Japan was given recommendations to establish the National Human Rights Institution by 4 countries in the 1st UPR, by 13 countries in the 2nd UPR and by 31 countries in the 3rd UPR. Japan stated its opinion on each occasion from the 1st to 3rd UPRs that it “accept to follow up the recommendations,” but has not yet established such an institution. Further, recommendations have also been made for Japan to establish the National Human Rights Institution by the UN Human Rights Committee, the Committee on the Rights of the Child, the Committee on the Elimination of Discrimination against Women, the Committee on the Elimination of Racial Discrimination and the Committee against Torture.
- ⁴ In September 2012, the then Cabinet of Japan approved A bill to establish the Human Rights Commission and the Bill was submitted to the Diet after the same was approved by the Cabinet again in November of the same year. However, the Bill remains quashed since the House of Representatives was dissolved in December 2012.
- ⁵ <https://www.mofa.go.jp/files/100104121.pdf> (Japanese)
<https://www.mofa.go.jp/mofaj/files/100173319.pdf> (English)
- ⁶ The GOJ made a pledge to “place importance on the roles of OHCHR and Special Procedures and continue to cooperate with Special Rapporteurs to realize meaningful and constructive dialogue with them” in its voluntary pledge at the 2016 Human Rights Council election and was elected as a member of the Council and served as a member for three years from 2017.
https://www.mofa.go.jp/mofaj/press/release/press4_003868.html
- ⁷ Although the GOJ had declared in 2011 at the UN Human Rights Council that it would accept a visit by a Special Rapporteur at any time, it was revealed in June 2021 that therequest for a visit by Ms. Cecilia Jimenez-Damary, a Special Rapporteur in charge of the rights of internally displaced persons, had ignored from 2018 through 2021.
- ⁸ During the 204th Diet session, a Bill for the Promotion of Citizens’ Understanding of Diversity in Sexual Orientation and Gender Identity (Bill to Promote Understanding of LGBT) was discussed but in the end was not submitted to the Diet. In response to this, statements condemning such non-submission were issued as follows, but the Bill has not been submitted at the present time.
Tokyo Bar Association: “President’s Statement on the Bill to Promote Understanding of LGBT” (June 10, 2021)
<https://www.toben.or.jp/message/seimei/lgbt.html>
Daini Tokyo Bar Association: “President’s Statement to Call for Legislation to Prevent and Prohibit Discriminations based on Sexual Orientation and Gender Identity” (June 16, 2021)
<https://niben.jp/news/opinion/2021/202106162949.html>
- ⁹ The official name is the “Act on the Promotion of Efforts to Eliminate Unfair Discriminatory Speech and Behavior against Persons Originating from Outside Japan.”, enforced in 2016.
- ¹⁰ JFBA: “Japan Federation of Bar Associations Report on Response to the Tenth and Eleventh Report of the Japanese Government of the International Convention on Elimination of All Forms of Racial Discrimination” (March 15, 2018) English: Chapter 3 D; Japanese: P. 57
https://www.nichibenren.or.jp/library/ja/kokusai/humanrights_library/treaty/data/Racial_discrimination_en_1_0.11.pdf (English)
https://www.nichibenren.or.jp/library/ja/kokusai/humanrights_library/treaty/data/Racial_discrimination_ja_1_0.11.pdf (Japanese)
- ¹¹ Mainichi Shimbun: “Tokyo District Court Orders to Suspend Online List of Discriminated Dowa Area Names for Violation of Privacy Rights” (September 27, 2021)
<https://mainichi.jp/articles/20210927/k00/00m/040/298000c>
- ¹² Asahi Shimbun Digital: “Niconico Was Ordered to Delete a Video Allegedly ‘Disseminating Discrimination’” (June 1, 2021)
<https://www.asahi.com/articles/ASP507K29P50PIHB013.html>
- ¹³ 70 inmates were executed from 2008, which is the year of the 1st Review, to 2019.
- ¹⁴ Notification of execution is given immediately before the execution on the day, and contacts by death row inmates with the outside world, and attendance by a prison guard at interviews with their attorneys-at-law, in particular, are determined at the discretion of the warden. No improvements have been observed in such circumstances since the previous Review.
- ¹⁵ JFBA: “Declaration Calling for Reform of the Penal System Including Abolition of the Death Penalty” (October 7, 2016 at the 59th Convention on the Protection of Human Rights)
<https://www.nichibenren.or.jp/en/document/statements/161007.html> (English)
http://www.nichibenren.or.jp/activity/document/civil_liberties/year/2016/2016_3.html (Japanese)

¹⁶ On July 30, 2021, a death row inmate detained at the Fukuoka Detention Center filed a lawsuit with the Tokyo District Court claiming that the Justice Ministry's directive which bars death row inmates from using colored pencils violates freedom of expression.

Japan News, *Death row inmate sues Japan govt to allow him to use colored pencils* (8 October 2021). For the full text, see the following website:

<https://the-japan-news.com/news/article/0007857694>.

¹⁷ This issue is also pointed out in the JFBA's pamphlet, "What has the UN Committee against Torture called on the Government of Japan for?" (September 24, 2013).

https://www.nichibenren.or.jp/library/ja/kokusai/humanrights_library/treaty/data/UNC_against_torture_pam.pdf

¹⁸ From July 2014 and onward, the number of inmates serving life sentences has remained at around 1,800, of whom 1,475 inmates had served over 10 years as of the end of 2019, qualifying for possible parole ("The State of Execution of Life Sentences and Implementation of Parole for Inmates Serving Life Sentences" (November 2021)). On the other hand, the number of new parolees is only around 10 per year, while as many as 20 to 30 inmates die in prison every year, meaning that a life sentence is in essence life imprisonment without parole.

