

**The
Death Penalty
in Japan**

**Report of an Amnesty International Mission
to Japan**

21 February - 3 March 1983



an amnesty international publication

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PREFACE

Amnesty International opposes the death penalty in all cases without reservation on the grounds that it is a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading treatment or punishment as proclaimed in the Universal Declaration of Human Rights and other international human rights instruments. Amnesty International appeals for clemency for prisoners in danger of execution and works for the abolition of the death penalty throughout the world. In pursuance of these objectives, it sent a mission to Japan from 21 February to 3 March 1983. The purposes of the mission were to convey Amnesty International's concern about the death penalty to government officials and other people interested in the issue and to gather information and views on its abolition. On 31 May 1983 Amnesty International sent to the Minister of Justice a memorandum containing the findings of the Amnesty International delegates on the use of the death penalty in Japan and Amnesty International's recommendations to the government of Japan on this issue. This report reproduces that memorandum; minor amendments have been made on the basis of subsequent information obtained by Amnesty International.

It is Amnesty International's view that there are a number of factors prevailing in Japan which should facilitate the abolition of the death penalty and it is hoped that the revision of the penal code now at hand will provide a legislative opportunity for abolition.

In its memorandum to the Government of Japan, Amnesty International respectfully recommends that all executions cease permanently; that the death penalty be abolished for all offences; that, pending abolition, the Ministry of Justice reviews the arrangements for custody and treatment of prisoners under sentence of death to ensure that they do not exacerbate the already cruel, inhuman and degrading experience of being under sentence of death; and that, in preparation for abolition, the Government of Japan informs the public about criminological and penal issues related to the death penalty, including its lack of proven special deterrent effect.

While the government's reaction to the Amnesty International memorandum was not yet known at the time of going to press, Amnesty International hopes to continue the dialogue with the Japanese authorities on the subject of the death penalty.

Since the completion of the memorandum, there have been further developments in the case of Sakae Menda, described on page 14. Amnesty International learned that, on 15 July 1983, at the conclusion of his retrial, the Yatsuhiro Branch of the Kumamoto District Court found Sakae Menda not guilty. This decision became final when the Public Prosecutor's office decided not to appeal against it. Until his release in 1983, Sakae Menda had been under sentence of death for more than 33 years - longer than any other prisoner in the world known to Amnesty International. He had applied for retrial six times before his application was accepted.

1. Introduction

"Life is precious. One human life is of more importance than the whole earth. The death penalty is certainly the grimmest of all punishments. It is the ultimate one and is indeed unavoidable. The reason is simply that it involves eternal deprivation of life, the source of dignified human existence."

From the decision of the Japanese Supreme Court,
12 March 1948¹

The death penalty can be inflicted for 17 offences under Japanese law. In recent years, however, Japanese courts have imposed death sentences for only three offences - murder, causing death in the course of robbery and causing death by explosives. The number of executions has declined. In 1979, 1980 and 1981 one person was executed each year, although there were 17 executions in 1975 and 12 in 1976. Approximately 50 prisoners are believed to be currently under sentence of death.

A revision of the Japanese Penal Code (which came into force in 1908) has been under discussion for many years. The Ministry of Justice is currently preparing a draft revision for submission to the Diet (Japanese Parliament). Although the number of offences carrying the death penalty would be reduced, it is believed that the draft being prepared would retain the death penalty for murder. This would leave the current application of the death penalty in Japan substantially unchanged.

An Amnesty International mission visited Japan from 21 February to 3 March 1983. It comprised Dr L.M. Singhvi, Senior Advocate of the Supreme Court of India and President of the Supreme Court Bar Association, and a member of staff of Amnesty International's International Secretariat.

The purposes of the mission were to convey Amnesty International's concerns about the death penalty and to gather information and Japanese views on its abolition. The mission's findings are presented in this memorandum.

The mission met Masaya Maruyama, the Parliamentary Vice-Minister of Justice, and other officials of the Ministry of Justice; officials of the Supreme Court; the Boards of the Committees on Justice of the House of Councillors and the House of Representatives (upper and lower houses) of the Diet; the Secretary General and other officials of the Japan Federation of Bar Associations; members of the Board of the

Japanese Council on Crime and Delinquency; the General Secretary of the United Church of Christ in Japan; the Roman Catholic Archbishop of Tokyo; the Chief Secretary of the International Affairs Division of the Japanese Committee of the World Conference on Religion and Peace; other religious leaders, criminologists, and others having an interest in the issue of the death penalty. A list of those met by the mission is given in Appendix I. In all meetings, the mission delegates were accompanied by a member of staff of Amnesty International's Japanese Section.²

Amnesty International opposes the death penalty in all cases without reservation on the grounds that it is a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading treatment or punishment as proclaimed in the Universal Declaration of Human Rights and other international human rights instruments. Amnesty International appeals for clemency for prisoners in danger of execution and works for the abolition of the death penalty throughout the world.

Amnesty International believes that there are a number of factors which should facilitate the abolition of the death penalty in Japan. These include the decline in the number of executions and the fact that the penal code is being revised. The crime rate in Japan is low compared to other industrialized countries and although opinion polls have indicated apparent support for the death penalty, there is no organized public pressure for its retention.

Amnesty International has repeatedly appealed to the Japanese Government to cease executions and to abolish the death penalty for all offences. These and other recommendations are presented at the end of this memorandum.

2. Historical background

According to tradition, the death penalty was used in the early years of the Japanese empire, but there is no authoritative historical record of its infliction. The first systematic penal rules, which were included in the Taiho Ritsu-ryo and Yoro Ritsu-ryo codes, were introduced in Japan during the eighth century AD. They provided for five penalties, one of which was death.

In 724 AD, Emperor Shomu issued an order forbidding all forms of killings, including the death penalty. Quoting Buddhist teachings, he emphasized that life was invaluable. In his order he said: "The dead can never live again. The punished can never expiate themselves again. This is emphasized in our predecessors' writings."

There was no official use of the death penalty for a period of 346 years from 810 to 1156 AD, during the Heian period. Emperor Saga amended the Japanese statute in 818, substituting other penalties such as exile and imprisonment for the death penalty.

This period of abolition ended with the beheading of the chief of a rival clan, Minamoto Tameyoshi, in 1156 following the battle of Hogen. In succeeding centuries the use of the death penalty continued with different methods of execution used for people of different social classes. For samurai (warriors), harakiri or seppuku, a painful form of suicide, was sometimes allowed for reasons of honour in place of hanging or decapitation. For chonin (members of other classes who were mainly engaged in production activities), hanging, beheading and other especially cruel methods of execution such as crucifixion, burning to death and boiling to death were used. The document Osadamegaki Hyakkajo (One Hundred Articles of Regulations) of 1742, one of the most systematic laws of the feudal period, provided for 12 methods of execution which varied according to the nature of the offence.

