



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2008)¹: JAPAN

THE ELIMINATION OF ALL FORMS OF FORCED OR COMPULSORY LABOUR (FL)

REPORTING	Fulfillment of Government's reporting obligations	YES, since the start of the Annual Review (AR) in 2000.	
	Involvement of Employers' and Workers' organizations in the reporting process	YES, according to the Government: Involvement of the Japan Business Federation (Nippon Keidanren) and the Japanese Trade Union Confederation (JTUC-RENGO) through communication of the Government's report.	
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	2001 AR: Observations by the NIKKEIREN.	
	Workers' organizations	2008 AR: Observations by the JTUC-RENGO. 2007 AR: Observations by the JTUC-RENGO. 2006 AR: Observations by the JTUC-RENGO and by the International Confederation of Free Trade Unions (ICFTU). 2005 AR: Observations by the JTUC-RENGO. 2004 AR: Observations by the JTUC-RENGO. 2003 AR: Observations by the JTUC-RENGO and by the ICFTU. 2002 AR: Observations by the JTUC-RENGO. 2001 AR: Observations by the JTUC-RENGO and by the ICFTU. 2000 AR: Observations by the JTUC-RENGO.	
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	Japan ratified in 1932 the Forced Labour Convention, 1930 (No. 29) (C.29).
		Ratification intention	2008 AR: According to the JTUC-RENGO: The Government should ratify C.105. 2000-2004 and 2006 ARs: The Government indicated that further study was needed on, for instance, the compliance between C.105 and national laws and regulations, as regards the ratification of C.105. 2001 AR: NIKKEIREN encouraged Japan in examining the issue in view of ratifying C.105. 2000-2005 ARs: The JTUC-RENGO supported ratification of C.105 by Japan.

¹ Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the Government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention, please see: www.ilo.org/ilolex

	Recognition of the principle and right (prospect(s), means of action, basic legal provisions)	Constitution	YES The Constitution of Japan in Article 18 provides: that «No person shall be held in bondage of any kind. Involuntary servitude, except punishment for crime, is prohibited».
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Recognition of the principle and right (prospect(s), means of action, basic legal provisions)	Policy, legislation and/or regulations	<ul style="list-style-type: none"> • Policy <p>2004 AR: According to the Government: The Labour Policies Commission is responsible for important matters relevant to labour policy and collaborates with the Minister of Health, Labour and Welfare or administration authorities concerned. This Commission is composed of representatives of employers', workers' and public interest organizations.</p> <ul style="list-style-type: none"> • Regulations <p>2000-2006 ARs: According to the Government: The Labour Standards Bureau in the Ministry of Health, Labour and Welfare, Prefectural Labour Standards Offices and Labour Standards Inspection Offices as the local branches are established. The appropriate number of personnel is allocated at these agencies with a view to enforcing the Labour Standards Law. In addition, the Seafarers Department of the Maritime Technology and Safety Bureau in the Ministry of Transport and District Transport Bureau have established local branches in order to enforce the Mariners Law, etc., and the number of necessary personnel is allocated at these agencies.</p>
		Basic legal provisions	2007 AR: According to the Government: (i) The Constitution of Japan, articles 14, 18-21, 28, 31, 32, 34 and 36; (ii) The Penal Code (Law No. 45 of 1907), sections 193-196; (iii) The Labour Standards Law (Law No. 49 of 1947), sections 5 and 117; (iv) The Mariners Law (Law No. 100 of 1947), sections 122 and 128; (v-1) the National Public Service Law (Law No. 120 of 1947), sections 98, 102 and 110; (v-2) the Rule of National Personnel Authority 14-7 (1949), sections 1-8; (vi) The Mail Law (Law No. 165 of 1947) section 79; (vii) The Trade Union Law (Law No. 174 of 1949), section 1; (viii) The Local Public Service Law (Law No. 261 of 1950), sections 37 and 61; (ix) The Gas Undertakings Law (Law No. 51 of 1954), section 53; (x) The Electric Undertakings Law (Law No. 170 of 1964), section 115; and (xi) The Telecommunications Business Law (Law No. 86 of 1984), sections 80 and 102.
		Definition of forced or compulsory labour	NIL
	Judicial decisions	NIL	
	Exercise of the principle and right	Special attention to particular situations and human trafficking	NIL
		Information/Data collection and dissemination	<p>2008 AR: The ITUC observed that according to statistics from public institutes, 106 persons were confirmed as victims of trafficking from January to October 2006.</p> <p>2004-2006 ARs: According to the Government: Statistics and information relevant to</p>