JFBA: "Report of JFBA Regarding the Seventh Periodic Report by the Government of Japan based on Article 40, Paragraph 1 (b) of the International Covenant on Civil and Political Rights" (July 16, 2020)

https://www.nichibenren.or.jp/library/pdf/activity/international/library/human_rights/iccpr_7en.pdf (English)

https://www.nichibenren.or.jp/library/pdf/activity/international/library/human_rights/iccpr_7.pdf (Japanese)

Ministry of Justice Website: "The State of Implementation of Parole for Inmates Serving Life Sentences" (Updated on November 17, 2021)

https://www.moj.go.jp/hogo1/soumu/hogo_hogo21.html

"The State of Execution of Life Sentences and Implementation of Parole for Inmates Serving Life Sentences" (Updated in November 2021)

<https://www.moj.go.jp/content/001358492.pdf>

¹⁹ See Footnote 18: JFBA: "Report of JFBA Regarding the Seventh Periodic Report by the Government of Japan based on Article 40, Paragraph 1 (b) of the International Covenant on Civil and Political Rights" (July 16, 2020)

²⁰ Suspects/defendants who plead not guilty or exercise their right to remain silent are incarcerated deliberately for long periods of time without being granted bail. It is permissible to confine a suspect who remains silent in an interrogation room and continue interrogation for long hours (suspects are detained in a detention facility (*daiyo kangoku*) within a police station where they are interrogated in principle), and many cases are reported in which interrogators use threatening words and behavior in an attempt to cause the suspect to abandon their silence. Around 90% of the defendants who plead not guilty are detained for over one month after indictment and face a first trial date without being granted bail. Detention is renewed even after indictment by reason of possible destruction of evidence, and the time limit prescribed by law is a moot point. Such practices prevent the system of "hostage justice" from being eliminated, where suspects/defendants are forced to confess in effect in fear of long-term detention, making acquittal difficult or causing them to give up pleading innocent.

²¹ Recommendations have been issued by various treaty bodies, including those by the UN Human Rights Committee made in October 1993 (the 3rd Review).

²² JFBA: "Written Information Submitted for the Summary of the Human Rights Situation in Japan to be Prepared by the United Nations Office of High Commissioner for Human Rights" (March 28, 2017)

https://www.nichibenren.or.jp/library/ja/kokusai/humanrights_library/upr/data/houkoku_en_170328.pdf (English)

https://www.nichibenren.or.jp/library/ja/kokusai/humanrights_library/upr/data/houkoku_ja_170328.pdf (Japanese)

²³ Opinion adopted by the Working Group on Arbitrary Detention at its eighty-eighth session, 24-28 August 2020, Opinion No. 59/2020 concerning Carlos Ghosn (Japan)

https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session88/A_HRC_WGAD_2020_59_Advance_Edited_Version.pdf

The UN Working Group on Arbitrary Detention determined that the pre-sentencing detention of Mr. Carlos Ghosn falls under arbitrary detention by reason that his defense counsel was not allowed to attend interrogations and there was an absence of pre-indictment bail, and so on.

²⁴ See Footnote 18: JFBA: "Report of JFBA Regarding the Seventh Periodic Report by the Government of Japan based on Article 40, Paragraph 1 (b) of the International Covenant on Civil and Political Rights" (July 16, 2020). Pursuant to the amendment of the Code of Criminal Procedure in 2016, it is now required to video-record interrogations (interrogations under arrest and detention only) in limited cases tried by citizen judges and a prosecutor's independent investigation cases, including death penalty cases, and the percentage of cases in which video-recording of interrogations is required is less than 0.3% of all cases in which prosecutors and police officers conduct interrogations. Video-recording is not required for interrogations before official arrest even when the suspect is under physical restraint. Moreover, investigating authorities stated their view that, even in cases where

video-recording is required, interrogations during detention after indictment are not subject to video-recording as they are voluntary interrogations. According to the announcement by the National Police Agency, exceptions to video-recording of the entire process include those due to machine breakdowns (56 cases in 2018; the same shall apply hereinafter), cases related to designated organized crime groups (140 cases) and those due to refusal of recording (117 cases), and the police never video-record interrogations in cases related to designated organized crime groups.

²⁵ JFBA: “Opinion Calling for the Cessation of Using Handcuffs and Waist Ropes on Suspects or Defendants While Entering and Leaving the Courtroom in Criminal Trials” (October 15, 2019)

<https://www.nichibenren.or.jp/en/document/opinionpapers/20191015.html> (Summary in English)

https://www.nichibenren.or.jp/library/ja/opinion/report/data/2019/opinion_191015.pdf (Japanese)

²⁶ There are three main types of psychiatric hospitalization systems. The first is "voluntary hospitalization," in which the patient voluntarily agrees to be hospitalized; the second is "hospitalization for medical care and protection," in which one of the patient's family members agrees to the hospitalization; and the third is "involuntary hospitalization" under the authority of the prefectural governor. These hospitalization systems are stipulated in the Mental Health and Welfare Law.

²⁷ As for the circumstance of psychiatric care in Japan, the number of those hospitalized in a psychiatric hospital is around 278,000, of whom around 91,000 patients are hospitalized for 5 years or longer, and around 54,000 patients are hospitalized for longer periods of 10 years or longer. The average number of hospitalization days for psychiatric care beds exceeds 260 days. The involuntary hospitalization system under the Mental Health Welfare Act confers widespread compulsory authority to private citizens to force hospitalizations and there is no system in place to ensure legality. This causes the number of involuntary hospitalization cases to increase and the periods of hospitalization to be prolonged, depriving patients of right to liberty.

²⁸ JFBA: “Resolution Calling to Establish the Dignity of Individuals with Cognitive Impairment” (October 15, 2021 at the 63rd Convention on the Protection of Human Rights)

https://www.nichibenren.or.jp/document/civil_liberties/year/2021/2021.html

²⁹ There are endless cases of those being detained for long periods exceeding 1 year, those who commit suicide, and those who die of illness without adequate medical care, including applicants for refugee recognition.

On March 25, 2017, an incident occurred where a Vietnamese man in his 40s detained at the Higashi-Nihon Immigration Center died.

JFBA: “President’s Statement Concerning the Case of Death of Detainee at the Higashi-Nihon Immigration Center” (April 12, 2017)

https://www.nichibenren.or.jp/document/statement/year/2017/170412_2.html

In April 2018, an incident occurred where a man of Indian nationality died at the Higashi-Nihon Immigration Center.

Tokyo Bar Association: “President’s Statement on the Case of Death of Detainee at the Higashi-Nihon Immigration Center” (April 25, 2018)

<https://www.toben.or.jp/message/seimei/post-501.html>

In June 2019, an incident occurred where a man of Nigerian nationality, who had been detained for as long as 3 years and 7 months at the Omura Immigration Center, and whose application for provisional release had been repeatedly rejected, died.

<https://www.nichibenren.or.jp/document/statement/year/2019/190808.html>

In March 2021, a Sri Lankan woman, Ms. Wishma Sandamali (33 years old) who had been detained at an immigration facility died. She had fallen ill during her six months of detention and sought treatment, but she was left unattended and died. On August 10 of the same year, the Immigration Services Agency of Japan released its final report which admitted that the system at the immigration facility was inadequate.

<https://www.moj.go.jp/isa/content/001354107.pdf>

³⁰ This refers to the principle regarding measures of detention of foreign nationals in Japan under which all those for whom a written deportation order has been issued are detained.

