

JAPAN

Abusive Punishments in Japanese Prisons

1. Introduction

Prisoners in Japan suffer from systematic cruel, inhuman or degrading treatment and are at high risk of being subjected to abusive forms of punishment. Amnesty International has documented cases where prisoners claim to have been beaten severely by prison guards for minor infractions of prison rules, detained in solitary confinement for long periods, restrained in leather belts and handcuffs, and held in special cells as a punishment.

This report focuses on the abuse of instruments of restraint and detention in “protection cells” in Japanese prisons. It also documents the inhuman and degrading treatment that is meted out to detainees in the form of “minor solitary confinement”. While “minor solitary confinement” is a legitimate form of punishment under Japanese law, the use of “protection cells” as a punitive measure is not officially sanctioned. Measured against international human rights standards, however, both forms of punishment should be abolished.

Along with other human rights organizations, Amnesty International has been denied independent access to prisoners in order to verify their claims of ill-treatment. The organization has also been prevented from inspecting “protection cells” - the area of the prison where abusive punishments are alleged to take place. Indeed, the veil of secrecy that shrouds every aspect of prison administration in Japan helps to provide a fertile ground for human rights violations.

In this report, Amnesty International makes a number of recommendations which, if implemented, would help to protect the human rights of prisoners. These include:

- Removing the secrecy that surrounds prisons in Japan by allowing unfettered access to centres of detention by independent organizations.
- Abolishing “minor solitary confinement” in its current form.
- Enacting and enforcing clear legislation that details the precise circumstances under which instruments of restraint and “protection cells” may be used in prisons
- Abolishing the use of leather handcuffs, body belts and metal handcuffs as a punishment.

Many of these suggestions echo previous recommendations made by Amnesty International in a report published in November 1997¹. While the Japanese government

¹ *Japan: Ill-treatment of Foreigners in Detention* [AI Index: ASA 22/09/97]

responded to the report with an official rebuttal of many of the victims' claims, the government's arguments failed to address the underlying conditions that perpetuate human rights violations. Amnesty International remains concerned that detainees will continue to suffer until serious efforts are made to bring prison conditions in Japan into line with international human rights standards.

In recent years, a growing number of prisoners in Japan have attempted to obtain redress for their ill-treatment by filing cases for state compensation in the Japanese courts. While a few have been successful, most have been unable to prove to the courts' satisfaction that their allegations of ill-treatment are true. However, the number of common elements in prisoners' allegations of ill-treatment give rise to grave suspicions that violence and abuse are occurring in centres of detention all over Japan.

In view of reports of detainees being punished for making official complaints about their treatment, Amnesty International urges the Japanese government to implement effective mechanisms that will enable detainees to make confidential complaints. The Japanese government is strongly urged to ratify the Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR). This would enable victims of human rights violations to make individual communications to the Human Rights Committee. The Japanese government is also urged to demonstrate its opposition to torture and ill-treatment by ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) without reservation. On ratification, the government should make a declaration under Article 22 of this treaty to provide individual victims with an effective channel for complaints.

2. The context: prison rules

Your sentence here in Fuchu Prison begins today. In this prison more than two thousand inmates are housed. As you know, prison is an institution where sentences are served and many convicted prisoners live together. Therefore, good discipline is maintained at all times and no prisoner is allowed to act as he pleases. Accordingly, as compared to common life there are many detailed restrictions in prison life.

Japan's Prison Law dates back to 1908 and is still in force with minor amendments. It has been supplemented by an array of administrative regulations and ordinances which have been drawn up by the Ministry of Justice. While major legislation is publicly available, many other regulations have not been made public. Moreover, governors of individual prisons are given wide discretion to implement their own internal rules to regulate the day-to-day running of the prison. These rules are kept secret,

ostensibly on the grounds that if made public, they would jeopardise the security of the institution concerned.