In the years following the Meiji Restoration of 1868, these various methods of execution were abolished and replaced by hanging in prison, as practiced in certain Western countries.³ Japan's first modern penal code, which came into force in 1882, reduced the number of offences carrying the death penalty to 22. Under the current penal code, which came into force in 1908, the number of offences carrying the death penalty was further reduced.

3. The death penalty in current Japanese law

Under the Japanese Penal Code, the death penalty can be inflicted for the following 12 offences:⁴

1. Murder (Article 199)
2. Death caused in the course of a robbery (Article 240)
3. Death resulting from rape in the course of a robbery (Article 241)
4. Overturning trains, etc., causing death (Article 126)
5. Endangering transportation facilities, causing death (Article 127)
6. Poisoning public water supply systems, causing death (Article 146)
7. Leading an insurrection (Article 77)
8. Inducing armed foreign aggression (Article 81)
9. Military assistance to a foreign state using armed force against Japan, including engagement in the military service of such a state (Article 82)

10. Arson of inhabited structure (Article 108)
11. Destruction of inhabited structures by explosion (Article 117)
12. Damage to inhabited structures by inundation (Article 119)

In addition, special laws provide the death penalty for the following five offences:

13. Death during aircraft seizure (Law Punishing Aircraft Seizure and Related Crimes, 1970)
14. Death caused by destruction of aircraft (Law Punishing Crimes Endangering Air Navigation, 1974)
15. Death resulting from a duel (Law Prohibiting Duelling, 1889)
16. Use of explosives (Law Relating to Control of Explosives, 1884)
17. Intentional killing of hostage (Law Punishing Hostage Seizure, 1978) 5,6

Life imprisonment, or imprisonment with or without labour for a term of years, is provided as an alternative penalty except for offence No. 8 in the above list, inducing foreign aggression.

The imposition of the death penalty on offenders under 18 years of age at the time of the offence is forbidden under the Japanese Juvenile Law (Article 51). Under the Code of Criminal Procedure (Article 479) the Minister of Justice is required to enter an order of stay of execution if a person sentenced to death is insane or if a woman sentenced to death is pregnant. After recovery or childbirth, the stay is lifted and an order for execution is to be given, normally within six months.⁷

4. The revision of the penal code

The revision of the Japanese Penal Code has been under discussion for many years. The Ministry of Justice is currently preparing a draft revision for submission to the Diet. Besides replacing what is in the present code, the new penal code would subsume the special legislation which currently provides for the death penalty. Thus, the revision of the penal code provides an excellent opportunity for abolition.

In 1963 the Legislative Council, an advisory body to the Ministry of Justice, was commissioned by the ministry to deliberate whether or not the current penal code should be revised and if so, what the content of the revision should be. Although there was considerable support within the council for abolishing the death penalty, the council in the end rejected this on the grounds that abolition would be premature while heinous offences were still being committed and while a majority of the public

supported retention. This conclusion was based on consideration of various factors: the moral responsibility of the offender, demand for respect for human life, consideration for the feelings of victims, "educational" and "deterrent" effects of the death penalty, the current crime situation in Japan, the possibility of error and the general trend concerning the death penalty in other countries.

In 1974 the Legislative Council presented a draft revision of the penal code to the Minister of Justice. This draft reduced the number of capital offences to eight, including murder, and added a provision requesting the courts to use utmost care in imposing the death penalty.

The Japan Federation of Bar Associations, an influential professional organization, registered its objections to many parts of the draft revision of the penal code in 1974. It recommended that the death penalty should not be used for political crimes or unintentional killings. The federation took issue with the supposed "educational" or "deterrent" effect of capital punishment and criticized the public opinion polls cited by the Ministry of Justice as showing support for the death penalty. It indicated the possibility of miscarriage(s) of justice resulting in innocent people being sentenced to death. It also pointed to the contradiction between the death penalty and rehabilitation of the offender and questioned whether the perpetrator of an atrocious crime could be held to be a responsible person.

In response to criticism of the Legislative Council's draft revision of the penal code, the Ministry of Justice began re-examining and revising the text. Amnesty International has been informed that, under the draft revision currently being considered within the ministry, the number of offences carrying the death penalty would be reduced to eight, including murder. A lesser penalty would be made available as an alternative for inducing armed foreign aggression, the only offence which at present carries a mandatory death penalty. Thus, the draft revision would do away with the death penalty for certain offences (such as arson) for which it is no longer deemed necessary, but murder, the crime for which the majority of death sentences have been imposed in recent years, would remain a capital offence. The death penalty would be retained for certain other offences (such as inducing foreign aggression) which do not currently pose a threat, but which might in the future. It is possible that proposed changes in wording might in fact increase the scope of application of the death penalty under certain articles of the new code.

5. Constitutional issues

Under the Japanese Constitution, promulgated in 1946, the right to life is protected (Articles 13, 31) and "cruel punishments" are forbidden (Article 36). In response to appeals, the Supreme Court has issued four significant decisions on the constitutionality of the death penalty.

The first and most important decision was that of 12 March 1948. The Supreme Court ruled that the death penalty could be inflicted under appropriate procedures established by law. The death penalty was not in itself a cruel punishment, although the court acknowledged that forms of execution used in the past (burning at the stake, crucifixion, gibbeting, or boiling in a cauldron) were cruel. It said that "the threat of the death penalty itself may be a general preventive measure", that execution "may be a means of cutting off at the root special social evils", and that "both [factors] may be used to protect society."

In a supplementary opinion, four Supreme Court Justices wrote that the constitution was "reflecting the people's feelings at the time that the Constitution was enacted; it should not be regarded as eternally approving the death penalty. The judgment of whether certain punishments are cruel is a question that should be decided according to the feelings of the people. However, because the feelings of the people cannot escape changing with the times, what at one time may be regarded as not being a cruel punishment may at a later period be judged the reverse. Accordingly, as a nation's culture develops to a high degree, and as a peaceful society is realized on the basis of justice and order, and if a time is reached when it is not felt to be necessary for the public welfare to prevent crime by the menace of the death penalty, then both the death penalty and cruel punishments will certainly be eliminated because of the feelings of the people. In such a situation the interpretation of Article 31 of the Constitution will probably be limited as a matter of course and the death penalty will be eliminated as a cruel punishment which contravenes the Constitution. However, it cannot be said that we have already reached such a stage today."⁸

In its second decision on the issue, rendered on 18 April 1951, the Supreme Court rejected an appeal claiming that the death penalty violated constitutional provisions in relation to the renunciation of war.

In a third decision, on 6 April 1955, the Supreme Court rejected an appeal claiming that hanging as a method of execution was a cruel punishment in violation of the constitution. It stated that no reason could be found to decide that hanging, as practiced in Japan, was more cruel than other methods.

In its fourth decision, rendered on 19 July 1961, the Supreme Court considered an appeal claiming that execution violated the due process of law, as provided by the constitution, because there was no provision in law concerning the method of execution. The court rejected the appeal, holding that Cabinet Order No. 65 of 20 February 1873, which described the hanging mechanism, had the same legal effect as current law.⁹

Despite these decisions, lawyers appealing against death sentences in Japan have continued to argue that the death penalty is a cruel punishment in violation of the constitution.