³¹ JFBA: “Opinion on How the Detention and Deportation Policy Should Be” (March 18, 2020)

As for the “upper limit of the detention period and judicial review on detention,” detention criteria should be established to allow for detention only “when the person has fled or there are reasonable grounds to suspect that the person will flee” and such decision shall be made by the court (at least a judicial review shall be guaranteed after the lapse of a certain period), and a maximum period of detention should be prescribed by law at six months or less.

https://www.nichibenren.or.jp/library/pdf/document/opinion/2020/opinion_200318_4.pdf

³² UN Working Group on Arbitrary Detention “Opinion No. 58/2020 concerning Deniz Yengin and Heydar Safari Diman (Japan)” (September 25, 2020)

https://www.ohchr.org/Documents/Issues/Detention/Opinions/Session88/A_HRC_WGAD_2020_58_Advance_Edited_Version.pdf

³³ Detention of pregnant women or those who need to go to a hospital or need hospitalization such as those who are sick or injured, etc., is suspected of falling under inhumane treatment prohibited under Article 10 of the International Covenant on Civil and Political Rights and Article 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

The fact that the principle to enforce detention in all cases also applies to children in administrative interpretation as well as the same physical restraint system that applies to adults also applies to children does not conform to Article 37 of the Convention on the Rights of the Child which allows for detention of a child only as a measure of last resort and for the shortest appropriate period of time.

Moreover, detaining a relative of a child dependent on a relative who serves as a caregiver and nurtures such child is suspected of not conforming to Article 3 of the Convention on the Rights of the Child which provides for the utmost respect for the welfare of the child and Article 9 of the same Convention which prohibits separation of a child from his/her parents.

JFBA: “Opinion Calling for Improvement of the Detention System at Immigration Control” (September 18, 2014)

https://www.nichibenren.or.jp/en/document/opinionpapers/20140918_2.html (English)

https://www.nichibenren.or.jp/library/ja/opinion/report/data/2014/opinion_140918_2.pdf (Japanese)

³⁴ Article 9, Paragraph 1 of the Public Offices Election Act: “Japanese nationals of 18 years of age or older shall have the right to vote in elections of members of the House of Representatives and the House of Councilors.”

Article 9, Paragraph 2 of the same Act: “Japanese nationals of 18 years of age or older who have been domiciled in a district of a municipality continuously for three months or longer shall have the right to vote in elections of assembly members and the head of the local public entity to which they belong.”

Article 11 of the Local Autonomy Act: “Inhabitants of an ordinary local public entity who are Japanese nationals shall have the right to participate in the election of the ordinary local public entity to which they belong as provided for in this law.”

Article 18 of the same Act: “Japanese nationals of 18 years of age or older who have been domiciled in a district of a municipality continuously for three months or longer shall have the right to vote in elections of assembly members and the head of the ordinary local public entity to which they belong as separately provided for by law.”

³⁵ As of the end of June 2020, around 300,000 out of approximately 1.1 million permanent foreign residents in Japan are those who were forced to live in Japan during the Japanese colonial administration of the Korean Peninsula and Taiwan in the early 20th century until the San Francisco Peace Treaty after the war and their descendants. These people possessed Japanese nationality from the commencement of the Japanese colonial rule until the San Francisco Peace Treaty in 1952 by which Japan restored its independence. The San Francisco Peace Treaty, etc., did not stipulate the nationality of those from the former colonies who continued to stay in Japan after the Treaty took effect. However, based on the interpretation that the Treaty included the provision that those from the former colonies would lose Japanese nationality, the Government of Japan unilaterally divested Korean and Taiwanese residents in Japan of Japanese nationality upon effectuation of the Treaty pursuant to the notice dated April 19, 1952 from the Director of the Civil Affairs Bureau of the Ministry of Justice. Additionally, the Nationality Act of Japan is founded on the strict *jus sanguinis* and prohibits dual nationality, and therefore, with very few exceptions, if both parents are foreign nationals, their child (children), even if born in Japan, will not be granted Japanese nationality. Therefore, many descendants of those from the former colonies are treated as foreign nationals unless they are naturalized.

³⁶ JFBA: “Declaration Seeking the Building of a Harmonious Multiethnic, Multicultural Society, and the Enactment of Legislation for the Basic Human Rights of Non-national and Ethnic Minorities” (October 8, 2004 at the 47th Convention on the Protection of Human Rights)

http://www.nichibenren.or.jp/activity/document/civil_liberties/year/2004/2004_5.html

The Supreme Court of Japan also states that the Constitution does not prohibit taking measures to grant voting rights to permanent foreign residents in elections of the head of the local government and members of the local assembly and other officials by law (judgment of the Supreme Court as of February 28, 1995).

³⁷ Conciliation commissioners are those who play a role in mediating and coordinating discussions between parties in civil and domestic relations conciliation procedures to reach an agreement. An attorney should be recommended by a bar association and then be appointed by the Supreme Court in order to become a conciliation commissioner. Judicial commissioners are those who play a role to act as an assistant of a court to coordinate discussions between parties in a settlement procedure of a summary court. An attorney should be recommended by a bar association and then be appointed by a district court in order to become a judicial commissioner.

³⁸ JFBA: “Opinion Paper Requesting Appointment of Foreign Nationals as Conciliation Commissioners and Judicial Commissioners” (March 18, 2009)

https://www.nichibenren.or.jp/library/en/document/data/090318_2.pdf (English)

https://www.nichibenren.or.jp/library/ja/opinion/report/data/090318_6.pdf (Japanese)

JFBA: “Alternative Report to the Third, Fourth, Fifth and Sixth Combined Periodic Report of Japan on the International Convention on the Elimination of All Forms of Racial Discrimination”(July 2009)

https://www.nichibenren.or.jp/library/ja/kokusai/humanrights_library/treaty/data/Racial_discrimination_en.pdf (English)

https://www.nichibenren.or.jp/library/ja/kokusai/humanrights_library/treaty/data/Racial_discrimination_ja.pdf (Japanese)

Committee on the Elimination of Racial Discrimination “Consideration of reports submitted by States parties under article 9 of the Convention” (CERD/C/JPN/CO/3-6, para 15)

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2FC%2FJPN%2FCO%2F3-6&Lang=en (English)

JFBA: “Japan Federation of Bar Associations Report on Response to the Seventh, Eighth and Ninth Report of the Japanese Government of the International Convention on Elimination of All Forms of Racial Discrimination” (July 14, 2014)

https://www.nichibenren.or.jp/library/ja/kokusai/humanrights_library/treaty/data/Racial_discrimination_en.7.8.9.pdf (English)

https://www.nichibenren.or.jp/library/ja/kokusai/humanrights_library/treaty/data/Racial_discrimination_ja.7.8.9.pdf (Japanese)

Committee on the Elimination of Racial Discrimination “Concluding observations on the combined seventh to ninth periodic reports of Japan” (CERD/C/JPN/CO/7-9, para 13.)