GENERAL INSTRUCTIONS

- *Do not reveal names and addresses of your family to fellow inmates.*
- *While walking avoid folding your arms or hands, putting your hands in your pockets....waving your shoulders intentionally or dragging your shoes....*
- *Always obey any instructions given by prison officers even if this booklet has not referred to the matter.*

ROOM REGULATIONS

- *Do not wash your head or body in your room at your own will. Do not wash clothes without permission.*
- *Do not lie down in your room whenever you please. Avoid leaning against the bedding or sitting on it.*
- *Your sitting position in the room should be as designated in the chart in your room. In a single room, sit facing the table while working, taking meals or during leisure hours. During bed time, you can sit on the bed. Those under punishment should sit on the stool at the designated place in the correct position.*

WORK REGULATIONS

- *You are not allowed to leave your work area without permission. Idle talk is prohibited. Raise your hand to obtain permission from your factory guard beforehand when you have to leave your work area.*
- *When you go to the toilet you shall take a permission tag with you, and hang it in a fixed place. Conversation in the toilet is prohibited.*

USING NOTEBOOKS

- *Do not soil or tear off the permit attached to each notebook.*
- *Use each notebook for its authorised purpose only. Avoid lending it or asking others to write for you on it.*
- *Handle your notebook with care and avoid soiling and tearing.*
- *Use an eraser or draw lines to correct errors. Do not tear off any page.*
- *Use the notebook in the order of pages and do not leave blank pages.*
- *You may divide a notebook into two parts and use it from both ends. A notebook for study or vocational training may be divided into three or more parts when deemed necessary. Get permission from the officer in charge beforehand....Indexes should be put in each section.*
- *Submit your notebooks to officers for censorship when required.*

Internal prison rules govern every aspect of a detainee's life. For example, they detail the number of letters he or she may write, exactly when prisoners may or may not talk to each other, when a prisoner may or may not go to the toilet, how a prisoner may write in his/her notebook, and even the way in which a prisoner is expected to walk. Prisoners are generally forbidden to make eye contact with guards or other prisoners, and almost every act that is not specified in the rules requires official permission.

Prison rules also specify the number of items of clothing and the kinds of clothing that a prisoner may wear. For example, prisoners are generally forbidden to wear hats and gloves to combat the cold. This has extremely adverse effects on prisoners' health since almost all prison cells in Japan are unheated. In winter, frostbite is a common complaint among detainees in Japan.

These rules appear to be rigorously enforced with punishments applicable if a detainee is discovered to have committed a misdemeanour. Prisoners have been harshly punished for washing parts of their body without permission, lying the wrong way on their bed, opening their eyes at inappropriate times, speaking without permission, and "answering back" to prison guards.

The official view is that such rules are necessary to maintain an orderly life within prison and build a sense of discipline into detainees. However, the complexity and minute detail of the rules give rise to strong suspicions that the main intention behind their enforcement is to deny any autonomy or decision-making power to prison inmates. Thus, regard for individual personality and human rights is sacrificed in favour of an overriding emphasis on total obedience and absolute control.

Article 10 of the ICCPR, which Japan ratified in 1979, states that "all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person." Moreover, other international safeguards stress that "discipline and order shall be maintained....with no more restriction than is necessary for safe custody and well-ordered community life"² and that "the treatment of persons sentenced to imprisonment shall be such as will encourage their self-respect and develop their sense of responsibility."³

² United Nations Standard Minimum Rules for the Treatment of Prisoners (SMR), Article 27

³ *Ibid*, Article 65

Amnesty International believes that the enforcement of such a tight web of rules in Japanese prisons violates these principles and constitutes inhuman and degrading treatment.

Moreover, detainees who fail to obey the rules in the minutest detail are at risk of severe punishment. In the cases detailed below, prisoners claim that they have been subjected to violent abuse, handcuffing, and solitary confinement for minor infractions of the regulations. Amnesty International is concerned that the maintenance of such a tightly disciplined regime creates unacceptably high standards which are extremely difficult to meet. The apparently widespread practice of punishing inmates for minor infractions of complex prison rules constitutes inhuman treatment and must be stopped.

