

第2号事件プレスリリース

～即日告知・即日執行の人権侵害・憲法・国際人権違反を争う裁判～

1. 問題の所在

日本の死刑は絞首刑である。その執行は、当日の朝、何の前触れもなく突然やってくる。独房の前で職員の足音が止まると死刑確定者は震え上がる。職員がドアを開け、所長は執行を告知する。有無を言わず、両脇を抱えられた死刑囚は、刑場に連行され、粛々と、淡々と死刑が執行される。

告知から執行に至るこの一連の作業について、国家の定めた法律は何も言っていない。死刑執行を所管する法務省の運用に委ねられている。

2. 憲法違反・法令違反・国際人権違反

(1) 人間の尊厳の侵害（日本国憲法第13条違反）

「即日告知・即日執行」は、死刑確定者の自己決定権を侵害するものであり、人間の尊厳を侵している。

(2) 国際人権準則（自由規約規約）違反（自由権規約第6条・7条違反）

日本政府は、国連自由権規約委員会から、再三、第6条（生命権の保障）および第7条（残虐な、または人間としての品位を傷付ける刑罰の禁止）に違反するとして、改善勧告を受けている。

(3) 死刑の執行の恣意性（日本国憲法第31条違反）

告知の時期が、国会の定める法律で定められてない現状は、憲法第31条の法定手続の保障および最高裁判所の判例にも違反している。

(4) 異議申立ての機会の剥奪（日本国憲法第31条・32条違反）

即日告知・即日執行には法律上の根拠もない、死刑確定者の異議申立ての機会、裁判を受ける権利も奪われている。

3. 本裁判

原告は、2021年11月4日、大阪地方裁判所に、死刑執行の日時の事前告知もなく、執行当日に告知され、同日執行する法務大臣の命令及び拘置所の死刑執行実務が違法であることを理由に、受忍義務不存在確認及び国家賠償請求を求める訴訟を提起している。現在、同訴訟は、大阪地裁で審理中である。

以上

Press Release for Case No. 2

Trial Contesting Human Rights Violations and Violations of Constitutional and International Human Rights by Instant Notification and Instant Execution

1. Where is the problem?

The death penalty in Japan is executed by hanging. The execution comes suddenly and without warning on the morning of the day of execution. When the footsteps of the staff stop in front of the death row, the condemned person trembles. The staff opens the door and the warden announces the execution. The condemned person is taken to the place of execution, and the death penalty is carried out solemnly and dispassionately.

There is nothing in the laws of the state about this process from notification to execution. It is left to the Ministry of Justice, which has jurisdiction over executions.

2, Violation of the Constitution, Laws and International Human Rights

(1) Violation of Human Dignity (Article 13 of the Constitution)

The "same-day notification and execution" violates the right to self-determination of persons sentenced to death and is a violation of human dignity.

(2) Violation of International Covenants on Civil Liberties (Article 6 and 7 of the Covenant)

The Government of Japan has repeatedly received recommendations for improvement from the UN Committee on Civil Liberties for violating Article 6 (guarantee of the right to life) and Article 7 (prohibition of cruel or degrading punishment) of the Covenant.

(3) Arbitrariness of Execution of Death Penalty (Article 31 of the Constitution)

The current situation, in which the timing of notification is not set by an act of the Diet, is in violation of the guarantee of statutory procedures under Article 31 of the Constitution of Japan, as well as of Supreme Court precedents.

(4) Deprivation of Right to File an Objection (Articles 31 and 32 of the Constitution)

There is no legal basis for the immediate notification and execution, and the death-penalty convicts are deprived of the opportunity to file objections and the right to a trial.

3. The Trial

On November 4, 2021, the plaintiffs filed a lawsuit against the Osaka District Court, alleging that they were not notified of the execution date and time without prior notice, and that they were notified on the day of the execution and that the execution would take place on the same day. The plaintiffs filed a lawsuit in the Osaka District Court on November 4, 2021, seeking confirmation of the non-existence of their duty to accept the death penalty and a claim for state compensation on the grounds that the order of the Minister of Justice to carry out the execution on the same day without prior notice and the practice of the detention center to carry out the execution on the same day are illegal. The lawsuit is currently being heard by the Osaka District Court.

Above all