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD/C/JPN/CO/7-9&Lang=En (English)

³⁹ Collective name for the following six laws: the Basic Act on the Formation of a Digital Society, the Act on the Arrangement of Related Laws for the Formation of a Digital Society, the Act on the Establishment of the Digital Agency, the Act on Registration, etc., of Deposit and Saving Accounts for Prompt and Reliable Payment of Public Benefits, the Act on Management, etc., of Deposit and Saving Accounts by Using Personal Numbers Based on the Intention of the Account Holder, and the Act on Standardization of Information Systems of Local Governments.

<https://www.mhlw.go.jp/content/12601000/000782802.pdf>

⁴⁰ Act on the Review and Regulation of the Use of Real Estate Surrounding Important Facilities and on Remote Territorial Islands

https://www.shugiin.go.jp/internet/itdb_gian.nsf/html/gian/honbun/houan/g20409062.htm

⁴¹ Important facilities refer to important infrastructure such as defense facilities, nuclear power stations, etc. Under Article 2 and Article 3 of the Act on the Review and Regulation of the Use of Real Estate Surrounding Important Facilities and on Remote Territorial Islands, designation of such facilities is left to Cabinet Orders. Criteria for such designations are ambiguous and there is a risk that such facilities will be designated broadly through arbitrary interpretation by the government.

⁴² JFBA: “President’s Statement Calling for Careful Deliberation on the Six Bills Relating to Digital Reforms” (March 17, 2021)

https://www.nichibenren.or.jp/document/statement/year/2021/210317_2.html

⁴³ JFBA: “President’s Statement Opposing to the Bill on the Review and Regulation of Important Real Estate” (June 2, 2021)

<https://www.nichibenren.or.jp/document/statement/year/2021/210602.html>

⁴⁴ Enforced on small and medium enterprises as from April 2020.

⁴⁵ Less than 100 hours per month of overtime including work on days off, up to 80 hours on average over multiple months, and up to 720 hours per year.

⁴⁶ Refers to sexual harassment, maternity harassment and power harassment.

⁴⁷ As a result of the amendment of the Equal Employment Opportunity Act for Men and Women and the Child Care and Family Care Leave Act enforced in June 2020, it is now prohibited by law to treat an employee disadvantageously by reason that the employee has consulted with the employer regarding measures to prevent sexual and maternity harassment. Further, based on the amendment of the Act on Comprehensive Promotion of Labor Measures enforced in the same month, employers are required to take necessary measures in terms of employment management to prevent power harassment.

⁴⁸ JFBA: “Opinion Calling for Development of Effective Legal Systems for Comprehensive Prohibition of Harassment” (February 21, 2020)

https://www.nichibenren.or.jp/library/pdf/document/opinion/2020/opinion_200221_3.pdf

⁴⁹ Ministry of Health, Labour and Welfare: “Income, etc., of various types of households” (P. 9) in 2018

<https://www.mhlw.go.jp/toukei/saikin/hw/k-tyosa/k-tyosa19/dl/03.pdf>

⁵⁰ Ministry of Health, Labour and Welfare: “Results of Survey on Public Assistance Recipients” (P. 1)

<https://www.mhlw.go.jp/toukei/saikin/hw/hihogosya/m2019/dl/02-01.pdf>

⁵¹ Cabinet Office: “Situation of Aging”

https://www8.cao.go.jp/kourei/whitepaper/w-2012/zenbun/pdf/1s2s_2_8.pdf

⁵² The Japan Institute for Labour Policy and Training: “Survey on the Effect of the Spread of COVID-19 Infections on the Work and Life (fourth survey by JILPT)” (2021, P. 1)

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- <https://www.jil.go.jp/press/documents/20210430a.pdf>
- ⁵³ Japan Atomic Energy Commission: “White Paper on Nuclear Energy 2020” (July 2021)
http://www.aec.go.jp/jicst/NC/eng/210914_whitepaper.pdf (English) (P. 9)
<http://www.aec.go.jp/jicst/NC/about/hakusho/hakusho2021/zentai.pdf> (Japanese) (P. 5)
- ⁵⁴ Fukushima Prefectural Headquarters for Disaster Control: “Immediate Report on the Situation of Damage from the 2011 Off the Pacific Coast of Tohoku Earthquake (Report No. 1779)” (as of 8:00, August 5 (Thursday), 2021)
<https://www.pref.fukushima.lg.jp/uploaded/attachment/469318.pdf>
- ⁵⁵ Fukushima Prefecture: “Proposals and Requests for the Reconstruction and Creation of Fukushima” (June 8, 2021)
<https://www.pref.fukushima.lg.jp/uploaded/attachment/453143.pdf>
- ⁵⁶ Fukushima Prefecture Bar Association: “President’s Statement on Compensation for Damage Caused by Harmful Rumors due to Discharge of ALPS Treated Water into the Sea” (August 12, 2021)
<https://www.f-bengoshikai.com/topics/5724.html>
- This President’s Statement was released in response to the government’s decision to discharge ALPS treated water into the sea and stipulation of the basic policy to have Tokyo Electric Power Company (TEPCO) compensate for any damage caused by harmful rumors, expressing a concern that “discharge of treated water into the sea will not newly cause damage from harmful rumors but will further ‘exacerbate’ the damage from such rumors already caused in the past.” Therefore, the Fukushima Prefecture Bar Association released a statement calling on the Dispute Reconciliation Committee for Nuclear Damage Compensation to revise the Interim Guidelines to set a standard to have TEPCO compensate appropriately for damage from harmful rumors and to implement a full-scale fact-finding survey on the actual situation of damage caused by harmful rumors for that purpose.
- ⁵⁷ Fukushima Minpo: “Fukushima Fisheries Coop and Others Asserted Anew Their Opposition to Discharge into the Sea at the Advisory Board on Treated Water and Requested the Government to Take Measures against Harmful Rumors” (August 28, 2021)
<https://www.minpo.jp/news/moredetail/2021082889743>
- ⁵⁸ Request by 4 UN Special Rapporteurs for provision of information: “Mandates of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; the Special Rapporteur on the right to food; the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on the rights of indigenous peoples” (April 20, 2020)
<https://www.mofa.go.jp/mofaj/files/100064085.pdf> (English)
<https://www.mofa.go.jp/mofaj/files/100064086.pdf> (Japanese)
- ⁵⁹ Response by the GOJ to the request by 4 UN Special Rapporteurs for provision of information (footnote 58): “Response to the Joint Communication from Special Procedures from the Government of Japan” (June 12, 2020)
<https://www.mofa.go.jp/mofaj/files/100064087.pdf> (English)
<https://www.mofa.go.jp/mofaj/files/100064088.pdf> (Japanese)
- ⁶⁰ Request by 7 UN Special Rapporteurs for provision of information: “Mandates of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; the Special Rapporteur on the right to food; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the human rights of internally displaced persons and the Special Rapporteur on the human rights to safe drinking water and sanitation” (January 13, 2021)
<https://www.mofa.go.jp/mofaj/files/100159482.pdf> (English)
<https://www.mofa.go.jp/mofaj/files/100159483.pdf> (Japanese)
- ⁶¹ Response by the GOJ to the request by 7 UN Special Rapporteurs for provision of information (ALPS treated water, etc., at the TEPCO’S Fukushima Daiichi Nuclear Power Station) (March 11, 2021)
<https://www.mofa.go.jp/mofaj/files/100159484.pdf> (English)
<https://www.mofa.go.jp/mofaj/files/100159485.pdf> (Japanese)
- ⁶² Press release by 3 UN Special Rapporteurs: “Japan: UN experts say deeply disappointed by decision to discharge Fukushima water” (April 15, 2021)
<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27000&LangID=E> (English)
- ⁶³ Provision of information materials by the GOJ in response to the press release by 3 UN Special Rapporteurs (footnote 62): “Basic policy on handling of the ALPS treated water” (April 13, 2021)
https://www.meti.go.jp/english/earthquake/nuclear/decommissioning/pdf/202104_bp_breifing.pdf (English)
- ⁶⁴ Provision of information materials by the GOJ in response to the press release by 3 UN Special Rapporteurs (footnote 62): “Announcement of the Basic Policy on handling of the ALPS treated water at TEPCO’s Fukushima Daiichi Nuclear Power Station (FDNPS)” (April 19, 2021)
https://www.meti.go.jp/english/earthquake/nuclear/decommissioning/pdf/pr_bpalps.pdf (English)
- ⁶⁵ In 1954, the United States repeated hydrogen bomb testing several times in the Pacific Ocean, around Bikini

