

JAPAN 2022 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Japan has a parliamentary government with a constitutional monarchy. In November 2021, Kishida Fumio, the leader of the Liberal Democratic Party, was confirmed as prime minister. International observers assessed elections to the Upper House of the Diet on July 10, which the Liberal Democratic Party and its coalition partner, Komeito, won with a majority of seats, as free and fair.

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 reports that members of the security forces committed some abuses.

Significant human rights issues included credible reports of: significant barriers to accessing reproductive health services; and crimes involving violence or threats of violence targeting persons with disabilities, members of national/racial/ ethnic minority groups, or Indigenous peoples.

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

Section 1. Respect for the Integrity of the Person

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, and Other Related Abuses

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

The government continued to deny death row inmates advance information about the date of execution until the day the sentence was to be carried out. The government notified 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 by law 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.

Prison and Detention Center Conditions

Prison conditions generally met international standards, although some prisons continued to lack adequate medical and mental health care, and sufficient heating in the winter or cooling in the summer. Nongovernmental organizations continued to raise questions about prisons' solitary confinement of death row inmates for long periods with limited opportunities for movement or exercise.

Long-term detention of foreign nationals at immigration centers continued to be a concern. In response to COVID-19, however, the Ministry of Justice granted temporary release to many immigration center detainees. Some immigration facilities did not provide timely access to sufficient medical care.

On August 8, the family of a Sri Lankan woman who died in March 2021 after her detention in a Nagoya immigration center requested that an independent panel of citizens, the Committee for the Inquest of Prosecution in Nagoya, review a decision by the Nagoya District Public Prosecutors Office not to prosecute 13 immigration officials for criminal omission causing her death. The woman, Ratnayake Liyanage Wishma Sandamali, began complaining of stomach pain and other symptoms two months earlier, but her requests for a physical examination or hospital treatment outside the facility were not relayed to management when

needed, and no hospital care was available on the day she died until less than one hour before her death. In November 2021, Wishma's family filed criminal charges with the prosecutorial office against the 13 officials, including the head of the Nagoya Regional Immigration Services Bureau, claiming the officials left her to die with willful negligence by failing to provide adequate medical treatment and continuing to detain her despite their legal obligation to save her life. On June 17, prosecutors dropped the case, announcing they were unable to identify the cause of Wishma's death and were thereby unable to prove the immigration officials' culpability. In December the independent panel of citizens comprising the committee for inquest ruled that the decision not to indict the offenders was wrong and requested the government reinvestigate the case.

Abusive Physical Conditions: Prisoners presented chilblains-affected fingers and toes of varying severity, from long-term exposure to cold in unheated cells in the winter. Meal sizes were often considered insufficient, leading to significant weight loss, according to independent observers. Prisons and detention centers routinely held prisoners and detainees alone in their cells for extended periods.

Authorities routinely held prisoners condemned to death in solitary confinement until their execution but allowed visits by family, lawyers, and others (see section 1.c., above). The length of such solitary confinement varied from case to case and may extend for several years. NGOs continued to raise questions about solitary confinement of death row inmates for long periods with limited opportunities for movement or exercise.

Administration: Authorities generally permitted prisoners and immigration detainees to submit complaints to judicial authorities and to request investigation of alleged problems. Legal experts and human rights NGOs, however, continued to raise concerns that authorities controlled the complaint process at immigration detention centers. Complainants were, for example, required to notify detention officers about complaints. Authorities provided the responses to prisoners and immigration detainees in a letter offering little detail beyond a final determination.

Independent Monitoring: The government generally allowed scheduled visits by elected officials, NGOs, members of the media, and international organizations.

The Ministry of Justice appointed members to inspection committees for government-run prisons and immigration detention centers from outside of the national government. Authorities permitted the committees, which included physicians, lawyers, local municipal officials, local citizens, and experts, to interview detainees without the presence of prison and immigration detention center officers. Prisons and immigration detention centers generally acted upon or gave serious consideration to their recommendations.

Legal experts and human rights NGOs, however, raised concerns about aspects of the inspection process and the teams' makeup. NGOs and the UN Committee Against Torture also cited concerns about the requirement to submit advance notifications to facility authorities.

d. Arbitrary Arrest or Detention

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

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 specific crimes, including a crime punishable by death, the law allows police to arrest suspects without obtaining warrants beforehand, but 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. While confession was not a legal requirement for bail, NGOs and legal experts stated bail was very difficult to obtain without a confession. Other elements of arrest and pretrial detention practices (see below) also tended to encourage confessions. The Public Prosecutors Office reported that 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, of whom nearly all were convicted. In most of these cases, suspects had confessed.

Suspects in pre-indictment 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 an attorney sent by a local bar association on a request basis and, when pre- and post-indictment detainees have limited financial resources, consultations with a counsel appointed by the judge when requested by the detainee. There is no legal right, however, for defense counsel to be present during interrogations.

The law allows a court 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 members or others. Legal experts, however, stated those held for organized crime or on charges involving other criminals tended to be denied such visits because prosecutors believed that communications with family members or others could interfere with investigations.

Police and prosecutors must record the entire interrogation process in criminal cases involving heinous crimes, including murder, death, or injury resulting from rape, arson, and kidnapping for ransom. In such cases, an arrested suspect's statements to police and prosecutors during an interrogation are inadmissible without a recording. Police are also required to make best efforts to record the interrogation process when arrested suspects have a mental disability. The Japan Federation of Bar Associations continued to advocate for expanding the measure to include the video recording of the interrogations of pre-arrest suspects and in all criminal cases. Legal experts continued to express concerns regarding forced confessions, especially in cases involving white-collar crimes. (抄訳)

Arbitrary Arrest: There were credible reports of foreigners being stopped and

searched by police in suspected racial-profiling incidents. A chain-referral sampling survey of individuals of foreign origin released by the Tokyo Bar Association on September 9 found that 63 percent were questioned by police over the past five years, and 77 percent of those questioned believed there was no reason for the intervention other than their ethnicity. More than 74 percent of those stopped said that they had been questioned multiple times during the previous five years.

Pretrial Detention: Authorities routinely held suspects in police-operated detention facilities 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 from judges when deemed legally necessary. Individuals facing multiple charges may be held far longer, in some cases for months. The length of pretrial detention rarely equaled or exceeded the maximum sentence for the alleged crime. Prosecutors may also apply for an additional five-day extension in exceptional cases, such as insurrection, foreign aggression, or violent public assembly. The Japan Federation of Bar Associations stated detainees were subject to interrogation without counsel during a period of detention by police and prosecutors. The federation added that the government often denied bail to suspects and pretrial defendants who pleaded not guilty or exercised the right to remain silent. According to the federation, this practice effectively prompted those detainees' confessions because they feared lengthy detention without bail.

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

日本 2022 年国別人権報告書

米国国務省民主主義・人権・労働局

(5～6 頁 抄訳部分)

恣意的な逮捕： 外国人が警察に止められ、人種差別の疑いのある検査を受けたという信頼できる報告があった。東京弁護士会が 9 月 9 日に発表した外国にルーツをもつ個人を対象とした機縁法調査によると、過去 5 年間に 63%が警察から職務質問を受け、職務質問を受けた人の 77%が民族性以外に職務質問の理由がないと考えていた。警察に止められた人の 74%超が、過去 5 年間に複数回の職務質問を受けたと回答している。

※在日米国大使館と領事館ウェブサイトによる仮翻訳から抜粋

<https://jp.usembassy.gov/ja/human-rights-report-2022-japan-ja/>