

## Country File

# JAPAN



Last updated: **July 2009**

<b>Region</b>	Asia and Pacific
<b>Legal system</b>	Civil Law/Common Law
<b>UNCAT Ratification/ Accession (a)/ succession (d)</b>	29 June 1999 (a)
<b>Relevant Laws</b>	<ul style="list-style-type: none"><li>• Constitution of 1946</li><li>• Penal Code of 1907 (Act No. 45, 1907 as amended by Act No. 54, 2007)</li></ul>
<b>Relevant Articles</b>	<ul style="list-style-type: none"><li>• <b>Prohibition of Torture:</b> Article 36 of the Constitution</li><li>• <b>Definition of Torture:</b></li><li>• <b>Penalties:</b> Article 195 and 196 of the Penal Code</li><li>• <b>Others:</b><ol style="list-style-type: none"><li>1. <b>Exclusion of Evidence:</b> Article 38 of the Constitution</li><li>2. <b>Participation in torture:</b> Article 195 of the Penal Code</li></ol></li></ul>
<b>Languages Available</b>	<ul style="list-style-type: none"><li>• Japanese (official language)</li><li>• English</li></ul>
<b>Other Relevant Information</b>	Full texts of Japanese laws are available at <a href="http://www.japaneselawtranslation.go.jp/law/?re=02">http://www.japaneselawtranslation.go.jp/law/?re=02</a>

## Relevant Articles – JAPAN

### JAPANESE

#### 日本国憲法

##### **第36条**

公務員による拷問及び残虐な刑罰は、絶対にこれを禁ずる。

##### **第38条**

何人も、自己に不利益な供述を強要されない。

2 強制、拷問若しくは脅迫による自白又は不当に長く抑留若しくは拘禁された後の自白は、これを証拠とすることができない。

3 何人も、自己に不利益な唯一の証拠が本人の自白である場合には、有罪とされ、又は刑罰を科せられない。

#### 刑法 明治四十年法律第四十五号

##### **第百九十五条 特別公務員暴行陵虐**

裁判、検察若しくは警察の職務を行う者又はこれらの職務を補助する者がその職務を行うに当たり、被告人、被疑者その他の者に対して暴行又は陵辱若しくは加虐の行為をしたときは、七年以上の懲役又は禁錮に処する。

2 令により拘禁された者を看守し又は護送する者がその拘禁された者に対して暴行又は陵辱若しくは加虐の行為をしたときも、前項と同様とする。

##### **第百九十六条 特別公務員職権濫用等致死傷**

前二条の罪を犯し、よって人を死傷させた者は、傷害の罪と比較して、重い刑により処断する。

## ENGLISH (Translation)

### Constitution of 1946

#### **Article 36**

The infliction of torture by any public officer and cruel punishments are absolutely forbidden.

#### **Article 38**

No person shall be compelled to testify against himself.

Confession made under compulsion, torture or threat, or after prolonged arrest or detention shall not be admitted in evidence.

No person shall be convicted or punished in cases where the only proof against him is his own confession.

### Penal Code (Act No. 45, 1907 as amended by Act No. 54, 2007)

#### **Article 195 Assault and Cruelty by Special public officers**

When a person performing or assisting in judicial, prosecutorial or police duties commits, in the performance of his or her duties, an act of assault or physical or mental cruelty upon the accused, suspect or any other person, imprisonment with or without work for not more than 7 years shall be imposed.

(2) The same shall apply when a person who is guarding or escorting another person detained or confined in accordance with laws and regulations commits an act of assault or physical or mental cruelty upon the person.

#### **Article 196 Abuse of Authority Causing Death or Injury by Special public officers**

A person who commits a crime prescribed under the preceding two Articles and thereby causes the death or injury of another shall be dealt with by the punishment prescribed for the crimes of injury or the preceding two Articles whichever is greater.