6. Death sentences and executions

Cases involving a possible death sentence are normally heard before one of 50 District Courts which act as courts of first instance. Appeals against decisions of a District Court may be heard by one of the eight High Courts and then by the Supreme Court. When appeals have been exhausted, the sentence is finalized (in death penalty cases, normally by decision of the Supreme Court). However, after the sentence has been finalized, it is still possible to reopen the procedure by requesting a retrial if new evidence is discovered or if evidence on which the original judgment was based is proved false (see part 8).

Table 1 shows the number of defendants sentenced to death by the court of first instance during the 10-year period from 1972 to 1981 (the most recent official figures available). All defendants during that period were sentenced to death for murder or for causing death in the course of robbery, except in 1979 when two members of the Eastern Asian Anti-Japan Armed Front, a violent left-wing opposition group, were convicted of causing death by explosives and sentenced to death by the Tokyo District Court.

Table 2 shows the number of finalized death sentences and executions from 1972 to 1981. There were 48 prisoners with finalized death sentences at the beginning of 1972. The number fell to 16 at the end of 1977 following the executions carried out from 1974 to 1977. It has been rising since then. All the prisoners with finalized death sentences between 1972 and 1981 were men.

Table 3 shows the number of executions per year from 1972 to 1981. All prisoners executed during this period were men; all were executed for murder or for causing death in the course of robbery.

Table 1. Death sentences: number of defendants sentenced to death by court of first instance, 1972-1981

Year	Total	Offence		
		Murder	Death caused in the course of robbery	Death caused by explosion
1972	3	3	-	-
1973	4	4	-	-
1974	6	3	3	-
1975	5	2	3	-
1976	4	3	1	-
1977	9	5	4	-
1978	6	4	2	-
1979	7	-	5	2
1980	9	4	5	-
1981	2	1	1	-
Totals	55	29	24	2

(Source: Annual Report of Judicial Statistics compiled by the Secretariat of the Supreme Court)

Table 2. Finalized death sentences and executions, 1972-1981

Year	Finalized death sentences at beginning of year	Death sentences finalized during the year	Executions	Comutations	Deaths in custody	Finalized death sentences at end of year
1972	48	7	7	-	1	47
1973	47	5	3	-	-	49
1974	49	2	4	-	1	46
1975	46	3	17	1	2	29
1976	29	1	12	-	-	18
1977	18	3	4	-	1	16
1978	16	4	3	-	-	17
1979	17	4	1	-	-	20
1980	20	7	1	-	-	26
1981	26	3	1	-	-	28
Totals		39	53	1	5	

(Source: Ministry of Justice)

Table 3. Executions, 1972-1981

Year	Offence		Total
	Murder	Death caused in the course of robbery	
1972	2	5	7
1973	1	2	3
1974	1	3	4
1975	4	13	17
1976	5	7	12
1977	2	2	4
1978	1	2	3
1979	1	-	1
1980	1	-	1
1981	1	-	1
Totals	19	34	53

(Source: Ministry of Justice, Annual Report of Statistics on Rehabilitation)

As shown in Tables 2 and 3, there has been a considerable fluctuation in the number of executions per year. Although there was one execution per year in 1979, 1980 and 1981, there were 17 in 1975 and 12 in 1976.

Annual figures for executions since 1873 are given in Appendix II. A great many executions were carried out in the turbulent years following the Meiji Restoration of 1868: 961 in 1873, 748 in 1874 and 452 in 1875. Those executed during this period include Japan's first Minister of Justice and founder of the modern Japanese judicial system, Shinpei Etoh, who resigned in 1873 and took part in an uprising; he was captured and executed in 1874. Since 1881 there have been under 200 executions a year; since 1887, under 100; and since 1921, under 40. The rate of executions rose in the unstable social conditions following the Second World War, reaching 39 in 1957 and 1960. Since then there have been under 30 executions per year, and since 1971, under 20.

Under the Japanese Constitution (Articles 7, 73), decisions on amnesty, commutation of punishment and reprieve are made by the Cabinet and attested to by the emperor. In deciding whether to grant clemency to a prisoner under sentence of death, the Cabinet acts on advice from the National Offenders Rehabilitation Commission, an official auxiliary body of the Ministry of Justice.

Under the Code of Criminal Procedure (Article 475), an order for execution is to be given within six months of a death sentence becoming final, but this six-month period is to be suspended if an application is pending for an appeal, retrial or amnesty.¹⁰ During its mission, Amnesty International was informed by the Ministry of Justice that six prisoners under sentence of death were currently petitioning for clemency; all six had also requested retrials, and consideration of their petitions for clemency had therefore been deferred while their petitions for retrial were decided by the courts. Amnesty International does not know how many other prisoners under sentence of death have already had petitions for clemency rejected.

Under the Code of Criminal Procedure "The death penalty shall be executed under an order from the Minister of Justice" (Article 475). Once the order is given, "such execution shall be carried out within five days" (Article 476). Thus, after all judicial and clemency proceedings are exhausted, it is the Minister of Justice who in practice decides that a prisoner will be executed. This may be a factor in the fluctuation in the number of executions.

7. Arrangements for execution

Under the penal code,

"The death penalty shall be executed by hanging at a prison. 2. A person who has been condemned to death shall be confined in prison until the punishment is executed."¹¹

(Article 11)

Under current practice, a prisoner is notified one or two days in advance of an execution at most, and in some cases not at all. During its mission Amnesty International was informed by an official of the Ministry of Justice that the decision as to whether or not to notify the prisoner was made on a case by case basis in the best interests of the prisoner. If a prisoner was calm and composed, he would be notified on the day before the execution. If he was unstable, he would not be notified.

Others to whom Amnesty International spoke criticized the lack of advance warning. They said that under this practice a prisoner would not know from one day to the next whether he would be alive the next day. It was said that this could also cause great suffering to the prisoner's family, who sometimes did not learn of an execution until after it took place.

Under the Code of Criminal Procedure,

"The death penalty shall be executed in the presence of a public prosecutor, a public prosecutor's assistant officer and either a warden or his representative.

2. No person shall enter the place of execution except with the permission of a public prosecutor or a warden."

(Article 477)

"A public prosecutor's assistant officer who attends at the execution of the death penalty shall make an account of the execution, which shall be signed and sealed by him together with the public prosecutor and the warden or his representative."

(Article 478)

Amnesty International has received information indicating that the execution process can be especially troubling for prison officials and others who are required to attend. Some of them have developed a degree of sympathy for the prisoner through having observed, talked with and taken care of him. They may be afraid to tell their families that they have carried out an execution lest they be branded as a killer.