Atoll and many fishermen, including those on Daigo Fukuryu Maru were exposed to radiation. In 1955, the GOJ received consolation money of \$2 million (then equivalent to ¥720 million) and endorsed a political settlement not to prosecute the legal liability of the United States. From the above consolation money, ¥5,500,000 was paid to the chief radio officer of Daigo Fukuryu Maru and a total ¥44,000,000 was paid to 22 other members of the crew as compensation, but only a small amount of the compensation for the disposal of tuna, etc., was paid to crew members other than those of Daigo Fukuryu Maru and compensation money was not paid to each fisherman.

The GOJ did not disclose the fact and related records of radioactive exposure of fishermen other than those of Daigo Fukuryu Maru until September 19, 2014.

The fishermen brought litigation to file a claim for state compensation, arguing they had suffered from cancer and leukemia, which were suspected of being related to radioactive exposure and lost the opportunity to receive necessary treatment due to concealment for many years of the fact, etc., of radioactive exposure of persons other than those on Daigo Fukuryu Maru. On July 20, 2018, the Kochi District Court and on December 12, 2019, the Takamatsu High Court rendered a judgment respectively dismissing the claim and both judgments indicated that they had to hope for further consideration by the legislative and administrative branches of government.

⁶⁶ JFBA: “Opinion Calling for Relief Measures for the Former Crew Members of the Fishing Boats Suffering Health Effects of the Radiation Exposure Caused by the Hydrogen Bomb Test at Bikini Atoll in the Marshall Islands” (July 16, 2020)

<https://www.nichibenren.or.jp/en/document/opinionpapers/200716.html> (English)

https://www.nichibenren.or.jp/library/pdf/document/opinion/2020/opinion_200716_2.pdf (Japanese)

⁶⁷ In Japan, construction of 11 new coal-fired power stations is underway even after August 2020 (Reference materials of the 26th Electricity and Gas Basic Policy Subcommittee under the Electricity and Gas Industry Committee of the Advisory Committee for Natural Resources and Energy (July 2020): “List of Thermal Power Stations”)

https://www.meti.go.jp/shingikai/enecho/denryoku_gas/denryoku_gas/pdf/026_s01_00.pdf

If all 11 of these coal-fired power stations are put into operation, carbon dioxide emissions from Japanese coal-fired power stations of about 310 million tons as of 2023 will account for as much as approximately 1.0-1.3% of the global carbon dioxide emissions. Japan is the only OECD country that continues to still proceed with the construction of new coal-fired power stations after 2020. Moreover, as from 2015, Japan has exported boilers (22 cases, 15,473MW in total) and turbines (20 cases, 13,138MW in total) for coal-fired power stations, and public financial assistance has been provided to 53% of the boiler exports and 66% of the turbine exports (installed capacity ratio) (Ministry of the Environment: “Facts on Exports Related to Coal-Fired Power Station 2020” (May 2020), https://www.env.go.jp/earth/石炭火力発電輸出ファクト集_2020.pdf), while no other OECD countries engage in such activities. The JFBA is calling for “suspending the construction and expansion of coal-fired power stations including those under construction and phasing out the existing coal-fired power stations by 2030.” (“Opinion for the Realization of Decarbonization by 2050 without Depending on Nuclear Power” dated June 18, 2021,

<https://www.nichibenren.or.jp/library/pdf/document/opinion/2021/210618.pdf>)

⁶⁸ JFBA: “Opinion on the ‘Long-Term Strategy under the Paris Agreement as Growth Strategy (Draft)’” (September 29, 2021)

<https://www.nichibenren.or.jp/library/pdf/document/opinion/2021/210929.pdf>

⁶⁹ JFBA: “Opinion on the ‘Sixth Basic Energy Plan (Draft)’” (September 29, 2021)

https://www.nichibenren.or.jp/library/pdf/document/opinion/2021/210929_2.pdf

⁷⁰ JFBA: “Opinion on the ‘Plan for Global Warming Countermeasures (Draft)’” (September 29, 2021)

https://www.nichibenren.or.jp/document/opinion/year/2021/210929_3.html

⁷¹ JFBA: “Opinion on the Work Style Reforms at Schools” (October 20, 2021)

