



International Federation for Human Rights

Media Kit

Publication of an international fact-finding mission Report

The death penalty in Japan:



“The law of silence, going against the international trend”

From July 25th to August 3rd, 2008 an international fact-finding mission was conducted by FIDH in Japan, in order to check the progress of the situation since its last visit in 2002. Unfortunately, and in spite of a brief moratorium, the report appears to be negative, with more and more to worry about. In spite of world opinion, Japan continues to sentence criminals to death and incarcerate them for decades

in prisons where intimidation and isolation are commonplace. Furthermore, the pace of executions has accelerated the last few years, and 2008 set a record as having more executions in one year than in any of the last fifteen.

Findings - 13 persons have been executed this year and 102 persons are currently detained on death row..

«Death penalty in Japan : the law of silence,



FIDH is concerned with certain aspects of the criminal procedures leading to death sentences:

- Japanese legislation authorizes periods of detention that could last for several weeks, without appearance before of a judge for the need of the investigation.

In practice, this detention is often used in police stations where everything is used to obtain confessions from suspects. Defense lawyers are not authorized to attend the questioning conducted with the purpose of obtaining confessions.

- There is an imbalance of power between the accused and the prosecution; the prosecutor has no obligation to transmit to the defense information favorable to the defendant's case.

- Appeals are not mandatory (automatic) and the law does not guarantee that the review of cases, or a demand for pardons suspend the execution. If a prisoner condemned to death chooses to renounce his appeal, there is no mandatory appeal procedure, and the sentence becomes final. On the contrary, if he chooses to go further with the procedure and request a review of his trial, or solicit a pardon, nothing legally guarantees that this request will suspend the process leading to his execution.

- The ban on condemning mentally ill persons to death is not respected in practice.

Some facts :

- Today, 102 convicted prisoners await execution on death row.

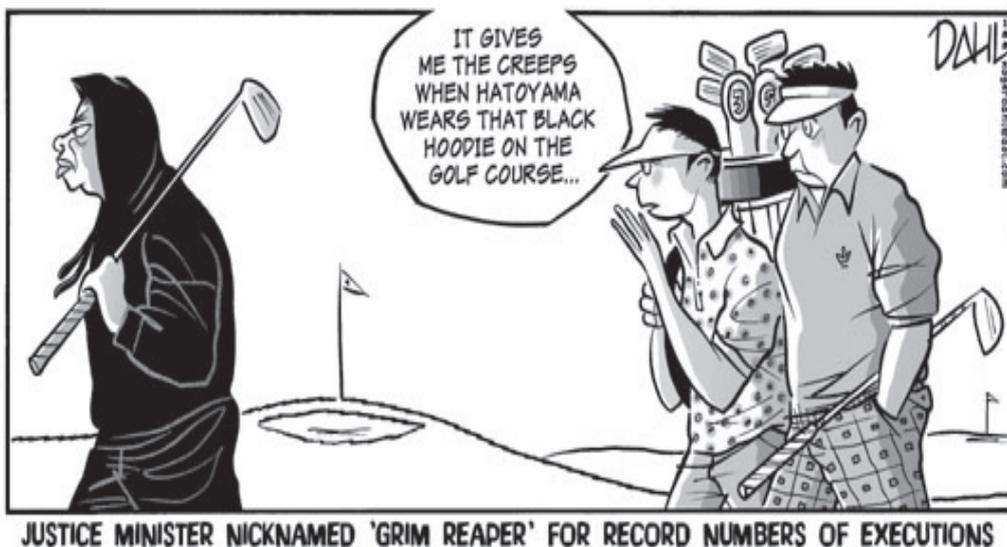
- 13 executions took place in 2008, the highest number in 15 years.

- According to a survey released by the government in 2004, 81,4% of people polled are in favor of maintaining death penalty. However, this number should be used carefully, since the questions were asked in a way to obtain a favorable position on death penalty.

- Since 1993, 76 prisoners condemned to death have been hanged.

- No review of a case of a convicted to death penalty prisoner has been accepted since 1986.

- No convicted prisoner has been pardoned since 1975.