Under an order of 27 December 1947 issued by the Head of the Correction Bureau of the Ministry of Justice, a doctor is required to check the condition of the prisoner before an execution takes place. This order also specifies that a doctor is to make a medical report of the execution.¹² This report is part of the *shikko shimatsu-sho* (report of execution) submitted to the Minister of Justice, as described in Article 478 of the Code of Criminal Procedure. Furthermore, although not specified in law, it is believed that under current practice a doctor is present during an execution, where he may observe the dying prisoner and determine when death has occurred.¹³

Evolving standards of medical ethics hold that it is unethical for a doctor to participate in an execution. The 34th World Medical Assembly of the World Medical Association in 1981, citing doctors' dedication to preserving life, adopted a resolution stating "that it is unethical for physicians to participate in capital punishment, although this does not preclude physicians certifying death."* In Amnesty International's view, "participation" in executions should be understood to include such activities as determining mental and physical fitness for execution, giving technical advice, and making medical examinations during executions so that an execution can continue if the prisoner is not yet dead.

Several Japanese studies have been based on medical observations during and after execution. In one such study, contained in a document submitted to a district court dated 27 October 1952, a medico-legal specialist reported that in 20 executions between 1948 and 1951 it took an average of 14 minutes 33 seconds for the prisoner to die after he was dropped from the gallows with a rope around his neck. The minimum time to die was 4 minutes 35 seconds and the maximum was 37 minutes.¹⁴

Executions in Japan are carried out in secret and no public announcement is made at the time. The only information made available is in the form of statistics issued periodically by the Ministry of Justice. The explanation given by the Ministry of Justice is that this secrecy protects the families of prisoners from the shame of having it known that their relative has been executed.

Others with whom Amnesty International spoke during the mission criticized the secrecy surrounding executions. They said that it served only to hide the reality of the death penalty from the public. They questioned whether the death penalty could be said to have a deterrent effect when executions were not made known. They said that the families of prisoners already suffered considerable shame through sensationalist reporting in the news media at the time of arrest and trial.

In discussions with the Ministry of Justice Amnesty International referred to a list of 54 prisoners believed to be currently under sentence of death, which it had compiled from press reports and other sources. Ministry of Justice officials said that they could not verify the accuracy of the list because of the secrecy of executions: whether or not a prisoner had been executed could not be made public.

Several accounts have been published of the experience of prisoners under sentence of death. According to one, the lack of advance notice of execution forced prisoners to concentrate on the short time available to them. One prisoner said: "Time! Time is extremely precious and invaluable, considering that the execution is drawing near. Time flies so fast to end my short life. I regret very much that I did not use this very precious time in a better way." Another prisoner, who was executed in 1969, wrote in his diary of his constant shame in contemplating the degrading death he would undergo.¹⁵

*See Appendix III for text of the World Medical Association resolution

8. Retrials

Under Japanese law, a retrial may be requested after appeals have been dismissed and a sentence has become final if new evidence indicating innocence is discovered or if evidence on which the original judgment was based is proved false (Code of Criminal Procedure, Articles 435-453). Over the years, many applications for retrial have been rejected by the courts. In 1975, however, the standards for granting retrials were eased as a result of a Supreme Court decision. In December 1980, in the first such case involving a prisoner sentenced to death, the Supreme Court granted a retrial to Sakae Menda, who had been convicted in 1950. Since then, retrials have been granted in two other death penalty cases. These retrials have aroused concern in Japan about the possibility of the death penalty being inflicted on an innocent person.

Case 1: Sakae MENDA

Sakae Menda, born on 4 November 1925, was convicted of a murder committed on 29 September 1948 in Hitoyoshi, Kumamoto prefecture, and sentenced to death by the Kumamoto District Court on 22 March 1950. The conviction was based on a confession and other evidence. Menda later retracted his confession and asserted his innocence. Other evidence presented in the trial was questioned and an alibi produced for the time of the murder.

Sakae Menda's sentence was upheld by the Fukuoka High Court on 19 March 1951 and by the Supreme Court on 25 December 1951. Two applications for retrial were rejected; a third was accepted by the Yatsushiro branch of the District Court on 10 August 1965, but this was opposed by the Public Prosecutor's office and overturned by the High Court.

On 27 September 1979 the Fukuoka High Court decided to grant Menda's sixth application for retrial after hearings concerning the evidence on which his conviction was based found that it was not conclusive. Rejecting an appeal from the Public Prosecutor's office, the Supreme Court upheld the decision and ordered a retrial in December 1980.

The retrial began on 15 May 1981 and is expected to be completed in late 1983. During the retrial Menda said: "I want to save my life but, even more than that, I want justice." At the retrial, the Public Prosecutor said that Menda had not shown any sign of repentance for his alleged crime and that he deserved to be sentenced to death, even though he had already been imprisoned for some 29 years.

Sakae Menda is believed to have been under sentence of death longer than any other prisoner in the world currently condemned to death.¹⁶

Case 2: Shigeyoshi TANIGUCHI

Shigeyoshi Taniguchi, born on 3 December 1930, was convicted of the murder of a black-market rice broker on 28 February 1950 and sentenced to death by the Takamatsu District Court on 25 January 1952. He was 19 years old at the time of his arrest. His sentence was upheld by the Takamatsu High Court on 8 June 1956 and by the Supreme Court on 22 January 1957. His second application for retrial was referred back by the Supreme Court to the Takamatsu District Court on 12 October 1976. On 6 June 1979 the District Court accepted the application, ruling that one of the few pieces of material evidence against him - spots of blood allegedly found on his trousers - was no longer considered to be valid and that there was sufficient reason to believe that his confession could have been fabricated. The District Court's decision was upheld by the Takamatsu High Court and the Public Prosecutor's office decided on 18 March 1981 not to appeal against it. The retrial began on 30 September 1981 and is continuing.

Case 3: Yukio SAITO

Yukio Saito, born in 1931, was arrested in December 1955 after the murder of a farmer and three of the farmer's family members on 18 October 1955. He confessed to the killings but retracted his confession before the indictment and maintained his innocence throughout the trial, saying that he had been forced to make a false confession.

Yukio Saito was convicted of murder and arson and sentenced to death by the Sendai District Court on 29 October 1957. His sentence was upheld by the Sendai High Court on 26 May 1959 and by the Supreme Court on 1 November 1960, when it became final. A request for a retrial filed in March 1961 was rejected, and a second request for a retrial was rejected on 26 October 1971 by the Furukawa branch of the Sendai District Court. On appeal, the Sendai High Court referred back the case to the District Court for further deliberation on 18 September 1973. On 6 December 1979 the District Court decided that Saito should be retried.

Saito's conviction had been based mainly on his confession and on expert evidence concerning bloodstains on Saito's bedding and allegedly found on his clothes. Although no blood was found on the clothes he was wearing at the time of the murders, the prosecution had asserted that this was because he had later washed his clothes in a pond. In deciding to grant the application for retrial, however, the District Court aired suspicion on the credibility of Saito's confession and accepted expert evidence suggesting that the reason no bloodstains were found on his clothes was that they had not been stained with blood in the first place.

The Public Prosecutor's office appealed against this decision, but

on 31 January 1983 the Sendai High Court upheld the District Court's ruling. The Public Prosecutor's office then decided not to appeal against the granting of a retrial.

