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Imposition of the death penalty and its impact: Japan

This is a joint submission by [CrimeInfo](#), a Japanese NGO specialising in the provision of information concerning the death penalty and criminal justice issues in Japan, and [Eleos Justice](#), an anti-death penalty initiative, based at the Faculty of Law at Monash University.

1. Individuals sentenced to death

‘How many individuals were on death row at the end of 2021?’

- As of 21 December 2021, 107 individuals were on death row,¹ 8 of whom are women.²

‘How many years on average do individuals spend on death row?’

- 49 individuals were executed in the last 10 years (2012-2021).³ The mean average these individuals spent on death row was 7 years and 10 months.⁴ However, huge variation exists: the shortest period spent on death row during this period was 1 year and 4 months and the longest period was 18 years and 6 months.
- For individuals currently on death row, Nobuo ODA has been on death row for 51 years and 5 months—Japan’s longest serving individual on death row.⁵

‘Have there been any recent studies carried out on the impact of the death penalty on individuals sentenced to death?’

- In 2020, the Japan Federation of Bar Associations conducted a survey of individuals on death row (the JFBA survey). Out of a total of 108 individuals on death row (as of 3 December 2020), the JFBA received 69 valid responses.⁶ This is the JFBA’s third survey regarding the treatment of individuals on death row; the last two surveys were carried out in 2006 and in 2009/2010.

‘How are individuals sentenced to death treated (conditions on death row, visits by family members, support provided to practice one’s religion)?’

- **Conditions on death row:** Japan’s death row is notoriously severe, characterised by solitary confinement in small cells, inadequate time spent outside, solitary

¹ CrimeInfo: https://www.crimeinfo.jp/data/houmukaiken/furukawa_031221/

² CrimeInfo: <https://www.crimeinfo.jp/data/dplist/female/>

³ CrimeInfo: <https://www.crimeinfo.jp/data/toukei/execution/>

⁴ For the purpose of this submission, the time spent on death row is the length of time between the date when the individual sentenced to death exhausted their avenues of appeal (or the date when the individual sentenced to death withdrew their appeal) and the date of execution.

⁵ CrimeInfo: https://www.crimeinfo.jp/data/dplist/dplist_all/. Iwao Hakamada is often referred to as the longest serving individual on death row (though he was released in 2014). He is the longest serving individual on death row if ‘time spent on death row’ is calculated from the date of the death sentence at trial. Please see footnote 4 for our definition.

⁶ JFBA survey:

https://www.nichibenren.or.jp/library/ja/jfba_info/publication/data/shikei_syoguu_a_gaiyou_2021.pdf (para.1).

confinement, and limited contact with other persons outside prison.⁷ While exact rates are unknown, mental illness among individuals on death row appears to be high, with limited medical care available.⁸

- **Visitors:** During December 2019 and November 2020, 29 individuals (out of 69) on death row met with family members, averaging 5 or less family visits during this period. The average length of each family visit was 21 minutes, the shortest being 7 minutes and the longest being 50 minutes. 36 per cent of respondents had no family visits since 2016.
- **Religious assistance:** Individuals on death row can request religious assistance; however, in most cases, prison staff attend the meeting between the spiritual adviser and the individual on death row.⁹

‘Is there a monitoring body that oversees the conditions of detention and welfare of individuals sentenced to death?’

- The Penal Institution Visiting Committee¹⁰ provides civilian oversight of penal institutions. The Committee is empowered to inspect penal institutions.¹¹ However, repeated requests to inspect the execution chamber at the Tokyo Detention Centre¹² by the Committee have been rejected.¹³ The authorities refused access to the execution chamber, stating that such inspection does not fall under the purpose of the Committee which is to inspect the ‘operation’ of penal institutions.¹⁴

2. Family members

‘What support is provided in your country for children and other family members of individuals sentenced to death or executed?’

- To our knowledge, no special support is provided by the state.

‘How much contact are family members, including children, allowed to have with individuals sentenced to death in your country?’

- Please see our response under section 1.

3. Other individuals

⁷ Maiko Tagusari, Mai Sato, David Johnson and Saul Lerhfreund, *The Death Penalty in Japan* (2013) 12. Available from <https://deathpenaltyproject.org/knowledge/the-death-penalty-in-japan/>

⁸ Maiko Tagusari, Mai Sato, David Johnson and Saul Lerhfreund, *The Death Penalty in Japan* (2013) 12. Available from <https://deathpenaltyproject.org/knowledge/the-death-penalty-in-japan/>. The JFBA survey also confirmed the use of solitary confinement for individuals on death row.

https://www.nichibenren.or.jp/library/ja/jfba_info/publication/data/shikei_syoguu_a2021.pdf

⁹ https://www.nichibenren.or.jp/library/ja/jfba_info/publication/data/shikei_syoguu_a2021.pdf

¹⁰ The Japanese Ministry of Justice uses the term ‘visiting’ to refer to the Committee. However, the direct translation is closer to ‘inspection’.