3. Forms of abusive punishment

“Minor solitary confinement” (“keiheikin”)

Most inmates of Japanese prisons are held in communal cells with 6-8 people per cell. Exceptions to this rule are foreign prisoners, sick prisoners, prisoners deemed violent and those under sentence of death who are generally held in individual cells. “Minor solitary confinement” (*keiheikin*) is a form of administrative punishment used as a disciplinary measure in all centres of detention in Japan. Those undergoing this punishment are required to remain motionless in a kneeling or cross-legged position in the middle of a single-cell for hours on end (reportedly, 7.00am - 5.00pm) for a period of up to two months. (Foreign prisoners are usually permitted to sit on a stool or chair). All communication is cut off, except when deemed necessary between the prisoner and guards, and the cell is stripped bare of all personal items, such as books, photographs and paper. Those undergoing *keiheikin* are not permitted to do physical exercise, take baths, meet people from outside the prison, or write letters. Prisoners may also be forced to fix their eyes continuously on a single place on the cell wall, often where a poster bearing an exhortation to “reflect” has been hung.

Amnesty International has received a number of reports of prisoners being punished with *keiheikin* on an apparently arbitrary or even vindictive basis for minor infractions of prison rules. Detainees have also reported being subjected to *keiheikin* for threatening to make an official complaint about their ill-treatment.

The Human Rights Committee has clarified that “prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by Article 7 [of the

ICCPR]⁴. The Committee has also ruled in a number of individual cases that certain forms of solitary confinement violate articles 7 and 10 of the ICCPR⁵.

Amnesty International does not dispute that corrective penalties may be a necessary measure for maintaining discipline within penal institutions. However, keeping individuals in prolonged solitary confinement with almost no mental or physical stimulation is likely to cause severe and lasting damage to both the physical and psychological health of the prisoner. Moreover, denying detainees access to adequate washing facilities, outdoor exercise and recreation violates international human rights standards⁶. *Keiheikin* in its present form constitutes cruel, inhuman or degrading punishment and should be reformed to meet international standards or abolished.

Confinement in a “protection cell” (“hogobo”)

Up till now, I've handcuffed around fifty prisoners and put them into a “protection cell”. To tell the truth, only about two of them showed signs of violence. I hate this horrible job, but someone has to do it. If we don't make prisoners realise that they'll be handcuffed and thrown into a “protection cell” when they step out of line, then the junior officers will have a much tougher job.

⁴ Human Rights Committee, General Comment No.20 (44) (Article 7), 7 April 1992, para.6.

Article 7 of the ICCPR states that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment...”

⁵ See, for example, *Larrosa v Uruguay* (88/1981), Report of the Human Rights Committee, GAOR, 38th Session, Supplement No.40 (1983) and *Gomez de Voituret v Uruguay* (109/1981), Report of the Human Rights Committee, GAOR, 39th Session, Supplement No.40 (1984).

Art 10 of the ICCPR states that “all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.....The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation...”

⁶ SMR: Art. 15: Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness.

Art. 21(1): Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.

Art. 78: Recreational and cultural activities shall be provided in all institutions for the benefit of the mental and physical health of prisoners.

“Protection cells” are a common feature of all centres of detention in Japan. They are special cells constructed for housing prisoners who are deemed to show certain aggravated signs of vulnerability or instability. They contain no furniture apart from a bed made of vinyl chloride and a sink and toilet bowl which are built into the floor. The walls of a “protection cell” are made of wood and the interior of the cell is subjected to 24 hour video monitoring.

Detainees are strip-searched on entry to the “protection cell”, ostensibly to check for any sharp objects, and are forced to put on trousers with a slit cut in the seat for defecation (*mataware pants*). They are generally restrained with leather and/or metal handcuffs. Leather handcuffs are secured tightly to a metal-strengthened leather belt so that the prisoner’s hands are fixed securely at either the front or the back of the body. Prisoners may also be restrained with an additional pair of metal handcuffs. Handcuffs are not removed at any time, even during mealtimes, or when the prisoner needs to sleep or use the toilet.

Amnesty International has received reports of individuals being kept in these conditions for more than a week. Commonly, however, prisoners are kept in a “protection cell” for periods of 2-3 days. During this time they are monitored continuously and forced to eat food from a plastic bowl like an animal. They are also expected to use the toilet in full view of the video camera and are unable to clean themselves properly due to the tightness of the handcuffs.

According to information from the Japanese Ministry of Justice, “protection cells” may be used for the detention of the following categories of prisoner:

- Those who are suspected of trying to escape, acting violently, committing harm to themselves or others, or committing suicide
- Those who persist in making a noise and refuse to obey orders to stop
- Those who exhibit repeatedly abnormal behaviour resulting in the dirtying of their cells or damage to property
- Those whom it is deemed inappropriate to hold in a normal cell.