Caricature of the former minister of Justice, nicknamed “shinigami” (“god of death” or “grim reaper”). Japan Times, 08/03/2008. The Japan Times is read mainly by the expatriates and is not representative of the editorial policy of most of the Japanese newspapers concerning death penalty, which refer rather to the victims families. The last minister of justice, Hatoyama Kuni, ordered 13 executions, and publicly declared that he wishes to have recourse to random executions, if possible in the next 6 months following the condemnation.

going against the international trend»

Preconcieved Ideas

- A public opinion surveyed in a biased way

The surveys conducted periodically by the government and published by the media show that the public opinion remains in favor of the death penalty.

According to a survey in 2004, 81,4% of the people questioned would be in favor of maintaining capital punishment. This number should be used carefully though, as the questions asked to the persons surveyed were formulated in such a manner that the aim was to obtain the desired answer – favorable to death penalty.

- The fallacious argument of tradition

The argument that Japanese culture or tradition justifies the death penalty is often used, specifically referring to the ritual suicides (Seppuku or Hara-Kiri). However, this practice really only concerned a small part of Samurai warriors, during a limited time period.

Besides, everything is organised so as to keep the prisoner alive until his execution (video surveillance, isolation in anti-suicide cell etc.), and in a stable mental condition so that he is resigned to accept his execution.

Thus, administration of the death penalty is hardly similar to a ritual suicide.



Worrying Reforms

A reform will be in effect in December 2008, allowing victims to participate in the procedure on the prosecutor's side, but without the status of Civil Party (a party who sues for damages someone being tried in a criminal court).

Therefore, they will be able to ask questions to the accused and to the witnesses. This reform will not guarantee to the victims the right to obtain indemnisation. On the other hand, it may worsen the inequality of the parties in trial.

A second reform will be effective in May 2009, establishing a popular jury to try the criminal cases. A meeting will be held ahead of the trial in which the defense may participate.

FIDH is concerned that this new procedure will lead to an increase of the number of death penalty sentences because of the lack of training and awareness of ordinary citizens sitting in those juries. In addition, we fear that the accelerated procedures will proceed at the expense of a right to a fair trial. A meeting ahead of the trial might prejudice the final decision, in case of the absence of the person accused.



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A secret Execution

The relatives of the condemned to death are often informed of the execution a posteriori. The minister of justice holds a press conference immediately after the execution where he announces the name of the person just executed, and gives a summary of the crimes for which the person has been convicted. This approach contributes to reduce the opaqueness surrounding the execution, but makes the death penalty commonplace in the eyes of the public.

The mission led by FIDH found that the conditions of detention of the prisoners sentenced to death in the last few years were slightly improved. A legislative reform of 2007 reduced the discretionary power of the prison's directors concerning in particular the visitation rights for the death row prisoners. However, directors maintain a lot of discretion regarding the daily life of the prisoners and procedure of execution. Also, bodies in charge of the inspection of the conditions of detention have been established in 2006. However the medical and psychological support provided to the detainees on death row remains very insufficient. The high technology put in place in the prisons visited by the mission does not change the real issue: to be detained waiting for their execution, sometimes for decades, is by definition an inhuman treatment.

World Day Against the Death Penalty: open your eyes on Asia



On 10 October 2008, World Day Against the Death Penalty, the World Coalition Against the Death Penalty calls on all citizens around the world to take action to end executions in Asia.

Responding to the World Coalition Against the Death Penalty's appeal, citizens, national and international institutions and NGOs rally together every year on 10 October to oppose the use of the death penalty and to recall that its abolition is a universal struggle.

This year, they have decided to turn their eyes on Asia. According to Amnesty International, at least 664 executions have been reported in Asia in 2007. The real figures are believed to be much higher. A recent study by Franklin Zimring and David Johnson estimates that 85 to 95% of the world's executions take place in Asia.

A growing number of countries in the region, however, have committed to the abolition of the death penalty. This Sixth World Day is an opportunity to publicly oppose the use of this inhuman, cruel and degrading punishment and to support those in the Asian region who are fighting for its abolition.

For further information about Death Penalty in Asia : www.fidh.org : China, Taiwan, Pakistan, Thailand, Japan...

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