



INTERNATIONAL COMMISSION AGAINST THE DEATH PENALTY

Opinion piece

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HAKAMADA IWAO AND THE DEATH PENALTY SYSTEM IN JAPAN

Experience and evidence from across the world demonstrates that the death penalty is cruel, irrevocable and that it is a violation of the right to life. There is always the risk of an innocent person being subjected to the death penalty causing further injustice and suffering.

No justice system can be perfect – mistakes and miscarriages of justice can, and do, take place. This uncomfortable reality has been powerfully demonstrated on an epic scale in Japan by the case of 78 year old Hakamada Iwao who – until the Shizuoka district court ordered his retrial and his immediate release on 27 March this year – had spent decades living with the ever-present fear of being executed.

Hakamada Iwao, who was born on 10 March 1936, was sentenced to death by the Shizuoka district court on 11 September 1968 on charges of murdering four people including one of his employers in June 1966.

Hakamada's case highlights serious flaws in the death penalty system in Japan. He was sentenced to death on the basis of a confession that appears to have been forced. He was interrogated by the police for several days with no access to a defence legal counsel. The interrogation was not recorded by audio or visual electronic devices. Hakamada retracted his confession during his trial and told the court that he had been beaten and threatened by members of the police.

There are also unanswered questions over the key evidence that was presented by the prosecutors and more recently, DNA tests have revealed fundamental flaws with this evidence. Using unusually strong language in their judgment, the judges of the Shizuoka district court, who ordered the release of Hakamada Iwao in March 2014, pointed out that there is a very strong possibility that the evidence used against Hakamada in the initial trial that led to his being sentenced to death in 1968 was fabricated.

It is hard to imagine the mental agony suffered by Hakamada Iwao, who has spent decades not knowing if he would be executed the next day. In Japan, those facing the death penalty are only informed of their execution hours before their death sentence is carried out. This lack of transparency makes it extremely difficult for defence lawyers to pursue timely appeals.

In 2011, Hakamada became the world's longest-serving death row prisoner. As is the case with most prisoners under sentence of death in Japan, he was detained for this entire period in solitary confinement – something that has reportedly left his mental health in a deteriorated state.

As if this terrible ordeal was not enough, Hakamada Iwao's suffering is not over yet. Prosecutors from the Shizuoka District Prosecutors' Office have chosen to appeal against the court ruling to grant a retrial, lodging their appeal with Tokyo's High Court on 31 March. The court could now take months, if not years, to make a ruling – potentially denying Hakamada his chance to receive a fair trial at long last.

The International Commission against the Death Penalty (ICDP) – an independent body led by eminent commissioners from all world regions, and supported by 18 diverse governments – calls on the Government of Japan to introduce a moratorium on executions as a first step towards abolition of capital punishment.

We call on Japan to join more than 160 countries from all regions and cultures who, according to the UN, have rejected capital punishment and do not execute. These nations have accepted that state killing is wrong, and only causes harm to society.

These would be bold and decisive steps to bring Japanese justice into the modern age. This is the time for positive leadership; a time for investigation, reflection and understanding of how to ensure that no one else undergoes the terrible suffering meted out to Hakamada Iwao. A way ahead could be to undertake political dialogue on the issue of the death penalty with States that have abolished the death penalty and conduct a debate domestically. The Government of Japan owes this to Hakamada Iwao.

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