



**UN Committee on the Elimination of Discrimination against Women
89th session (7 - 25 Oct 2024)**

Shadow report submitted by
**FIDH - International Federation for Human Rights
Center for Prisoners' Rights
World Coalition Against the Death Penalty**

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FIDH represents 188 human rights organizations from 116 countries and territories. It takes action for the protection of victims of human rights violations, for the prevention of violations, and to bring perpetrators to justice. Established in 1922, FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights. Like its member organizations, FIDH is not linked to any party or religion and is independent from all governments.

The **Center for Prisoners' Rights (CPR)** was established in March 1995 as the first Japanese NGO specializing in prison reform. CPR's goal is to reform Japanese prison conditions in accordance with international human rights standards and to abolish the death penalty. CPR is a member of FIDH.

The **World Coalition Against the Death Penalty (WCADP)** is a volunteer-based non-governmental organization committed to strengthen the international dimension of the fight against the death penalty. Established in 2002, its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

This shadow report is submitted by the Center for Prisoners' Rights (CPR), the International Federation for Human Rights (FIDH), and the World Coalition Against the Death Penalty (WCADP) for the review of Japan's ninth periodic report by the United Nations (UN) Committee on the Elimination of Discrimination against Women. This report provides information on gender-based violence against women in the context of the treatment of female prisoners.

1. Female prisoners under death sentence subjected to 24-hour monitoring by CCTV

Japan's penitentiary system has failed to meet the gender-specific needs of female prisoners. This failure has had a significant impact on conditions for female prisoners and may, under certain circumstances, constitute discrimination under Article 1 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

The Committee on the Elimination of Discrimination against Women's General Recommendation No. 33 highlights that "women suffer from discrimination in criminal cases owing to: a) a lack of gender-sensitive non-custodial alternatives to detention; b) a failure to meet the specific needs of women in detention; and c) an absence of gender-sensitive monitoring and independent review mechanisms." The Committee recommends that states party to the CEDAW ensure that mechanisms are in place "to monitor places of detention; pay special attention to the situation of women prisoners; and apply international guidance and standards on the treatment of women in detention."

According to the latest available official figures, at the end of 2023 there were 106 prisoners (99 men and seven women) under death sentence in Japan. Almost half of them (47 men and two women) were in Tokyo Detention House.

Female prisoners under death sentence in Japan are subjected to solitary confinement and intrusive and continuous video surveillance.

CPR research found that prisoners under death sentence 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.

In November 2022, in its concluding observation on Japan's seventh periodic report under the International Covenant on Civil and Political Rights (ICCPR), the UN Human Rights Committee (CCPR) recommended that Japanese authorities ensure that conditions for prisoners under death sentence do not amount to cruel, inhuman or degrading treatment or punishment by using 24-hour video surveillance only when strictly necessary and for as short a period possible.¹

According to research conducted by CPR in August 2024, there have been slight improvements in the monitoring of male prisoners under death sentence. In contrast, the situation for female prisoners under death sentence remained unchanged.

Previous research conducted by CPR in August 2022 and March 2023, found that five out of the six prisoners under death sentence surveyed in Tokyo Detention House, including two women, and both prisoners under death sentence surveyed in Osaka Detention House, including a female prisoner, had been kept in solitary confinement and under 24-hour video surveillance. In August 2024, CPR research found that the male prisoner under death sentence in Osaka Detention House had been moved to a cell without CCTV. However, other prisoners under death sentence, including the two women surveyed in Tokyo Detention House and the woman surveyed in Osaka Detention House, remained under 24-hour CCTV surveillance.

At the time of the publication of this report, three women under death sentence (two in Tokyo Detention House and one in Osaka Detention House) have been kept in CCTV monitored cells for between 11 and 22 years.

Placing persons under permanent video surveillance while in detention is a serious violation of their right to privacy. Furthermore, male prison staff are allowed to view CCTV footage of female prisoners.

According to Article 3 of the CEDAW and Rule 81 of the UN Standard Minimum Rules for the Treatment of Prisoners (the "Nelson Mandela Rules"), female prisoners must be guarded only by female guards. In its General Recommendation No. 19 (1992) on violence against women, the UN Committee on the Elimination of Discrimination against

¹ UN Human Rights Committee, *Concluding observations on the seventh periodic report of Japan*, 30 November 2022; UN Doc. CCPR/C/JPN/CO/7, para. 21

Women expressed its view that the violence that specifically targets women constitutes a violation of Article 1 of the CEDAW. In its decision in *Abramova v. Belarus*,² the UN Committee on the Elimination of Discrimination against Women concluded that Belarus violated Article 1 of the CEDAW by not providing conditions of detention that included special measures for female detainees.