<https://www.nichibenren.or.jp/library/pdf/document/opinion/2021/211020.pdf>

Asahi Shimbun Digital: “Judge Gives Unusually Candid Advice on Teachers Salary ‘It Does Not Conform with the Actual Situation’” (October 1, 2021)

https://www.asahi.com/articles/ASPB15D7NPB1UTIL023.html?iref=comtop_BreakingNews_list

⁷² Articles 212 (Abortion), 213 (Abortion with Consent; Causing Death or Injury) and 214 (Abortion through Professional Conduct; Causing Death or Injury) of the Penal Code

<http://www.japaneselawtranslation.go.jp/law/detail/?id=3581&vm=04&re=01&new=1>

⁷³ Article 5 (Soliciting, etc.) of the Anti-Prostitution Act and Chapter 3 (Guidance Disposition) of the Anti-Prostitution Act

⁷⁴ JFBA: “Opinion Calling for Partial Deletion of the Penal Code and the Anti-Prostitution Act” (June 21, 2013)

https://www.nichibenren.or.jp/library/ja/opinion/report/data/2013/opinion_130621_3.pdf

⁷⁵ Article 733, Paragraph 1 of the Civil Code

<http://www.japaneselawtranslation.go.jp/law/detail/?id=2252&vm=04&re=01&new=1>

⁷⁶ Article 750 of the Civil Code and Article 74, Item (i) of the Family Register Act

<http://www.japaneselawtranslation.go.jp/law/detail/?id=2252&vm=04&re=01&new=1>

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- <http://www.japaneselawtranslation.go.jp/law/detail/?id=2161&vm=04&re=01&new=1>
- 77 JFBA: “Statement Calling to Amend Article 750 of the Civil Code to Introduce a Discretionary Separate-surname Retaining System on the Occasion of the Pronouncement of Ruling by the Supreme Court’s Grand Bench” (June 25, 2021)
<https://www.nichibenren.or.jp/document/statement/year/2021/210625.html>
- 78 The official title is “Act on the Prevention of Spousal Violence and the Protection of Victims”.
<http://www.japaneselawtranslation.go.jp/law/detail/?ft=1&re=01&dn=1&x=0&y=0&co=01&ia=03&ja=04&ky=%E9%85%8D%E5%81%B6%E8%80%85%E3%81%8B%E3%82%89%E3%81%AE&page=5>
- 79 When comparing the situation with other countries, the number of cases of non-molestation orders, occupation orders and emergency protection orders issued in Britain (England and Wales with a population of approximately 56 million) from April 2017 to March 2018 was 26,332 cases, 2,308 cases and 4,878 cases, respectively. The number of cases of protection orders issued in Taiwan (with a population of approximately 23.6 million) in 2018 was 41,685 cases. In comparison to these, the number of cases of protection orders issued in Japan in 2018 was only 1,700 cases, and we cannot help but say that Japan is significantly inferior in the handling of such cases in terms of protection of DV victims.
- 80 JFBA: “Report by the Japan Federation of Bar Associations on the Seventh and Eighth Periodic Reports of States Parties due in 2014, Japan” (March 19, 2015, paras. 139-167)
https://www.nichibenren.or.jp/library/ja/kokusai/humanrights_library/treaty/data/woman_report_7-8_en.pdf (English)
https://www.nichibenren.or.jp/library/ja/kokusai/humanrights_library/treaty/data/woman_report_7-8_jp.pdf (Japanese)
- 81 JFBA: “Opinion Calling for Amendment of the Act on the Prevention of Spousal Violence and the Protection of Victims” (October 20, 2020)
https://www.nichibenren.or.jp/library/pdf/document/opinion/2020/opinion_201020.pdf
- 82 Global Gender Gap Report 2021 (World Economic Forum)
The rank is at 147th out of 156 countries in 2021
https://www3.weforum.org/docs/WEF_GGGR_2021.pdf (English)
https://www3.weforum.org/docs/WEF_GGGR_2021.pdf (Japanese)
- 83 On February 3, 2021, the then President of the Tokyo Organizing Committee of the Olympic and Paralympic Games said at an ad-hoc meeting of councilors of the Japanese Olympic Committee, “meetings including many women take so much time,” “(female members) of the Organizing Committee all know how to behave,” etc., in connection with the target ratio of female directors (40% or more) set under the Sports Organization Governance Code (Established on June 10, 2019 by the Japan Sports Agency)
- 84 JFBA: “Statement Not Accepting Gender Discrimination and Promoting the Realization a Gender-Equal Society” (February 19, 2021)
<https://www.nichibenren.or.jp/document/statement/year/2021/210219.html>
- 85 General workers refer to regular workers excluding part-time workers. Cabinet Office: “White Paper on Gender Equality” (2021), Figure I-2-10 (Note) 4
https://www.gender.go.jp/about_danjo/whitepaper/r03/zentai/html/zuhyo/zuhyo01-02-10.html
- 86 Cabinet Office: “White Paper on Gender Equality” (2021), Figure I-2-10: Trends in Gender Gap in Scheduled Wages
https://www.gender.go.jp/about_danjo/whitepaper/r03/zentai/html/zuhyo/zuhyo01-02-10.html
- 87 Ministry of Health, Labour and Welfare: “2020 Basic Statistical Survey on Wage Structure”
<https://www.mhlw.go.jp/toukei/itiran/roudou/chingin/kouzou/z2020/dl/01.pdf>
- 88 Article 7 of the Act on Securing, Etc., of Equal Opportunity and Treatment between Men and Women in Employment
<http://www.japaneselawtranslation.go.jp/law/detail/?id=60&vm=04&re=01&new=1>
Article 2 of the Enforcement Regulation of the Act on Securing, Etc., of Equal Opportunity and Treatment between Men and Women in Employment
<http://www.japaneselawtranslation.go.jp/law/detail/?id=2318&vm=04&re=01&new=1>
- 89 Statistics Bureau, Ministry of Internal Affairs and Communications: “Labour Force Survey Basic Tabulation, 2020 Average” – Of 20.66 million workers, 14.07 million are female.
<https://www.stat.go.jp/data/roudou/sokuhou/nendo/pdf/gaiyou.pdf>
- 90 Cabinet Office: “White Paper on Gender Equality” (2021), Figure I-2-7: “Trends in Ratio of Non-regular Employees by Age Group”
https://www.gender.go.jp/about_danjo/whitepaper/r03/zentai/html/honpen/b1_s02_01.html
- 91 Cabinet Office: “White Paper on Gender Equality” (2021), Figure I-Toku-64: “Scheduled Wages (by Employment Status/by Age Group)”
https://www.gender.go.jp/about_danjo/whitepaper/r03/zentai/html/zuhyo/zuhyo01-00-64.html
- 92 The majority of male workers are regular employees/staff while the majority of female workers are non-

regular employees/staff. Therefore, in order to compare the gender wage gaps more realistically, we purposely make comparisons between men and women with different employment statuses.

