



**136th session of the UN Human Rights Committee  
(10 October - 4 November 2022)**

**Update to the shadow report submitted by  
FIDH - International Federation for Human Rights**

*and*

**Center for Prisoners' Rights**

This report provides updates to the shadow report submitted by FIDH and CPR in September 2020, ahead of the 130th session of the UN Human Rights Committee, when Japan's seventh periodic report under the International Covenant on Civil and Political Rights (ICCPR) was originally scheduled to be reviewed.

**1. Death penalty**

**1.1. Executions continue**

Following the review of Japan's sixth periodic report in 2014, the Japanese government continued to carry out executions of death row inmates every year, with the exception of 2020. Between 2014 and 2021, a total of 34 death row inmates were executed, including 16 who were seeking retrial.

Year	Executions*
2014	3 (0)
2015	3 (0)
2016	3 (0)
2017	4 (3)
2018	15 (11)
2019	3 (1)
2020	0
2021	3 (1)

\*Executions of death row prisoners seeking retrial in parenthesis

**1.2. *Death row prisoners subjected to inhuman and degrading treatment***

Death row prisoners in Japan continue to be subjected to solitary confinement and intrusive video surveillance. Such measures amount to serious human rights violations and are grossly inconsistent with Japan's obligations under the International Covenant

on Civil and Political Rights (ICCPR).

According to the latest available official figures, at the end of 2021 there were 107 prisoners (99 men and eight women) under death sentence in Japan. Almost half of them (47 men and two women) were in Tokyo Detention House.

CPR research found that prisoners under death sentence in Tokyo Detention House are held in solitary confinement in 5.4-square-meter cells that are monitored 24 hours a day by closed-circuit TV (CCTV) cameras placed on the ceiling. All the prisoners' activities are monitored and videotaped, including prisoners removing their clothes and underwear, as well as their use of toilets.

According to interviews conducted by CPR with five death row prisoners in Tokyo Detention House in May 2022, four of them had been kept in solitary confinement in such cells for periods ranging from three to nearly 15 years. A fifth prisoner was moved after more than 14 years to a cell without a surveillance camera, pursuant to a transfer order dated 1 March 2022. At the time of publication of this report, the other four prisoners remain in cells monitored by CCTV cameras. Female prisoners under death sentence in Tokyo Detention House are also kept in solitary confinement in cells with CCTV cameras manned by male and female officers.

The use of prolonged solitary confinement and the constant video surveillance of prisoners under death sentence are inconsistent with Articles 7 and 10 of the ICCPR. Article 7 stipulates that no one should be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In its General Comment No. 20, the UN Human Right Committee (CCPR) states that prolonged solitary confinement of detained or imprisoned persons may amount to acts prohibited by Article 7 of the ICCPR.<sup>1</sup> In addition, Article 10 of the ICCPR stipulates that all persons deprived of their liberty should be treated "with humanity and with respect for the inherent dignity of the human person."

With regard to the 24-hour video surveillance of prisoners under death sentence, this practice is inconsistent with Articles 10 and 17 of the ICCPR. In its General Comment No. 21, the CCPR states that respect for the dignity of persons deprived of their liberty "must

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<sup>1</sup> UN Human Rights Committee, 44<sup>th</sup> session, *General Comment No. 20: Article 7, 1992*; para. 6

be guaranteed under the same conditions as for that of free persons” and that such persons enjoy all the rights set forth in the ICCPR, subject to the restrictions that are “unavoidable” in a closed environment.<sup>2</sup> Article 17 prohibits any “arbitrary or unlawful” interference with an individual’s privacy. The criteria for unlawfulness and arbitrariness are clarified by the CCPR in its General Comment No. 16, which states that interference authorized by the state can only take place on the basis of law,<sup>3</sup> and that even interference provided for by law “should be, in any event, reasonable in the particular circumstances.”<sup>4</sup>

Video surveillance of prisoners under death sentence is not provided by law in Japan and its imposition appears to be arbitrary. The Act on Penal Detention Facilities and the Treatment of Inmates and Detainees (“2005 Prison Act”) stipulates that prisoners under death sentence shall be subject to solitary confinement, prohibiting any contact with other prisoners. However, the 2005 Prison Act does not include rules related to the use of CCTV surveillance in cells. As a result, each correctional institution issues its own Detailed Regulations on Treatment of Inmates Requiring Special Attention (Detailed Regulations). These regulations designate prisoners under death sentence as “prisoners requiring special attention” who must be monitored through CCTV cameras “when particularly strict surveillance is required.”