			violations related to the elimination of all forms of forced or compulsory labour are registered during a periodical inspection. Information is available at the Labour Standards Bureau of the Ministry of Health, Labour and Welfare, and at the Maritime Bureau, Ministry of Land, Infrastructure and Transport.
	Prevention/Monitoring, enforcement and sanctions mechanisms		<p>2004 AR: According to the Government: In case of violation of the principle and right (PR) of the elimination of all forms of forced or compulsory labour, the Penal Code is enforced. Under the Labour Standards Law, forced labour is prohibited with regard to employers of private undertakings, and penal sanctions are provided in case of violation of this law (sections 5 and 117). Moreover, inspection/monitoring mechanisms and penal sanctions have been implemented in Japan to facilitate the realization of the PR.</p> <p>2000-2004 ARs: According to the Government: Instructions are made to establishments deemed to have problems in relation to the implementation of the Labour Standards Law. In case of violations of legal provisions, action is taken by the Ministry of Health, Labour and Welfare.</p>
	Involvement of the social partners		2004-2005 ARs: According to the Government: Employers' and workers' organizations and other stakeholders have been involved in the Labour Policies Commission.
	Promotional activities		2008 AR: According to the JTUC-RENGO: A tripartite consultation was held on 10 th April 2007 and the ratification of C.105 was argued.
	Special initiatives/Progress		NIL
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	2001 AR: According to NIKKEIREN: Tripartite consultations should be established to assess the difficulties and obstacles as regards the ratification of C.105 and the appropriate measures to address them.
CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Workers' organizations	<p>2008 AR: The JTUC-RENGO indicated that during the tripartite consultation of April 2007, the Ministry of Labour and Welfare listed the following points where further study was needed as regards to compliance between C.105 and national laws: (i) Article 102.1 and 110.19 of the National Public Service Law (NPSL) prescribes penal servitude to public workers engaged in political acts; (ii) Article 53.3 of the Gas Business Act, Article 115.3 of the Electricity Business Act and Article 79 of the Postal Act, which provide that workers who have not performed without justifiable grounds be punished by imprisonment with labour and (iii) Article 98.2 and 110.7 of the National Public Service Law (NPSL) and Article 37.1 and 61.4 of the Local Public Service Law (LPSL) provide that public workers who attempt, conspire, instigate or incite strike action be punished by imprisonment with labour.</p> <p>During the WTO Trade Policy review in Japan in January-February 2007, the ITUC observed that there trafficking of people into Japan for the purpose of forced prostitution and forced work is still a problem. Women and girls, primarily from Asian countries are trafficked into the country for sexual exploitation. Women sometimes enter legally under entertainer visas and many of those are exploited by criminal groups. According to statistics from public institutes, 106 persons were confirmed as victims of trafficking from January to October 2006. According to the ITUC, the Government of Japan revised the Immigration Control Law and the Criminal Law in order to prevent and prohibit trafficking of persons in the country.</p> <p>2007 AR: According to the JTUC-RENGO: A major barrier to the ratification of C. 105 is that the National Public Service Law (NPSL) and The Local Public Service Law (LPSL) provide as follows:</p> <p><i>«Personnel shall not strike or engage in delaying tactics or other acts of dispute against the public represented by the National Government as employer, or resort to delaying tactics which reduce the</i></p>