⁹³ Employment Environment and Equal Employment Bureau, Ministry of Health, Labour and Welfare: “2020 Actual Situation of Female Labour”

<https://www.mhlw.go.jp/bunya/koyoukintou/josei-jitsujo/20.html>

Table 1-4-1 Actual Wages of General Workers (Regular Employees/Staff)

<https://www.mhlw.go.jp/bunya/koyoukintou/josei-jitsujo/dl/20-01.pdf> (Japanese) P. 28

Table 1-4-2 Actual Wages of General Workers (Non-regular Employees/Staff)

<https://www.mhlw.go.jp/bunya/koyoukintou/josei-jitsujo/dl/20-01.pdf> (Japanese) P. 29

Schedule 54 Trends in Cash Wages and Scheduled Wages Regularly Paid to General Workers

<https://www.mhlw.go.jp/bunya/koyoukintou/josei-jitsujo/dl/20fu-2.pdf>

⁹⁴ Table 1-5-3 Trends in Hourly Scheduled Wages of Part-time Workers and Gender Gap

<https://www.mhlw.go.jp/bunya/koyoukintou/josei-jitsujo/dl/20-01.pdf> (Japanese) P. 39

⁹⁵ Cabinet Office: “White Paper on Gender Equality” (2021)

Figure I-*Toku*-10: “Individual Annual Income by Employment Status; Changes in Individual Annual Income by Employment Status”

https://www.gender.go.jp/about_danjo/whitepaper/r03/zentai/html/zuhyo/zuhyo01-00-10.html

⁹⁶ Ministry of Health, Labour and Welfare: “2020 Basic Survey of Gender Equality in Employment Management” (July 30, 2021)

<https://www.mhlw.go.jp/toukei/list/dl/71-r02/07.pdf>

As a side note, as a result of the amendment of the Child Care and Family Care Leave Act in June 2021 (to be enforced in April 2022), employers are now required to take measures to improve the employment environment so as to encourage employees to take leave.

⁹⁷ JFBA: “President’s Statement Calling for the Eradication of Discrimination against Women in Entrance Examinations for Medical Schools and the Realization of Gender Equality in Medical Settings” (January 25, 2019)

<https://www.nichibenren.or.jp/document/statement/year/2019/190125.html>

⁹⁸ UN Committee on the Rights of the Child “Concluding Observations on the Combined Fourth and Fifth Periodic Report of Japan” paras. 7, 8 and 12

<https://www.mofa.go.jp/mofaj/files/100078749.pdf>

⁹⁹ JFBA: “Proposal Calling to Enact a Basic Act on the Rights of the Child” (September 17, 2021)

<https://www.nichibenren.or.jp/library/pdf/document/opinion/2021/210917.pdf>

¹⁰⁰ According to the “Suicide Statistics: Basic Suicide Data by Region (2020)” of the Ministry of Health, Labour and Welfare, the number of primary school pupils and junior high and high school students who committed suicide was the highest ever at 449, and the number of cases of suicides by female pupils/students are particularly increasing. A large proportion of primary school pupils who committed suicide did so due to problems with their family.

https://www.mhlw.go.jp/stf/seisakunitsuite/bunya/0000197204_00006.html

¹⁰¹ According to the “Results of 2019 Survey of Various Issues in Guiding Pupils/Students such as Problematic Behavior, Truancy, etc.” by the Ministry of Education, Culture, Sports, Science and Technology, the number of bullying cases recognized was 612,496.

https://www.mext.go.jp/content/20201015-mext_jidou02-100002753_01.pdf

¹⁰² Article 14, Paragraph 1 of the Act on the Prevention, etc., of Child Abuse, Article 33-2, Paragraph 2 and Article 47, Paragraph 3 of the Child Welfare Act

¹⁰³ According to the “Number of Cases of Consultation on Child Abuse 2019” of the Ministry of Health, Labour and Welfare, the number of cases of consultation on abuse handled by child guidance centers was 193,780.

<http://npo-capta.org/2020/11/19/603/>

According to the “Results of the Study of Cases of Death from Child Abuse, etc. (16th Report)” (September 2020) by the Expert Committee on the Study of Child Abuse and Other Cases Requiring Aid, under the Child Committee of the Social Security Council, the number of cases of children who died from abuse (including joint suicide cases) was 73.

https://www.mhlw.go.jp/stf/seisakunitsuite/bunya/0000190801_00001.html

¹⁰⁴ JFBA: “President’s Statement Calling for Legal Amendment Aiming at a Society without Corporal Punishment on Children” (April 18, 2019)

<https://www.nichibenren.or.jp/document/statement/year/2019/190418.html>

¹⁰⁵ The official title is the “Act for Eliminating Discrimination against Persons with Disabilities.”

¹⁰⁶ Limited to consultations by the national or local governments and labor dispute mediation procedures.

¹⁰⁷ JFBA: “2014 Declaration on Action for Human Rights” (October 2014), P. 10-12

https://www.nichibenren.or.jp/library/ja/opinion/report/data/2014/jinken_sengen2014.pdf

JFBA: “2019 Declaration on Action for Human Rights” (October 2019)

https://www.nichibenren.or.jp/library/ja/opinion/report/data/2019/jinken_sengen2019.pdf

¹⁰⁸ Law that permitted eugenic surgery and artificial abortion on those who have hereditary diseases, Hansen's disease and mental disabilities, etc. In addition to eugenic surgeries forcibly conducted through examination without consent of the person, there were also eugenic surgeries and artificial abortions conducted with consent of the person. However, in light of the situation at that time, it cannot be judged that the genuine consent of those people was obtained but can be said that such surgeries and artificial abortions were essentially forcibly conducted. Therefore, compensation should be given also to such victims as in the cases of those without consent.