Amnesty International is concerned about the vagueness of these criteria. They give a wide margin of discretion to prison officers and this allows considerable scope for abuse. The organization calls on the Japanese government to enact clear legislation which details the precise circumstances under which a “protection cell” may be used.

Unlike *keiheikin* which is a lawful punishment in Japan, “protection cells” are not supposed to be used as a punitive measure. However, Amnesty International has received a number of reports of prisoners being arbitrarily thrown into “protection cells” for breaking prison rules, many of which appear to be minor or trivial. Moreover, the use of the “protection cell” often appears to be accompanied by assaults and violence from prison guards which amount to cruel, inhuman or degrading treatment or punishment. This is facilitated by the fact that “protection cells” are situated outside the ordinary wings of the prison and out of the sight and hearing of witnesses.

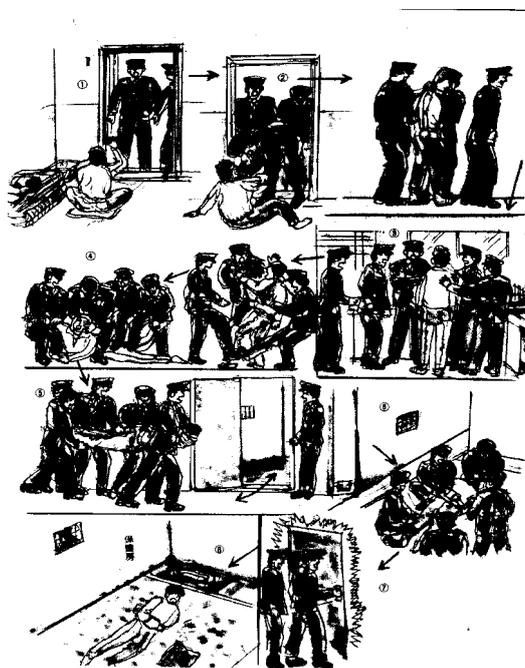
Amnesty International has also received reports of prisoners dying while being held in “protection cells” (see Hamada Detention Centre case below). It calls on the Japanese government to conduct full and impartial investigations into the circumstances surrounding such deaths.

The Japanese government should also conduct a thorough and extensive review of the use and abuse of “protection cells” in prisons and other centres of detention with a view to reforming the system to bring it into line with international human rights standards. Amnesty International draws the government’s attention to Article 33 of the Standard Minimum Rules on the Treatment of Prisoners (SMR):

Instruments of restraint, such as handcuffs, chains, irons and strait-jackets, shall never be applied as a punishment.

The organization believes that the use of leather handcuffs and body belts in Japan has the same effect as a strait-jacket and must never be imposed as a punishment. The use of all such instruments of restraint and “protection cells” must be regarded as a last resort and strictly limited to those rare and extreme circumstances where life is in danger. Prisoners must be given a medical examination before being placed in a “protection cell” and the imposition of restraints should be terminated as soon as the

emergency is over and the prisoner has become calm. Moreover, the current practice of using both leather and metal handcuffs simultaneously is punitive and cannot be justified under any circumstances. Other practices such as forcing prisoners to wear *mataware pants*, making prisoners eat like animals, and forcing prisoners to use the toilet under video supervision are humiliating and constitute degrading treatment. These conditions of detention constitute violations of articles 7 and 10 of the ICCPR and must not be imposed on prisoners under any circumstances.



4. Annex of cases

individual

The following cases are recent instances of alleged ill-treatment that have been brought to the attention of Amnesty International. They focus on the use of “minor solitary confinement” and detention in “protection cells” as a form of punishment. The cases all involve male Japanese nationals held in centres of detention in various parts of Japan, and many of the individuals concerned are currently fighting for state compensation in the Japanese courts.

Fuchu Prison: K

K claims to have suffered ill-treatment in Fuchu Prison and is currently awaiting the outcome of his suit for state compensation to the value of six million Yen (about US\$60,000).

