

Center for Prisoners' Rights Japan

The Summary Report of the International covenant on civil and political rights

Recent Issues on Prisons in Japan

By Center for Prisoners' Rights Japan

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The Center for Prisoners' Rights Japan (CPR)

The Center for Prisoners' Rights is a non-profit, non-governmental organization established in 1995, with the objective of improving prison conditions and prisoners' treatment in Japan to comply with international human rights standards. Our members include lawyers, academics, and human rights activists. The CPR is working with international NGOs such as Amnesty International, Human Rights Watch, Penal Reform International, International Federation for Human Rights and others, and together we have held many international human rights seminars and conferences in Japan.

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1. Death Penalty

1, In 1990's, Japan was repeatedly recommended by HRC that Japan should reduce the number of offences punishable by death and limit the use of death penalty. But, in 2000, the new capital offence, indiscriminate mass murder, was added and the number of capital offences increased from 17 to 18. And number of death sentences has increased remarkably.

* The number of death sentences at the first instance court

1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
3	1	4	8	11	1	3	7	8	14	10	18	13	14	13	13	14

* The number of the executions

1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
0	0	7	2	6	6	4	6	5	3	2	2	1	2	1	4	9	13*

*the figures for September 11, 2008

2, In February 2008, Japanese government submit 'note verbale' to the Secretary General of United Nations, which shows strong opposition to the G. A. Resolution 62/149, entitled Moratorium on the use of the death penalty, together with other 57 countries. Furthermore, Japanese government intentionally failed to provide the Secretary-General with information relating to the use of capital punishment and the observance of the safeguards guaranteeing the protection of the rights of those facing the death penalty, which is called on by the resolution. And in June 2008, at the session of the UPR by Human Rights Council, Japanese government said that Japan is not in a position either to consider granting a moratorium on executions or to abolish the death penalty.

3, The New Prison Law entered into force in June 2007. This provides that all the correspondence between an inmate and outside people including his or her attorney for retrial should be censored. As for these restrictions on the access to lawyers, the Committee against Torture expressed serious concern, stating "the limitations imposed on death row prisoners concerning access to their legal representatives, including the impossibility to meet with them in private, while on appeal requesting retrial; the lack of alternative means of confidential communication and the lack of access to state defense counsel after the final sentence is handed down.". The authorities of all the seven detention centers, which detain convicted death-row inmates, let the inmates submit the list of names of 5 persons they want to meet or exchange letters. Detention center authorities examine each person on lists and then about three of them are admitted for communication, although the new law does not limit the maximum number of the people.

4, Death row inmates are put into solitary confinement and not to have any contact with each other outside their cells, which means isolation is principle. In 2007, The Committee against Torture expressed its concern, saying that "The principle of solitary confinement after the final sentence is handed down. Given the length of time on death row, in some cases his exceeds 30 years".

5, Secrecy is another serious concern. In Japan, death row inmates are not informed of the date of execution until just an hour before it actually takes place. This practice gives great sufferings to inmates themselves as well as their families.

6, After the death penalty is confirmed, actually there is no possibility of commutation of the sentence. The amnesty system does exist, but the last time it was applied to a death-row inmate was 1975, when the death penalty was commuted to life imprisonment.

2. Medical treatment

7, The medical condition is in urgent crisis for most prisoners detained in Japanese prisons. NGO members for supporting prisoners and lawyers have received many letters of complaints on refusal of medical treatment and

receiving inappropriate treatment, which sometimes resulted in serious injuries and death. As to the reason for this, firstly the number of doctors working in prison is extremely small. Secondly, prison officers who are qualified as nurses often examine and administer a dose to prisoners instead of doctors. Furthermore, when a prisoner needs medical treatment by the certain medical specialist who works for exterior institutions, the prison governor/warden often refuses to bring them outside because of the small number of prison guards who accompany and supervise the prisoner. In addition, we raise concerns about ensuring prisoners rights to access their medical records, including the records of medication which they are taking and the results of their medical examinations.

8, The CAT recommended the government to ensure “adequate, independent and prompt medical assistance be provided to all inmates at all times” in May, 2007. To solve this problem, we suggest that the jurisdiction over prison medical administration should be changed from the Ministry of Justice to the Ministry of Health, Labor and Welfare Ministry, which leads to ensure medical practice independency from security issues in prison and to integrate into the ordinal medical system in the community where the prison exists and to get more doctors.

3. Long Imprisonment of Prisoners Sentenced to Life

9, The number of new prisoners who had been sentenced to life conclusively in 2007 was 74, on the other hand, the number of prisoners released on parole was only one in the same year. The number of life sentences has been increasing. Moreover the average imprisonment period of lifers has been longer and the number of lifers released on parole has been markedly decreasing. At the end of December, 2007, there was a life sentenced prisoner who has been imprisoned for more than 58 years. And what is worse, the Public Prosecutor’s Office issued an administrative order to its branch offices, which will virtually limit the chance of release on parole for prisoners sentenced to life very strictly (in the case of very serious offences and when the victim’s family have very severe feelings to the prisoner, release on parole will be more difficult). This practice will be compatible with due process principle because the administrative order has established a new type of punishment of life imprisonment without parole.

