

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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Japan: Retrial highlights need for judicial reform

On 23 June, the Tokyo High Court granted a retrial for Sugaya Toshikazu, who has been imprisoned for 17 years. He was sentenced to life imprisonment in 1993 after being convicted of the murder of a four year-old girl in Ashikaga, Tochigi Prefecture. His conviction was largely based on DNA evidence, which was revealed to be inaccurate after Sugaya's defence requested a new test done by Nihon University's forensic medical school, and Sugaya's confession, which he made and retracted twice during the course of his trials. His retrial starts today.

Prosecutors have stated that they will request Sugaya's acquittal at the retrial. The Supreme Public Prosecutors' Office has announced the establishment of a team to examine the process of investigation and trials of the 1990 murder.

Sugaya confessed to the crime after being interrogated by police, but later retracted his confession, claiming that he was forced to confess. Sugaya appealed to the Utsunomiya District Court on the basis of new DNA evidence, whether or not his confession was credible, and other new evidence that had emerged. His appeal for a retrial was dismissed on 13 February 2008. Amnesty International calls on the Japanese government to ensure that any statements obtained using torture or other ill-treatment are inadmissible as evidence in any proceedings, except against persons accused of torture as evidence that the statements were made.

The case of Sugaya has raised serious concerns about the judicial process in Japan, as the country introduces the new lay judge system. Under the *daiyo kangoku* or pre-trial detention system in Japan, a suspect can be held for up to 23 days without charge. There are no rules or regulations regarding the length of interrogations carried out during this period. Interrogation sessions are not fully recorded. In practice it is not unusual for lawyers to be granted permission to meet with their clients only two to three days after applying for permission, and interviews are limited to only 15 – 20 minutes. Under Japan's Penal Code there is no provision for such limitations.

The Japanese justice system relies heavily on confessions, which are typically obtained while a suspect is held under the *daiyo kangoku* system. This system is routinely used to obtain 'confessions' through torture or other ill-treatment. Amnesty International has documented a variety of such measures, including beatings, intimidation, sleep deprivation, questioning from early morning until late at night, and making the suspect stand or sit in a fixed position for long periods. Amnesty International calls on the Japanese government to abolish the *daiyo kangoku* system; to introduce full electronic recordings of all interrogations; and to allow for legal counsel to be present during all interrogations.

On 29 September 1999, Kuma Michitoshi was sentenced to death in Fukuoka for the murder of two schoolgirls on 20 February 1992. His conviction relied on the same method of DNA testing as in Sugaya's case, a method which has now been proven inaccurate. Kuma insisted that he was innocent despite the DNA 'evidence'. He was executed on 28 October 2008. His lawyers have decided to request a posthumous retrial.

In May 2007, the UN Committee Against Torture recommended that the Government of Japan ensure that defence counsel be present during interrogations; electronic and video recordings are made during all interrogations; and recordings are made available in criminal trials. The UN Human Rights Committee reiterated these recommendations in its concluding

observations in October 2008. However, the Japanese Government has yet to implement these recommendations.

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