			<p><i>efficiency of government operations, nor shall personnel or other persons attempt, conspire to effect, instigate or incite such illegal actions.» (Section 98.2, NPSL and section 37.1 LPSL); and</i></p> <p><i>«A person who conspires to effect, instigates or incites the illegal action defined in the first part of paragraph 2 of section 98, or attempts such action shall be sentenced to penal servitude not to exceed three years or fined not to exceed one hundred thousand yen.»(Section 110, NPSL and section 61, LPSL).</i></p> <p>2006 AR: According to the JTUC-RENGO: During consultations in May 2005 between the Prime Minister and the JTUC-RENGO, the JTUC-RENGO raised the issue of fundamental trade unions rights in the public sector, in particular for civil service workers. The Government assured JTUC-RENGO that it would continue to secure the framework of Government-trade union consultations to address reforms of the public service system. However, since May consultations, there have been no Government-trade union consultations, and reforms of the public service system have completely stalled.</p> <p>The ICFTU raised the following challenges: Although forced labour is prohibited by law and does not generally occur in Japan, the National Public Service Law and the Local Public Service Law, which provide that public employees who incite strike action be fined or sentenced up to three-year imprisonment, or possibly dismissed, reprimanded with a pay cut or disciplined, are not in line with C.105 as it prohibits penal servitude as a punishment for having participated in strikes.</p> <p>2000-2005 ARs: JTUC-RENGO raised the following challenges: (i) Japan should ratify C.105; (ii) the prohibition of strike for administrative employees, manual workers, employees of state and municipal enterprises; (iii) the punishment by forced labour for strike action; (iv) imprisonment and fine for leaders of «illegal» strikes; (v) the prohibition of political activities to white-collar employees of State and municipalities; (vi) the sanctions (dismissal and fines or sentences) imposed on public employees in case of strike action do not comply with C.105 as it prohibits penal servitude as a punishment for having participated in strikes; (vi) amendments to the National Public Service Law and the Local Service Public Law are needed; (vii) during tripartite consultations held in May, June and July 2004, trade unions expressed the need to ensure trade union rights in the public sector, in particular promoting the right to organize for fire fighters and prison staff and abolishing penalties including imprisonment for workers involved in strike.</p>
	<p>According to the Government</p>		<p>2007 AR: In reply to the aforementioned JTUC-Rengo’s observation the Government states that if the JTUC-RENGO is of the view that the prohibition of strikes provided for in section 98, paragraph 2, of the National Public Service Law and section 37, paragraph 1, of the Local Public Service Law is a major barrier to Japan's ratification of Convention No.105, it has to be made clear that as pointed out in previous ILO Report that this Convention merely prohibits the type of forced labour characterized to be «a punishment for having participated in a strike» and does not deal with the issue of the right of workers to strike per se.</p> <p>The persons who conspire, instigate or incite other public employees to strike or make such an attempt are the main persons concerned with the illegal act, their act to cause other public employees to undertake illegal activity is in itself of high illegality, and therefore penal sanctions, including imprisonment, may be imposed upon them under the National Public Service Law or the Local Public Service Law.</p> <p>These provisions do not refer to forced labour as a punishment for having participated in a strike.</p> <p>Regarding the ratification of C.105, the Government of Japan considers that the interpretation of the precise scope of forced labour prohibited by the Convention is not clear enough and therefore a careful study is still needed with respect to, among other things, consistency between the provisions of the Convention and of the relevant national laws and regulations in force in Japan.</p> <p>In relation to observations made on the Civil Service Reform by the JTUC-RENGO the Government stated that it regards Civil Service Reform as an important issue which should be worked on promptly, because the public is highly concerned about public service employees these days. The Government of Japan also recognizes that it is necessary to hold sufficient exchanges of views</p>