JFBA: "Opinion on the Legislative Measures for Compensation for Eugenic Surgeries and Artificial Abortion, etc., under the Former Eugenic Protection Act" (December 20, 2018)

https://www.nichibenren.or.jp/library/ja/opinion/report/data/2018/opinion_181220_2.pdf (Japanese)

¹⁰⁹ JFBA: "President's Statement on Enactment of the Act on the Payment of Lump-sum Compensation to People Who Underwent Eugenic Surgeries Based on the Former Eugenic Protection Act" (April 24, 2019)

<https://www.nichibenren.or.jp/document/statement/year/2019/190424.html>

JFBA: "Statement on Redress for Victims of the Now-defunct Eugenic Protection Act in the Wake of the Tokyo District Court's Judgment" (July 15, 2020)

<https://www.nichibenren.or.jp/document/statement/year/2020/200715.html>

¹¹⁰ JFBA: "President's Statement in Response to the Revision of the Persons with Disabilities Discrimination Elimination Act" (May 28, 2021)

https://www.nichibenren.or.jp/library/pdf/document/statement/210528_shougaishasabetsu.pdf

¹¹¹ JFBA: "Opinion for Drastic Amendment of the Mental Health Welfare Act" (December 20, 2012) P. 8 (para 24)

https://www.nichibenren.or.jp/library/ja/opinion/report/data/2012/opinion_121220_2.pdf

¹¹² Articles 8, 19 and 24 of the Convention on the Rights of Persons with Disabilities

JFBA: "Declaration Calling for Full Implementation of the Convention on the Rights of Persons with Disabilities" (October 3, 2014, 57th Convention on the Protection of Human Rights)

http://www.nichibenren.or.jp/activity/document/civil_liberties/year/2014/2014_1.html

JFBA: "Declaration Calling for Legislation to Prohibit Discrimination against Persons with Disabilities" (November 9, 2001, the 44th Convention on the Protection of Human Rights)

https://www.nichibenren.or.jp/document/civil_liberties/year/2001/2001_3.html

¹¹³ Asahi Shimbun Digital: "Nippon Television's 'Sukkiri' will Look into the Discriminatory Remarks against Ainu People in its Own Program in August" (July 26, 2021)

<https://www.asahi.com/articles/ASP7V6DCRP7VUCVL034.html>

¹¹⁴ Comprehensive Ainu Policy Office of the Cabinet Secretariat: "Survey of Opinions on the People's Understanding of Ainu People" (March 2016)

https://www.kantei.go.jp/jp/singi/ainusuishin/pdf/rikaido_houkoku160322.pdf

¹¹⁵ The GOJ established the "Comprehensive Measures for Acceptance and Coexistence of Foreign Nationals" on December 25, 2018 and the "Comprehensive Measures for Acceptance and Coexistence of Foreign Nationals (Revision)" on December 20, 2019, but policies in the areas of education, welfare, labor, etc., for foreign residents are inadequate.

http://www.moj.go.jp/isa/policies/coexistence/04_00019.html

JFBA: "Declaration Calling for the Introduction of a New System to Accept Foreign Workers and the Establishment of a New Society in which People from Various National Backgrounds can Live Together" (October 5, 2018, the 61st Convention on the Protection of Human Rights)

https://www.nichibenren.or.jp/en/document/statements/2018_1.html (English)

https://www.nichibenren.or.jp/document/civil_liberties/year/2018/2018_1.html (Japanese)

¹¹⁶ Under the technical intern training system, unskilled workers are used as a means to solve the labor shortage and the structural problem remains that an equal labor-management relationship cannot be built. In November 2017, the Act on Proper Technical Intern Training and Protection of Technical Intern Trainees came into effect. Accordingly, the Organization for Technical Intern Training (OTIT) which conducts proper implementation of technical training and protection of technical intern trainees was established, but the Organization is not functioning sufficiently as a supervising body. According to the status of on-site inspections by the OTIT of companies receiving trainees published by the Board of Audit of Japan, the OTIT had not yet conducted on-site inspections as of the end of March 2020 to examine work environments, etc., with respect to 755 cases of disappearances of trainees, which account for 20% of all disappearance cases that had occurred from April to September 2019, and had not obtained basic materials for on-site inspections such as payroll books and time cards with respect to 557 cases out of them.

Board of Audit of Japan: "Report under Article 30-3 of the Board of Audit Act 'Results of the Audit of Measures Concerning Acceptance of Foreign Human Resources'" (July 2021)

https://www.jbaudit.go.jp/pr/kensa/result/3/pdf/30716_zenbun.pdf

¹¹⁷ Human Rights Committee: Concluding Observations on the Sixth Periodic Report of Japan (August 20, 2014)

http://www.nichibenren.or.jp/library/ja/kokusai/humanrights_library/treaty/data/CO_JPRep6_ICCPR140820.pdf (English)

Committee on the Elimination of Racial Discrimination: “Concluding Observations on the Combined Seventh to Ninth Periodic Reports of Japan” (September 26, 2014)

http://www.nichibenren.or.jp/library/ja/kokusai/humanrights_library/treaty/data/concluding_observations_en_7.8.9.pdf (English)

Committee on the Elimination of Discrimination against Women: “Concluding Observations on the Combined Seventh and Eighth Periodic Reports of Japan” (March 7, 2016)

https://www.nichibenren.or.jp/library/ja/kokusai/humanrights_library/treaty/data/woman_report_sokatsu_en.pdf (English)

¹¹⁸ See Footnote 115. When abolishing the technical intern training system, measures should be taken to prevent the existent technical intern trainees from suffering any disadvantages.

¹¹⁹ JFBA: “Opinion on the Bill to Partially Amend the Immigration Control and Refugee Recognition Act and the Act for Establishment of the Ministry of Justice” (November 13, 2018)

<https://www.nichibenren.or.jp/document/opinion/year/2018/181113.html>

There are concerns that regulations for brokers in the sending countries will not function sufficiently, and that human rights infringements against foreign workers cannot be prevented by receiving companies and the registration support organizations receiving fees from the receiving companies alone.

¹²⁰ JFBA: “Opinion on the Bill for Amendments to the Immigration Control and Refugee Recognition Act” (March 18, 2021)

<https://www.nichibenren.or.jp/en/document/opinionpapers/210318.html> (English)

https://www.nichibenren.or.jp/library/pdf/document/opinion/2021/210318_7.pdf (Japanese)

¹²¹ The refugee recognition rate (Number of Recognitions (Convention Refugees) per Year/Number of Applicants) in Japan was 0.4% in 2018, 0.4% in 2019 and 1.1% in 2020.

Ministry of Justice: “Status of Asylum for Refugees, etc., in Japan”

<https://www.moj.go.jp/isa/content/001352475.pdf>

¹²² Immigration Services Agency of Japan: “Applicants for Refugee Recognition Subject to Restrictions on Employment”

<http://www.moj.go.jp/isa/content/930002329.pdf> (English)

<https://www.moj.go.jp/isa/content/930002330.pdf> (Japanese)

Since September 2016, refugee application cases have been classified into 4 categories and practices with different procedures have been applied for each category, and since January 2018, application of restrictions on work and residence have been expanded to Cases B and C (cases which were determined by authorities as it is unlikely to be recognized as refugees or as abuse of the refugee recognition system).