Pressure for prisoners sentenced to death to be retried has come from various sources in Japan, including the Japan Federation of Bar Associations. During the mission, Toshio Nomiya, then head of the Human Rights Protection Committee of the Japan Federation of Bar Associations, told Amnesty International:

"Sakae Menda was sentenced to death 33 years ago due to an allegedly forced confession at a police office. It took 30 years before the retrial decision was admitted. The Japan Federation of Bar Associations did its best to get a retrial. Due to our efforts, a retrial was allowed. For 30 years Mr Menda constantly and always faced the fear of death.

I believe we cannot avoid all mistakes, because judgments are made by human beings, who are not the Almighty God. In light of these three cases, I believe the death penalty must be abolished as soon as possible."

9. Moves to abolish the death penalty in Japan

Over the years there have been a number of attempts to abolish the death penalty in Japan. In response to these moves it has often been said that Japan is not "ready for abolition".

During the Meiji era in the early 1880's a private draft bill to abolish the death penalty was written, but there was no discussion of it outside the government.

In 1900 four Diet members submitted a bill reducing the number of capital offences to the 14th Session of the Imperial Diet. Considerable discussion in committee resulted. The bill was not adopted.

Bills to abolish the death penalty were introduced in the 16th Session of the Imperial Diet in 1901 and the 23rd Session in 1907. Although not adopted, these two bills influenced the revision of the penal code, under which the number of offences carrying the death penalty was reduced.

In 1955 the organization Keibatsu to Shakai Kairyō no Kai (Committee on Punishment and Social Reform) was established by the progressive penologist Dr Akira Masaki and others. It became the first organization in the post-war period to campaign actively for the abolition of the death penalty.

In 1956 a bill to abolish the death penalty was introduced in the Diet and public hearings were held. However, the bill was not brought to a vote.

The Commission on the Constitution, set up to consider a possible revision of the Constitution, began meeting in 1957. According to its final report, published in 1964, the commission considered abolishing the death penalty but none of its members favoured that move. One commissioner, for example, said that it would be premature to abolish the death penalty "because our country has not yet seen the effective stabilization of order and our general level of culture has not yet attained a sufficiently high plane". Another said: "Because man is not by nature a moral creature, if the warning of punishment is lacking, there is the danger that crimes will be committed. When, as in our country today, the inhuman act of murder is so widespread as to be a common everyday occurrence, to revise the Constitution so as to abolish capital punishment would contain the danger of promoting that evil". 17

The Chairman of the commission, Professor Kenzo Takayanagi, stated in 1963 that although the Constitution of the Federal Republic of Germany, for example, provided for the abolition of the death penalty, "in Japan there are still opposing views on the question. If abolition is to be approved, then it can be done in the penal code without providing for it in the Constitution". 18

A number of books have been published by criminologists, lawyers, former prison governors and other writers advocating the abolition of the death penalty in Japan. Several collections of writings of prisoners under sentence of death have been published.

The Japan Federation of Bar Associations has discussed the death penalty at considerable length, especially in connection with the revision of the penal code and with moves for retrials of prisoners under sentence of death. The December 1982 issue of the federation's magazine Liberty and Justice was devoted to the issue of the death penalty; it included arguments for and against the death penalty, a roundtable discussion on the death penalty, information on the abolition of the death penalty in other countries and an article by a lawyer who had recently defended a person charged with a capital offence. However, the Japan Federation of Bar Associations has not taken any formal position for or against the abolition of the death penalty.

The Japanese Council on Crime and Delinquency, an organization of lawyers, criminologists, prison wardens, government officials in their private capacity and other citizens, decided at its 4th General Assembly on 29 September 1979 to commit the organization to the abolition of the death penalty, with the understanding that this decision would not bind individual members. The Japanese Council on Crime and Delinquency has published articles and bibliographies on the death penalty in its quarterly newsletter.

During a meeting with members of the Board of the Committee on Justice of the House of Representatives of the Japanese Diet, Amnesty International was informed by a member of the board that the opposition Komeito party is opposed to the death penalty. None of the other Japanese political parties is believed to have taken a stand on the issue.

Among religious organizations, the United Church of Christ in Japan

(Kyodan) decided at its 22nd General Assembly in November 1982 to appeal to the Prime Minister and to the Minister of Justice to cease executions and abolish the death penalty. Other religious organizations are believed to be discussing the issue but none is known to have taken a formal stand.

In 1980 Amnesty International circulated a worldwide appeal calling on the United Nations and its member states to take all necessary steps for the immediate and total abolition of the death penalty throughout the world. The appeal was signed by Japanese Diet members and other lawyers, criminologists, scholars, artists, writers and religious leaders, indicating considerable support for abolition from various sectors of Japanese society.

There are a number of organizations working on behalf of individual prisoners and groups of prisoners under sentence of death. These organizations work to establish the prisoners' innocence, to prevent their execution, and to appeal for the abolition of the death penalty. They visit and correspond with prisoners, publish articles on the death penalty and raise the issue publicly by holding rallies and distributing leaflets.

10. Reasons for retaining the death penalty

In explaining why it thinks the death penalty should be retained, the Japanese Government has referred to public support for the death penalty, to the continued commission of heinous offences, and to the supposed "deterrent" effect of capital punishment. In November 1982 a Japanese representative told the Third Committee of the General Assembly of the United Nations that "the majority of Japanese citizens support retention of the death penalty as a just punishment for criminals who have committed particularly heinous crimes and regard it as an effective deterrent to such crimes." In its 1980 statement to the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders the Japanese Government said: "It is widely accepted among Japanese citizens that the safe, secure environment in which they live is very much a product of the deterrent effect wrought by the retention of capital punishment, and not only by an effective implementation of national political and economic policies for social justice and an efficient and fair administration of criminal justice."

Arguments for and against the death penalty are analyzed in the following pages.

The death penalty is needed as a deterrent to violent crime

There is no scientific evidence that the death penalty deters crime more effectively than other punishments. A United Nations study concluded in 1980 that "despite much more advanced research efforts mounted to determine the deterrent value of the death penalty, no conclusive evidence has been obtained on its efficacy..."¹⁹ In May 1980 the European Ministers of Justice,

meeting at their 12th Conference, stated that "...it has not been established that the total abolition of the death penalty by many member states has led to any negative consequences in the field of criminal policy".²⁰

Ministry of Justice officials acknowledged to the Amnesty International delegates the inadequacy of scientific studies on the supposed deterrent effect of capital punishment and on the deterrent effect of punishments in general. They pointed out that the threat of punishment could have a varying impact depending on the personality of the offender and the nature of the crime.

In a study of 145 convicted murderers conducted from 1955 to 1957, the prison psychiatrist Sadataka Kogi could find none who remembered having thought before committing the crime that he might be sentenced to death. He concluded that "the death penalty is not a deterrent force to protect our society from the danger of murderers as, before their crime, the subjects [of the investigation], despite their knowledge of the existence of the death penalty, were incapable, because of their impulsiveness and their inability to live except in the present, of being inhibited by the thought of capital punishment."²¹

The death penalty is a just punishment for atrocious crimes and must be applied out of respect for the feelings of victims and their relatives

Regardless of the nature of the offence committed, a punishment that kills is in itself a denial of the preciousness of life. Moreover, it is questionable whether a person who commits an atrocious crime can be held to be truly responsible. As a punishment it leaves out the possibility of rehabilitating the offender.