		<p>with relevant parties regarding the reform.</p> <p>The Government of Japan held the ministerial-level meetings with the Japanese Trade Union Confederation (JTUC-RENGO) in January, March and May, 2006. Based on these meetings, the Government of Japan established the «The Special Examination Committee of the Headquarters for the Promotion of Administrative Reform». Having held its first meeting on 27 July, the Committee has held five meetings altogether so far, and it has examined the scope of government affairs in a simple and efficient government; the classification of personnel who carry out government affairs; what those government affairs and personnel should be; and based on these examinations, the prospective labour-employer relationship in the public sector, including the fundamental labour rights of public service employees.</p> <p>2006 AR: In response to the JTUC-RENGO’s observations, the Government stated that during the May 2005 meeting, it had acknowledged that it was necessary to continue to hold meetings with JTUC-RENGO on Civil Service Reform.</p> <p>In response to the ICFTU’s observations, the Government mentioned that under the National Public Service Law or the Local Public Service Law, penal sanctions, including penalty of imprisonment, might be imposed upon the persons who conspire, instigate or incite other public employees to strike or make such an attempt, and upon the main authors of such illegal act. The Government further indicated that these provisions did not refer to forced labour as a punishment for having participated in a strike.</p> <p>2004 AR: In response to the JTUC-RENGO’s comments, the Government made the following observations: (i) the interpretation of the precise scope of forced labour prohibited by the Convention is not clear and a study is still needed mainly with respect to compliance between the provisions of the Convention and national laws and regulations in Japan; (ii) the prohibition of strikes as provided for in national laws is not an obstacle to the ratification of C.105; (iii) the Public Service Law and the Local Public Service Law provide for punishment for the main conspirators or instigators of highly unlawful acts.</p> <p>2001 AR: In response to the JTUC-RENGO’s comments, the Government made the following observations: (i) asking governments to make observations on comments presented by workers’ organizations, and reflecting these comments and observations in the compilation of annual reports, are contrary to the overall purpose of the annual follow-up; (ii) the Government would like to know the position of the Office in this respect; (iii) the appropriateness of discussing the aforementioned questions in the Governing Body; (iv) comments submitted by the JTUC-RENGO should not be taken into account in the annual follow-up; (v) the follow-up should not lead to the establishment of a new supervisory machinery and should not create the duplication of the reporting system on non-ratified Conventions already established in the Constitution.</p>
TECHNICAL COOPERATION	Request	<p>2008 AR: According to the JTUC-RENGO: The interpretation of the precise scope for forced labour prohibited by the Convention is not clear and ILO technical support would be needed in that regard.</p> <p>2004-2007 ARs: According to the JTUC-RENGO: Needs for ILO technical cooperation exist in the following two priority areas: (i) the interpretation of the precise scope of forced labour prohibited by the Convention is not clear and a study is needed mainly with regard to compliance between the provisions of the Convention and relevant national laws and regulations.</p>
	Offer	NIL
EXPERT-ADVISERS’ OBSERVATIONS/ RECOMMENDATIONS		<p>2008 AR: The ILO Declaration Expert-Advisers (IDEAs) noted that the Japanese Trade Union Confederation (JTUC-RENGO) had reported that tripartite consultations held in April 2007 had led to the conclusion that some national labour laws did not comply with the provisions of C. 105. However, given that the Government of Japan sent a no change report for the 2008 Annual Review, the IDEAs requested it to provide updated information concerning the JTUC-RENGO’s observations (Cf. Paragraph 42 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p>2007 AR: The IDEAs welcomed the significant increase in the reports of action to combat forced labour in several countries, including Japan, and noted that an increasing number of States were recognizing that forced labour does exist in their country [...]. For the IDEAs, such recognition was indispensable to combating forced or compulsory labour, as it was undoubtedly the first step in what in a daunting but essential task (Cf. Paragraphs 40 and 41 of the 2007 Annual Review Introduction – ILO: GB.298/3).</p>

	<p>2005 AR: The IDEAs noted with particular interest the reporting from Afghanistan in spite of the serious difficulties that this country had to face. They also noted with interest that even in a post-war context, the Government of Afghanistan had endeavoured to rehabilitate children who were victims of trafficking and had established a national tripartite commission in this respect (Cf. Paragraphs 8 and 187 of the 2005 AR Introduction – ILO: GB.292/4). 2007 AR: The IDEAS welcomed the significant increase in the reports of action to combat forced labour in several countries (Afghanistan, Canada, China, Japan, Republic of Korea, Lao People’s Democratic Republic, Madagascar, Qatar, Thailand and Timor-Leste). An increasing number of States are recognizing that forced labour does exist in their country [...]. Such recognition is indispensable to combating forced or compulsory labour, as it is undoubtedly the first step in what in a daunting but essential task (paragraph 41 of the 2007 Annual Review Introduction).</p> <p>2005 AR: The IDEAs, reiterated that in cases where countries faced difficulties in identifying the precise scope of forced or compulsory labour, the Government should turn to the ILO for assistance in clarification. They further requested that Japan carry out the study it mentioned in this regard. The IDEAs also considered that the example of regular and constructive contributions by the JTUCF-RENGO and the AFL-CIO (United States) should be expanded upon, in particular among other national workers’ organizations, as well as employers’ organizations (Cf. Paragraphs 189 and 190 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p> <p>2004 AR: The IDEAs mentioned that in cases where governments were in doubt, they should turn to the ILO, for assistance in clarification. Japan might usefully do so with regard to better clarifying the precise scope of forced labour, and indeed carry out the study it mentioned in this respect. The results of such studies would be illuminating (...) (Cf. Paragraph 112 of the 2004 Annual Review Introduction – ILO: GB.289/4).</p>
<p>GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS</p>	<p>NIL</p>