¹¹ The Japanese Ministry of Justice: https://www.moj.go.jp/EN/kyousei1/kyousei_kyousei03.html

¹² As of 31 December 2020, 51 individuals on death row were detained at Tokyo Dention Centre. See:

<https://www.e-stat.go.jp/stat-search/files?page=1&layout=datalist&toukei=00250005&tstat=000001012930&cycle=7&year=20200&month=0>

¹³ The Japanese Ministry of Justice: <https://www.moj.go.jp/content/001356910.pdf> (p.31)

¹⁴ Ibid.

‘Has any study or assessment been made in your country about the impact of the death penalty on prison officers, executioners, health professionals and others involved in monitoring of and/or the execution of individuals sentenced to death? If so, what were the findings?’

- One study published in 2019 interviewed 12 prison staff to explore their views on prison management and their experience of working in prisons.¹⁵ None of the interviewees worked at detention centres where individuals on death row are kept. To our knowledge, no study or assessment had been carried out which examines the impact of the death penalty on prison officers, executioners, health professionals and others involved in monitoring of and/or the execution of individuals sentenced to death.

4. Lead-up to execution

‘In the lead-up to execution, what sort of information is provided to individuals on death row, their families, and legal representatives, including the date of the execution?’

- Individuals on death row are notified of their executions several hours in advance. Families and legal representatives are notified after the execution has taken place.

‘What support, if any, is offered to individuals on death row before their execution, including religious assistance?’

- Individuals on death row can request religious assistance. The spiritual adviser accompanies the individual to the execution chamber, provided that the individual does not refuse the aid of the spiritual adviser.
- To our knowledge, no other support is provided to individuals sentenced to death before their execution.

‘What arrangements, if any, are in place for families and friends of those on death row in the lead-up to the execution?’

- Families and friends of those on death row are not notified about the execution in advance.

‘If no advance notifications are given concerning the execution, why is this the case?’

- In November 2021, two death row inmates sued the Japanese government over its treatment of death row prisoners, claiming that the practice of notifying individuals of their executions mere hours in advance is unlawful as it denies prisoners the opportunity to file an objection.¹⁶ The Minister of Justice has defended this practice in December 2021 at a press conference by stating that it is intended to prevent prisoners from suffering before their execution:

The notification of execution of the death penalty is given to the inmate in question on the day of the execution before the death penalty is executed. This is partly because it is considered that, if the notification were given before the date of

¹⁵ Hiroi Fukaya, Chie Morihisa, and Junko Fujioka (2019) ‘Kanjou Roudousha toshiteno Keimukan’ *Ritsumeikan Hougaku*, 4: 1676-1707. Available from: <http://www.ritsumei.ac.jp/acd/cg/law/lex/19-4/004fukaya-morihisa-fujioka.pdf>

¹⁶ Reuters: <https://www.reuters.com/world/asia-pacific/japan-death-row-inmates-sue-over-inhumane-same-day-notification-media-2021-11-05/>

execution, it would seriously affect the mind of the inmate sentenced to death and make it difficult to maintain peace of mind.¹⁷

- It is our opinion that the main reason for notifying the individuals of their executions several hours before the execution is to prevent situations that may be a barrier to carrying out the execution, including legal challenges and suicides.

5. Methods of execution

'What is/are the method(s) of execution in your country?'

- The method of execution is hanging.

'Have there been any recent cases that challenge the lawfulness of the method of execution?'

- In 2016, the Supreme Court (the highest court in Japan) upheld the death sentence of a man convicted of arson in which five people died. The defence argued, among others, that execution by hanging is a cruel punishment that runs counter to the Constitution, which forbids cruel punishments and torture by public officials. The Supreme Court dismissed this argument, simply noting that previous Supreme Court judgments from 1948, 1955, and 1961 which upheld the constitutionality of the death penalty, including the method of execution.¹⁸

'What safeguards exist to prevent physical pain and suffering?'

- Should such safeguards exist, they are not made public.

6. Treatment of bodies of the executed

'How are the bodies of the executed treated in your country? (Information on the procedures in place for their burial/cremation and the return of bodies to family members or to other individuals and the management and final disposal of unclaimed bodies.)'

- If no one, including family members, wishes to receive the body of the executed, the relevant detention centre cremates the body.¹⁹ If no one wishes to receive the cremated remains, the remains will be placed in a graveyard managed by the Japanese Ministry of Justice.

For further information, please contact CrimeInfo (info@crimeinfo.jp).

¹⁷ CrimeInfo: https://www.crimeinfo.jp/data/houmukaiken/furukawa_031221/

¹⁸ Supreme Court of Japan: https://www.courts.go.jp/app/files/hanrei_jp/793/085793_hanrei.pdf

¹⁹ Article 177, Act on Penal Detention Facilities and the Treatment of Inmates and Detainees; Article 94, Regulation for Penal Institutions and Treatment of Inmates.