In Japan, as in other countries, some relatives of victims have said that, despite their loss, they do not believe the death penalty should be used. One such is Kenji Oora, whose 20-year-old sister was murdered in 1963; the killer was never found. At a meeting of the Japanese Council on Crime and Delinquency in 1982 he said that the sorrow of the victim's family is unimaginable. The family of an executed prisoner would suffer the same sorrow, he said. He did not believe the state had the right to inflict such pain and sorrow; for that reason he opposed capital punishment.

The death penalty must be retained because public opinion supports it

It is incorrect to assume that Japanese opinion on this issue is uniform. Although Japanese officials have cited public opinion polls as showing between 14 and 19 per cent in favour of abolition, a poll of lawyers affiliated to the Tokyo Bar Associations taken in November 1981 showed that 39.6 per cent were in favour of abolition. Figures in this poll varied according to age; support for retention was highest among the oldest respondents and support for abolition highest among the youngest.²²

The public opinion polls on the death penalty conducted by the Japanese Government have been criticized. The Japan Federation of Bar Associations has stated that these polls were imprecise and not fairly interpreted. Of the 71 per cent of respondents to a 1967 poll conducted by the Prime Minister's office who thought the death penalty should be retained, 61 per cent did so because of the unproven "deterrent" effect of the death penalty and 74 per cent believed incorrectly that heinous crimes were increasing in Japan. Although only 16 per cent supported outright abolition, 40 per cent agreed with gradual abolition. In all, 49 per cent agreed, and 26 per cent disagreed, with the idea of suspending the death penalty experimentally while the future of capital punishment was decided.

In other countries, public opinion polls on the death penalty have been found to be superficial and misleading; results have differed according to how the questions were asked.

Public policy should lead public opinion in matters of human rights and criminological practice. In other countries the death penalty has been abolished even though a majority of public opinion appeared to favour its retention. There is little doubt that if the Japanese Government decided to abolish the death penalty and explained the reasons for doing so, the Japanese public would, on the whole, accept the decision.

11. Reasons for abolishing the death penalty

The death penalty violates the right to life and is the ultimate cruel, inhuman and degrading punishment

The Japanese Supreme Court decision of 12 March 1948 acknowledged the preciousness of human life. While it did not rule that the death penalty was a cruel punishment in violation of the constitution, four Supreme Court Justices wrote that this view could change and that the constitution should not be regarded as eternally approving the death penalty. Since then lawyers appealing against death sentences have continued to raise the issue of the cruelty of the death penalty.

Whatever the method used, an execution can involve intense suffering for the prisoner and his or her family. The experience of being under sentence of death can be agonizing, leading to depression and mental instability. Because an offender has been convicted of a cruel crime, this does not mean that the state is justified in inflicting a cruel punishment in return.

These views have received authoritative international support. In 1980 the then Secretary-General of the United Nations, Kurt

Waldheim, stated with regard to capital punishment that "the taking of life of human beings in the name of retribution, incapacitation and an unsubstantiated deterrent effect on others clearly violates respect for the dignity of every person and the right to life as stated in the basic postulates of the United Nations." ²³ The United Nations Secretariat, in a working paper on capital punishment prepared in 1980, stated that "The death penalty constitutes 'cruel, inhuman or degrading punishment', which even in the light of the behaviour at which it is directed, should not be acceptable."²⁴

The imposition and infliction of the death penalty is brutalizing to all who are involved in the process

An execution can place a terrible burden on those who are required to carry it out. They abhor murder, yet they are required to participate in the taking of life of a prisoner.

For people involved in other stages of the process there can also be serious moral dilemmas. Akira Masaki, distinguished penologist and former Head of the Prison Bureau, described his experience on becoming a public prosecutor in the Tokyo Appeal Court in 1935:

"...I, a firm abolitionist, was placed in the position of a public prosecutor who had sometimes to demand capital punishment. Demanding the death penalty was unendurable for me. I only prayed that capital cases not be allotted to me.

Whether by chance or by the irony of fate, robbery-murder cases were allotted to me one after the other. In those days, the death penalty was imposed, with few exceptions, on robbery-murder cases. Therefore, as a public prosecutor I was forced to demand capital punishment in such cases. To overcome the inconsistency between my former belief and my allotted job, there was only one way left for me, and that was to find some reason which would assuage my conscience in demanding capital punishment.

The first case I dealt with in the appeal court after returning to the public prosecutor's job was a robbery-murder - a case of a vagabond who robbed and cruelly killed a student in the mountains of Yamanashi prefecture. The trial proceeded without any trouble. The case was so simple and clear that the defendant himself virtually expected a sentence of capital punishment. He was pale in the face and his cheeks were hollow. Although I felt some antagonism and hatred against him while reading his brutal crime record, I returned to my abolitionist beliefs when I saw him like a sheep going to be butchered."²⁵

The death penalty is irrevocable and can be inflicted on the innocent

Three retrials have recently been granted to prisoners under sentence of death. It is possible that one or more of these prisoners will be acquitted or found innocent as a result. Several other prisoners under sentence of death have also applied for retrials.

The death penalty can be inflicted arbitrarily

The distinction between one prisoner who is executed and another who is not depends not only on the crime but also on a series of recommendations and decisions made by the Public Prosecutor's office, by the defending lawyer, by the judges, by the National Offenders Rehabilitation Commission, by the Cabinet and ultimately by the Minister of Justice, who signs the order for execution. It is impossible to rule out the possibility that somewhere along this chain of decision, a step will be taken leading to one prisoner being executed while another, having committed a similar crime in similar circumstances, is not. It is equally impossible to provide a clear demarcation between those atrocious offences for which the death penalty is used and those for which it is not.

The death penalty is unnecessary in an enlightened penal policy

Japanese penal policy has for many years emphasized the rehabilitation of offenders. Ordinary citizens participate in this work through voluntary organizations such as the National Federation of Crime Prevention Associations. Capital punishment contradicts this policy by establishing that for a certain category of prisoner there is no possibility of rehabilitation.

As was stated in 1907 by Kinkichi Yoshino, then head of Kobe prison, "The prison is not a place for execution but for rehabilitation."