The use of 24-hour surveillance cameras to videotape female prisoners, including their changing of clothes, using the toilet, and the failure to prohibit male prison guards from viewing such videos, constitutes gender-based violence prohibited by the CEDAW.

2. Female prisoner forced to strip naked and watched by male prison guards

Japan fails to meet its obligations under Articles 2 and 5(a) of the CEDAW by allowing male guards to be in charge of female prisoners,

One recent incident exemplifies this failure. In August 2024, a female prisoner at Kasamatsu Prison, Gifu Prefecture, filed a lawsuit against the government, claiming that she was forced to remove all her clothes and to remain naked under the watch of at least one male prison officer. CCTV footage showed that the prisoner was then given a prison uniform and that she attempted to strangle herself with the uniform. Thereafter, the prison guards collected the uniform and left her naked.

According to Rule 81 of the “Nelson Mandela Rules”: “(1) In a prison for both men and women, the part of the prison set aside for women shall be under the authority of a responsible woman staff member who shall have the custody of the keys of all that part of the prison. (2) No male staff member shall enter the part of the prison set aside for women unless accompanied by a woman staff member. (3) Women prisoners shall be attended and supervised only by women staff members.”

In its views adopted under Article 7(3) of the Optional Protocol to the CEDAW, concerning Communication No. 133/2018, the UN Committee on the Elimination of Discrimination against Women recalled that “respect for women prisoners’ privacy and dignity must be a high priority for prison staff.” The Committee considered that the

² UN Committee on the Elimination of Discrimination against Women, *Communication No. 23/2009*, 29 August 2011; UN Doc. CEDAW/C/49/D/23/2009

disrespectful treatment of a female prisoner by penitentiary officials, namely male prison staff, including interference with her privacy, constituted sexual harassment and discrimination within the meaning of Articles 1 and 5(a) of the CEDAW. The Committee was also of the opinion that sexual harassment was a form of gender-based violence.³

3. Use of handcuffs on female prisoners during childbirth

Instruments of restraint have continued to be used on female prisoners during childbirth, in breach of a notice issued by the Ministry of Justice in 2014. The use of such practice was confirmed by Justice Minister Ryuji Koizumi, who, on 8 February 2024, told the House of Representatives Budget Committee that there had been six recorded cases of the use of handcuffs on female prisoners during childbirth between 2014 and 2022.

The use of restraints during labor, childbirth, and immediately after childbirth is inconsistent with international human rights standards. The UN Standard Minimum Rules for the Treatment of Prisoners prescribe that instruments of restraint “shall never be used on women during labor, during childbirth and immediately after childbirth” (Rule 48.2). Similarly, the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the “Bangkok Rules”) stipulate that instruments of restraint “shall never be used on women during labor, during birth and immediately after birth” (Rule 24).

4. Recommendations

- Abolish the death penalty in all circumstances and replace it with a penalty that is fair, proportionate, and consistent with international human rights standards, and in the meantime adopt a *de jure* moratorium on judicial executions.
- Ensure publicly available disaggregated data on people sentenced to death by age, age of dependent children (if any), sex, gender, social class, nationality, ethnic group, disability, existence of any co-accused, crime(s) of conviction, date of conviction, and

³ Committee on the Elimination of Discrimination against Women, *Views adopted by the Committee under article 7 (3) of the Optional Protocol, concerning Communication No. 133/2018*, 7 December 2020; UN Doc. CEDAW/C/77/D/133/2018

date of execution (if applicable), to facilitate analysis of the demographics of women under death sentence.

- Ensure female prisoners, including those under death sentence, are treated in compliance with Japan's obligations under international human rights law and in accordance with international standards, such as the "Nelson Mandela Rules" and the "Bangkok Rules."
- Use 24-hour video surveillance of prisoners only when strictly necessary and for as short a period as possible.
- Prohibit male prison staff from viewing CCTV footage of female prisoners, including those under death sentence.
- Prohibit male prison staff from observing naked female prisoners under any circumstances.
- Prohibit the use of restraints on female prisoners during childbirth.
- Take measures to ensure the protection of the dignity and privacy, as well as the physical and psychological safety, of female detainees in all detention facilities, including adequate accommodation and materials required to meet women's specific hygiene needs, in line with the CEDAW and the "Bangkok Rules."