During his pre-trial detention in Tokyo Detention Centre, K claims that he sent a letter to a fellow detainee which took over a month to arrive. He protested that this undue delay was a violation of his human rights. After his sentencing and transfer to Fuchu Prison in November 1991, K discovered that a local Bar Association had a system of legal aid for human rights cases. He applied for permission to contact the Association in connection with his complaint against Tokyo Detention Centre.

However, the prison authorities began to harass him when they learned of his intentions to make an official complaint. K claims that he was subjected to arbitrary restrictions on the number of books he was allowed to have in his cell and on the number of words he could write in letters to his relatives. He also alleges that despite being given paper to draft a letter to the Bar Association, the prison authorities later told him that it was against the rules to use the paper for this purpose. He believes that this harassment was an attempt to dissuade him from making a complaint.

On 18 April 1994, a guard came to his cell and accused him of committing a variety of misdemeanours. He believes that the guard's intention was to provoke him into answering back. He claims that the guard shouted at him repeatedly: "Who do you think you are!". Eventually, he replied: "I am nobody". The guard was apparently infuriated by his reply and dragged him out of the cell. The guard forced him to lie face-down on the floor and stamped on his back. K claims that afterwards a group of guards fastened his hands in leather and metal handcuffs and took him to a "protection cell". While he was in the cell, the first guard pulled the belt so tightly around K's waist that it caused internal bleeding and numbness in his toes. K was kept in these conditions for eight hours. He was not released from the "protection cell" until 21 April.

Following his release from the cell, he asked to see a doctor from outside the prison in order to preserve independent medical evidence of his ill-treatment. However, the prison authorities refused his request. Moreover, they reportedly questioned him on the events of 18 April and twisted the facts to imply that K was the one who caused the violence. Indeed, the officer appointed to question K about the incident was the officer who originally placed him in the "protection cell". K claims that during his interrogation, the officer made the following remarks:

Up till now, I've handcuffed around fifty prisoners and put them into a "protection cell". To tell the truth, only about two of them showed signs of violence. I hate this horrible job, but someone has to do it. If we don't make prisoners realise that they'll be handcuffed and thrown into a "protection cell" when they step out of line, then the junior officers will have a much tougher job.

He went on to state that he would overlook K's "misbehaviour" if he agreed to abandon his intentions to complain about his treatment in the detention centre and in Fuchu prison. However, K claims that even though he agreed to withdraw his complaints, he was punished with 25 days of "minor solitary confinement" (*keiheikin*).

After this, K resolved to proceed along his original course of action and lodge a formal complaint. He was eventually allowed to see a prison doctor who made a written account of his injuries, including the internal bleeding. However, after he finally managed to contact the Bar Association, his ill-treatment continued. He claims that he was placed in strict solitary confinement and the window of his cell was blacked out so he could not see into the prison corridor. This treatment caused him great stress and loss of weight.

K's case for state compensation began in October 1994 and he was released from prison in July 1997. His lawyers expect a judgment very soon. His medical records have been presented to the court as evidence, but some parts were missing (including the name of the doctor) and other parts were dirty and difficult to read. Crucially, the part of the record immediately before the diagnosis of internal bleeding was missing and this has made it difficult to link the internal bleeding to the incident in the "protection cell". However, despite these omissions, K's lawyers are hopeful that they will win the case.

Hamada Detention Centre: Death in custody

On 10 July 1996, W was sentenced to a two month sentence in prison after being convicted of drunken driving. He was held at Hamada Detention Centre from 19 July prior to his transfer to Matsue Prison to serve his sentence. On 23 July he was placed in a "protection cell" in the detention centre because he had reportedly become noisy and violent in his ordinary cell. Two days later, on 25 July 1996, a duty guard noticed that he was leaning motionless against the wall of the cell. The guard called out to him, but he made no response. W was immediately taken to hospital, but was officially pronounced dead at 2.30am on 25 July. He was 44 years old.

A postmortem reportedly revealed that the cause of death was heatstroke. According to newspaper reports, the detention centre authorities claim that the "protection cell" was well-ventilated and the temperature was kept at a constant 26-27

degrees celsius. They also claim that W was examined three times by a doctor after his arrival in the centre and on each occasion the doctor reported no abnormalities.