Abolition of the death penalty is necessary for the achievement of international standards

The right to life and the right not to be subjected to cruel, inhuman or degrading treatment or punishment are enshrined in the Universal Declaration of Human Rights and other international human rights documents. Citing these two rights, the United Nations General Assembly has passed a series of resolutions on the death penalty. In 1971 the General Assembly adopted resolution 2857 (XXVI) affirming the "desirability of abolishing [capital] punishment in all countries". This decision was reaffirmed by the General Assembly in resolution 32/61 of 8 December 1977. In July 1982 the Human Rights Committee set up under the International Covenant on Civil and Political Rights issued a general comment stating that the terms of Article 6 of the covenant "strongly suggest...that abolition [of the death penalty] is desirable" and concluding "that all measures of abolition should be considered as progress in the enjoyment of the right to life".*

The abolition of the death penalty has a long history. Venezuela in 1863 and Portugal in 1867 were among the first countries to

*Japan ratified the International Covenant on Civil and Political Rights on 21 June 1979

abolish it. Today 25 countries have abolished the death penalty for all offences and 16 have abolished it for ordinary offences but retain it for exceptional offences such as crimes in wartime. At least one country each year abolishes the death penalty or, having done so for ordinary offences, goes on to abolish it for all offences. France abolished the death penalty in 1981; only months before, several prisoners had been in danger of execution. The Netherlands amended its constitution in 1982 to abolish the death penalty for all offences. Other countries currently considering revising their legal provisions in order to abolish the death penalty include Belgium, Greece, Switzerland and Liechtenstein. An optional protocol to the European Convention on Human Rights abolishing the death penalty for peacetime offences in member states of the Council of Europe has been signed by 13 countries since it was opened for signature on 28 April 1983.

12. Conclusions and recommendations

The death penalty denies the fundamental human right to life. It is a cruel punishment, brutalizing to all who are involved in the process. It serves no useful penal purpose, but denies the possibility of rehabilitating the offender. It is irreversible and can be inflicted on an innocent person despite the most careful judicial safeguards.

In Japan serious proposals to abolish the death penalty have been put forward a number of times. The arguments for and against have been thoroughly discussed and the cause of abolition has received support from leading penologists, lawyers and academics. In the past the death penalty was officially abolished for a 346-year period from 810 to 1156 AD during the Heian period; since the Meiji Restoration of 1868 its use has become more and more restricted.

Today there are a number of factors prevailing in Japan which should facilitate abolition of the death penalty. The revision of the penal code, now at hand, provides a legislative opportunity for abolition. As the crime rate is relatively low, there is no organized public pressure for use of the death penalty on "law and order" grounds as in some other countries.

On the basis of the findings of its mission to Japan, Amnesty International respectfully submits the following recommendations to the Japanese Government:

1. With immediate effect, all executions should cease permanently.
2. The death penalty should be abolished for all offences in the revised penal code.
3. Amnesty International believes that all existing

death sentences should be commuted and no further death sentences imposed. It recommends that in the meantime the Ministry of Justice should review arrangements for the custody and treatment of prisoners under sentence of death to ensure that they do not exacerbate the already cruel, inhuman and degrading experience of being under sentence of death.

4. In preparation for abolition, the government should inform the public about criminological and penal issues related to the death penalty, including its lack of proven special deterrent effect. This is in line with a recommendation of the United Nations Secretariat that "It...seems to be an important task of governments, the academic community, the mass media, and other publicly minded organizations...to educate the public as to the uncertainty of the deterrent effect of capital punishment..."²⁶

Amnesty International hopes that concerned citizens and organizations in Japan will also work towards the realization of the recommendations above.

May 1983

NOTES

1. Hanreishu, II, number 3, 191 (Criminal). English translation in John M. Maki, ed., Court and Constitution in Japan; Selected Supreme Court Decisions, 1948-60; Seattle, University of Washington Press, 1964. Page 157.
2. To ensure Amnesty International's impartiality and to demonstrate the principle of international responsibility underlying the movement's work, Amnesty International sections are not allowed to take action on behalf of prisoners held in their own country. However, Amnesty International sections may work for the abolition of the death penalty in their own country and may make representations to their own government about changes in legislation. They may not take action on behalf of an individual prisoner under sentence of death in their own country unless an exception has been made by the organization's International Executive Committee.
3. Paul Heng-Chao Ch'en, The Formation of the Early Meiji Legal Order. Oxford, Oxford University Press, 1981. London Oriental Series, Volume 35.
4. In addition, Article 200 of the penal code provides the death penalty for killing an ancestor, but this has been invalidated by the Supreme Court.
5. The Law Punishing Hostage Seizure, providing the death penalty for the intentional killing of hostages, was adopted despite the 1974 recommendation of the Legislative Council that the number of capital offences be reduced and despite United Nations General Assembly resolution 2857 (XXVI) of 20 December 1971, reaffirmed in 1977, stating that in the field of capital punishment "the main objective to be pursued is that of progressively restricting the number of offences for which the death penalty may be imposed, with a view to the desirability of abolishing this punishment in all countries."
6. The Japanese Government's statement to the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (1980), "Crime Prevention and the Quality of Life", divides the list of capital offences into "offences endangering human life" (Nos. 1-6, 13-15, 17 in the above list), "offences jeopardizing state security" (Nos. 7-9), and "offences substantially endangering a community" (Nos. 10-12, 16).
7. Article 39 of the penal code provides that "An act of an insane person is not punishable".
8. Op. cit. (Note 1, above).
9. Ichikawa et al v. Japan (1961). For English translation see Hiroshi Itoh and Lawrence Ward Beer, eds., The Constitutional Case Law of Japan. Selected Supreme Court Decisions, 1961-70.

- Seattle, University of Washington Press, 1978. Asian Law Series, No. 6.
10. For a survey of legal provisions concerning the carrying out of death sentences, see Shigemitsu Dando, Japanese Criminal Procedure (South Hackensack, New Jersey, Fred B. Rothman & Co., 1965), pages 471-473.
 11. The Japanese Prison Law further provides: "The sentence of death shall not be executed on the national holiday, the first or second day of January or the 31st day of December" (Article 71).
 12. Article 177 of the Prison Law Enforcement Regulations provides for a report of any unnatural death of a prisoner and for inspection of the corpse.
 13. Under Article 72 of the Prison Law, "In the case of execution of the sentence of death, the countenance of the dead shall be inspected after hanging, and the halter shall not be unfastened until five minutes have passed."
 14. Cited in Yoshiyuki Saito, For a Reconsideration of the Death Penalty, Seibundo, 1980.
 15. Otohiko Kaga, Record of Prisoners Under Sentence of Death. Chuo-Koron-sha, 1980.
 16. Another Japanese prisoner, Sadamichi Hirasawa, born in 1892, has also been under sentence of death since 1950. He was convicted of murder and sentenced to death by the Tokyo District Court on 24 July 1950. His sentence was upheld by the Supreme Court on 6 April 1955.
 17. John M. Maki, transl. and ed., Japan's Commission on the Constitution: The Final Report. Seattle, University of Washington Press, 1980. Asian Law Series, No. 7. Pages 282-283.
 18. Opinion on constitutional questions (section on "The rule of law"), appendix to minutes of 114th plenary session of the Commission on the Constitution, 19 July 1963. In: Dan Fenno Henderson, ed., The Constitution of Japan: Its First Twenty Years, 1947-67. Seattle, University of Washington Press, 1968. Asian Law Series, No. 1.
 19. Capital Punishment: Working Paper Prepared by the United Nations Secretariat for the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Caracas, Venezuela, 25 August to 5 September 1980. A/CONF.87/9.
 20. 12th Conference of European Ministers of Justice, Luxembourg, 20-21 May 1980, Resolution 4 on the death penalty.