* The number of prisoners sentenced to life imprisonment (Source: Annual Report on Corrections)

Year	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
Number	883	894	909	923	938	968	1,002	1,047	1,097	1,152	1,242	1,352	1,467	1,596	1,670

* The number of prisoners served term in prison as lifer as of December 31, 2007 (Research by one Diet member on July, 2008)

Served term	Less than 5 years	5 - 10 years	10 - 15 years	15 - 20 years	20 - 25 years	25 - 30 years	30 - 35 years	35 - 40 years	40 - 45 years	45 - 50 years	50 - 55 years	55 - 59 years
Number	632	315	171	182	198	97	38	19	8	5	4	1

4. Longer Solitary Confinement

10, The HRC raised serious questions of compliance with articles 2, paragraph 3 (a), 7 and 10 of the Covenant, about “use of harsh punitive measures, including frequent resort to solitary confinement” in the Concluding Observation to the Japanese government. And the conclusion and recommendation by the CAT in 2007, raised their concerns on inadequate use of solitary confinement, about “the State party should amend its current legislation in order to ensure that solitary confinement remains an exceptional measure of limited duration, in accordance with international minimum standards. In particular, the State party should consider systematically reviewing all cases of prolonged solitary confinement, through a specialized psychological and psychiatric evaluation, with a view to releasing those whose detention can be considered in violation of the Convention”. However, as far as the solitary confinement issue,

any remarkable improvement has never been seen since then. Especially we are concerned that there are about 30 prisoners each year, who have been detained in solitary confinement for more than 10 years as a sum total. Several prisoners have been detained for over 30 years and the longest one has been for 52 years.

11, Under the New Law, the name of continual solitary confinement has been altered to “Segregation” as a defined name. Furthermore, all sentenced prisoners are supposed to be classified into the 1st, 2nd, 3rd or 4th grade of restriction, depending on their security levels. The 1st grade means that the modest limitation shall be imposed on prisoners’ liberty and rights and the 4th grade means that the strictest limitation shall be imposed. If the prisoners are classified into the 4th grade, they have to stay in their own single room all day, then, it would be almost same as solitary confinement. In addition, when solitary confinement as “Segregation” shall be imposed, the law provides the limitation of maximum period and complaints system, but when solitary confinement as the 4th grade shall be imposed, the law has no such protective measures. We are concern that the number of prisoners who are imposed solitary confinement as “the 4th grade restriction” would increase because it is easier to categorize prisoners into this grade than to impose “Segregation” on them.

5. System for Investigating Complaints by Prisoners

12, The New Law introduced “the Board of Visitors for Inspection of Penal Institutions” system. But the board dose not have enough authority to investigate cases of torture or ill-treatment. Although the Board consists of lawyers (nominated from the JFBA), doctors (nominated from the Japanese Medical Association), persons nominated from the local government as a community delegate, and sometimes the director of the prison asks directly for academics. The secretariat of the Board is supposed to be in charge of each prison’s staff under the regulation. Moreover, under the law, the Board members can request the prison government to disclosure any related information and allow them to meet prisoners privately, at the same time, the government has a duty to meet their demand. In fact, lawyers and professors who are enthusiastic and have sufficient knowledge of prison issues are very active. But on the other hand, other professions are not always so enthusiastic.

13, Under the law, there are 3 kinds of measures to complaints. As to one of these system, during approximately one year since enforcement of the new system (May 26 2006 to February 28 2007), subjects about which inmates ask complaints most are “limitation on letters” and “disciplinary punishment (punitive measures)”. Moreover, during the same period, total number of cases inmates asked were 1848, but only 6 cases were accepted.

14, We can raise concerns at this time. Firstly, the new complaints procedure is complicated and is not user-friendly. The duration which inmates can petition is very short (within 30 days from a day after the disposition is notified), and inmates can not ask for help or representatives from outside. Secondly, the range of the subject of the new complaints system is narrow. Inmates can not use a new complaints system about what they really need to be withdrew or changed, concerning things such as inadequate medical treatment by prison doctors/nurses, and limitation on receiving goods and visits from family and friends. Thirdly, even under the new complaints system, it is still the officers from the Correction Bureau, the Ministry of Justice, who examines prisoners’ complaints. The HRC was “concerned that there is no independent authority to which complaints of ill-treatment by the police and immigration officials can be addressed for investigation and redress” in the Concluding Observation in 1998.

15, Since January 2006, the Advisory Committee for reviewing complaints from prisoners has been temporarily established. The Committee consists of 5 independent members including 2 professors, a lawyer, a doctor, and the director of the prison volunteers’ organization, and they are reviewing some cases which were previously raised by prisoners and rejected by the authorities. They had examined 635 cases by May, 2008, of which 43 cases were decided to be re-examined by the authorities, and 11 cases were decided to be reasonable. Cases which resulted in “Need to re-examine” or “MOJ’s result is inappropriate” mainly include cases regarding to letters, but also medical treatment and violence.