According to CPR research, most correctional institutions in Japan have issued their Detailed Regulations. For example, the Detailed Regulations of Tokyo Detention House, Fukuoka Detention House, and Tokushima Prison specifically prescribe that individuals who have been sentenced to death and whose case is under appeal may be detained in cells equipped with video surveillance. Other correctional institutions redacted parts of the designation standards for prisoners requiring special attention, so it is unclear whether prisoners under death sentence in such facilities are designated as persons requiring special attention.

According to the Detailed Regulations of Tokyo Detention House, prisoners who have

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<sup>2</sup> UN Human Rights Committee, 44<sup>th</sup> session, *General Comment No. 21: Article 10*, 10 April 1992; para. 3

<sup>3</sup> UN Human Rights Committee, 32<sup>nd</sup> session, *CCPR General Comment No. 16: Article 17 (Right to Privacy)*, 8 April 1988; para. 3

<sup>4</sup> UN Human Rights Committee, 32<sup>nd</sup> session, *CCPR General Comment No. 16: Article 17 (Right to Privacy)*, 8 April 1988; para. 4

been sentenced to death and whose sentence is under appeal can be confined in surveillance camera cells only “when particularly strict surveillance is required.” Yet, prisoners under death sentence interviewed by CPR in Tokyo Detention House have not attempted to commit suicide or escape, and no special circumstances would appear to justify their strict surveillance, giving the measure an arbitrary character.

## **2. Detention conditions**

### ***2.1. Number of doctors and medical conditions***

A serious shortage of medical personnel remains in penitentiary facilities across the country. As of 1 February 2022, there were 190 prison doctors across the country, 21 fewer than the target number of 211 required by the 2015 Act on Special Provisions for the Subsidiary Work and Working Hours of Correctional Medical Officers. As of 1 February 2022, four prisons did not have full-time doctors.

In addition, the number of outside doctors who can be appointed by prisoners to provide medical treatment that prisons do not provide, remains low. In 2021, only seven doctors were appointed and their medical fields were limited to dental care, dental implants, and psychiatric care.<sup>5</sup>

### ***2.2. Decrease in the number of compassionate releases***

In 2019-2020, the number of inmates who benefited from a suspended sentence and compassionate release to have access to medical care outside prisons hit record lows, with 17 and 22 inmates released, respectively.

### ***2.3. De facto life imprisonment without possibility of parole***

Over the past two years, the number of prisoners serving life sentences who have been released on parole has remained low (17 in 2019 and 14 in 2020). By the end of 2020, there was a total of 1,744 prisoners serving life sentences in Japan.

In addition, there remains a considerable number of elderly prisoners serving life

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<sup>5</sup> Minister of Justice’s reply to inquiries by a National Diet member in 15 June 2022.

sentences in Japan. At the end of 2020, the number of prisoners serving life sentences who were in their 70s was 373 (21.4%), and 118 (6.8%) were in their 80s, or older. The low number of parolees sentenced to life continues to pose a challenge for the aging population of life-sentenced prisoners.

#### **2.4. *Compulsory labor in prisons***

On 13 June 2022, the National Diet enacted legislation that amended the Penal Code, making prison labor non-compulsory in limited cases. Prisoners sentenced under this new law may engage in prison work or other programs for their rehabilitation. However, involuntary prison work is highly likely to continue being exacted in the form of lawful disciplinary punishment for prisoners who fail to comply with the prison rules and regulations.

#### **2.5. *COVID-19 in correctional facilities***

COVID-19 infections and related deaths continued to be reported in penitentiary facilities (excluding police detention houses). According to official figures, between April 2020 and February 2022, there were at least a total of 999 cases of prisoners who were found to be infected with COVID-19, with seven deaths.

### **3. *Recommendations***

- End the use of solitary confinement and video surveillance of death row prisoners in all correctional facilities in Japan without undue delay.
- Immediately transfer death row prisoners held in cells equipped with video surveillance to other cells without CCTV cameras.