21. Sadata Kogi, "Etude Criminologique et Psycho-pathologique de Condamnés à Mort ou aux Travaux Forcés a Perpétuité au Japon". Annales Medico-psychologiques, 117th year, number 2, part 3 (October 1959).
22. Cited in Liberty and Justice, Volume 33, No. 12. (December 1982). Out of 5,541 polled, 1,184 responded. 60.4 per cent of respondents favoured retention of the death penalty and 39.6 per cent favoured abolition. The poll also examined the respondent's reasons for their positions and their views on how the death penalty should be abolished or restricted.
23. Statement at the opening of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, on 25 August 1980.
24. Capital Punishment: Working Paper Prepared by the United Nations Secretariat (op.cit.)
25. Akira Masaki, Reminiscences of a Japanese Penologist, English edition. Tokyo, Criminal Policy Association, 1964. Pages 77-78.
26. Capital Punishment: Working Paper (op. cit.).

People met by the Amnesty International Mission

Ministry of Justice: Masaya MARUYAMA, Parliamentary Vice-Minister
Shinichi TSUCHIYA, Chief Counsellor, Minister's Secretariat
Kazutomo IJIMA, Deputy Director, Head of General Affairs Division of Criminal Affairs Bureau
Hiroshi KUBO, Deputy Director, Head of Amnesty Division of Rehabilitation Bureau
Takashi HORI, Deputy Director, Head of Security Department of Correction Bureau

Supreme Court Secretariat: Motoo ONO, Head of Criminal Bureau, Judge
Yoshifusa NAKAYAMA, Head of First Division of Criminal Bureau, Judge
Tetsuya YOSHIMOTO, Head of Second Division of Criminal Bureau, Judge

Board of Committee on Justice of the House of Representatives: Tamisuke WATANUKI, Chairperson
Chubun HATANO, former Chairperson
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Hiroshi FUKUDA, Deputy Secretary General
Toshio NOMIYA, Head of Human Rights Protection Committee
Atsuo NAGAMORI, Head Secretary of the Committee on the Criminal Law
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United Church of Christ in Japan: Reverend Toshio USHIROGU, Moderator of General Assembly
Reverend Yoichi KISHIMOTO, Vice-Moderator of General Assembly
Reverend (John) Masaaki NAKAJIMA, General Secretary
Reverend Ken TSUJI, Secretary of General Assembly

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Roman Catholic Archdiocese of Tokyo: His Grace the Archbishop Peter Seiichi SHIRAYANAGI

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Members of affiliated organizations:
Shikei Haishi-no Kai (Death Penalty Abolition Society)
Shikei Haishi-o Susumeru Onna-Tachi-no Kai (Women's Society to Promote the Abolition of the Death Penalty)

Others: Kenkichi NAKADAIRA, former High Court Judge
Toshiyuki MAESAKA, author

APPENDIX II

Executions in Japan, 1873-1981

Year	Number	Year	Number	Year	Number	Year	Number
1873	961	1900	33	1927	12	1954	30
1874	748	1901	29	1928	21	1955	32
1875	452	1902	28	1929	13	1956	11
1876	378	1903	41	1930	15	1957	39
1877	135	1904	45	1931	19	1958	7
1878	169	1905	36	1932	22	1959	30
1879	154	1906	19	1933	28	1960	39
1880	125	1907	12	1934	35	1961	6
1881	96	1908	51	1935	14	1962	26
1882	51	1909	18	1936	11	1963	12
1883	61	1910	39	1937	23	1964	0
1884	52	1911	40	1938	15	1965	4
1885	130	1912	24	1939	14	1966	4
1886	131	1913	60	1940	20	1967	23
1887	97	1914	5	1941	22	1968	0
1888	60	1915	94	1942	11	1969	18
1889	49	1916	63	1943	13	1970	26
1890	39	1917	53	1944	25	1971	17
1891	66	1918	56	1945	8	1972	7
1892	51	1919	41	1946	11	1973	3
1893	46	1920	41	1947	12	1974	4
1894	52	1921	25	1948	33	1975	17
1895	75	1922	32	1949	33	1976	12
1896	72	1923	32	1950	31	1977	4
1897	21	1924	13	1951	24	1978	3
1898	48	1925	19	1952	18	1979	1
1899	37	1926	29	1953	24	1980	1
				1981	1		

(Source: Ministry of Justice)

APPENDIX III

RESOLUTION ON PHYSICIAN PARTICIPATION IN CAPITAL PUNISHMENT

adopted by the 34th World Medical Assembly of the World Medical Association in Lisbon, Portugal, on 29 September 1981

RESOLVED, that the Assembly of the World Medical Association endorses the action of the Secretary General in issuing the attached press release on behalf of the World Medical Association condemning physician participation in capital punishment.

FURTHER RESOLVED, that it is unethical for physicians to participate in capital punishment, although this does not preclude physicians certifying death.

FURTHER RESOLVED, that the Medical Ethics Committee keep this matter under active consideration.

The World Medical Association, Inc.

PRESS RELEASE

Ferney-Voltaire, France
September 11, 1981

The first capital punishment by intravenous injection of lethal dose of drugs was decided to be carried out next week by the court of the State of Oklahoma, USA.

Regardless of the method of capital punishment a state imposes, no physician should be required to be an active participant. Physicians are dedicated to preserving life.

Acting as an executioner is not the practice of medicine and physician services are not required to carry out capital punishment even if the methodology utilizes pharmacologic agents or equipment that might otherwise be used in the practice of medicine.

A physician's only role would be to certify death once the state had carried out the capital punishment.

Dr André Wynen
Secretary General

Amnesty International Publications

A selection of recent reports:

Chile: Evidence of Torture, 76 pages, 1983, £2.00.
The Death Penalty, 209 pages, 1979, £2.00.
Egypt: Human rights violations, 38 pages, 1983, £2.00.
Guatemala: A Government Program of Political Murder, 32 pages, 1981, £2.00.
Human Rights Violations in Zaire, 22 pages, 1980, £1.00.
Pakistan: Human rights violations and the decline of the rule of law, 57 pages, 1982, £2.00.
Political Imprisonment in the People's Republic of China, 171 pages, 1978, £2.00.
Political Imprisonment in South Africa, 108 pages, 1978, £1.00.
Political Killings by Governments, 132 pages, 1983, £2.50.
Prisoners of Conscience in the USSR: Their Treatment and Conditions, 200 pages, 1980, £5.00.
Report of an Amnesty International Mission to the Federation of Malaysia, 67 pages, 1979, £0.50.
Report of an Amnesty International Mission to the Kingdom of Morocco, 76 pages, 1982, £2.00.
Report of an Amnesty International Mission to Northern Ireland, 72 pages, 1978, £1.00.
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