W's parents are currently suing the government for compensation amounting to 60 million yen (about US\$600,000) in connection with their son's death. During the court case, the authorities have reportedly stated that W was placed in the "protection cell" for his own protection after he showed signs of violent behaviour and mental instability, including hallucinations. They have stated that he was examined by a doctor and given tranquillisers before his transfer to the "protection cell". The victim's family have noted that it was extremely hot during the period that their son was kept in the "protection cell" with daily temperatures reaching 38 degrees celsius. They claim that their son's death was the result of improper use of the "protection cell" and that the prison authorities should have monitored his condition more closely. Amnesty International urges the Japanese government to conduct a full, impartial and independent investigation into the circumstances surrounding the death.

Chiba Prison: Uchiyama Kazuo

Uchiyama Kazuo has been detained in Chiba Prison since 17 August 1993. At about 8.30am on 30 August 1993, Uchiyama claims he was rebuked by a guard for lying the wrong way on his bed. When told to correct his position, Uchiyama replied, "Yes, okay", using informal Japanese. The guard was apparently angered by his informality and shouted to another member of staff to help him take Uchiyama to the interrogation room for a disciplinary lecture.

Uchiyama claims that in the interrogation room, he was expected to stand in a formal, upright style while the guard disciplined him. However, because he suffered from diabetes, he could not straighten two fingers on his left hand. The guard attempted to forcibly straighten his fingers but in doing so, they both lost balance and fell over. Surprised and infuriated by this, the guard reportedly summoned ten other guards who proceeded to kick and punch Uchiyama. He protested: "Why are you beating me? I haven't done anything". However, they continued to beat him, twisted his arms behind his back, and forcibly took him to a "protection cell".

On arrival, Uchiyama claims that the prison guards stripped him naked with such force that they ripped his clothes. He was then made to wear special clothing, which included *mataware pants*. He was forced to lie face down on the floor while the guards restrained him in a leather belt and handcuffs as well as metal handcuffs. He was beaten and kicked repeatedly throughout the process and dropped a number of times face down onto the floor while the guards attempted to tighten the leather belt.

In October 1996, Uchiyama initiated a legal suit against the authorities in an attempt to win compensation for his ill-treatment. The court has examined the leather handcuffs that were used to restrain him as well as the investigation room where the alleged ill-treatment took place. However, the court has decided not to examine the “protection cell” after the government made a strong objection to such an investigation. During the course of the hearing at the Chiba District Court, the authorities confirmed some of the facts that Uchiyama has described. However, they consistently denied that the guards acted violently. On the contrary, they claim that the guards were forced to use the “protection cell” because Uchiyama was acting violently. Uchiyama’s lawyers are contesting the authorities’ interpretation of the facts and believe that an argument based partly on international human rights standards will help them win the case. A final verdict is expected at the end of this year.

Niigata Prison: M

M claims to have been subjected to violence and arbitrary punishments on a number of occasions during his pre-trial detention in Niigata Prison.

According to his written testimony to his lawyer, M got into a fight with one of his cellmates on 11 October 1994 after he had complained about the untidiness of the cell. As a result, he was grabbed by four prison officers and pushed on to the floor. He was taken to an investigation room and restrained with leather and metal handcuffs. He claims that when he accidentally made eye contact with one of guards, he was punched six times in the face which caused bruising to the chin and bleeding from his lips. M was then held for four days in a “protection cell”. Following this, he was kept in “minor solitary confinement” for 40 days from 25 October until 4 December 1994. As a result of his beatings, M claims to have suffered headaches and pains in his chin. Although he made an oral complaint about his ill-treatment to a prison inspector, his grievances were summarily dismissed.

A further incident occurred on 27 February 1995, when M criticised a fellow inmate, who was responsible for serving food, for giving extra rations of food to people in a particular cell. When a prison guard noticed the altercation, he pressed an emergency alarm, thereby summoning about 15 guards to the scene. The guards reportedly pushed him onto the floor, handcuffed him and kicked him all over his body and in his face. He was then taken to an investigation room where he was subjected to further assaults which caused him to vomit. The beatings caused severe bleeding which stained his underwear and his socks.

M claims he was then placed in a “protection cell” once again, this time for eight days. During that period, he could not open his eyes because his eyelids were swollen as a result of the previous assault. He also reports being subjected to repeated verbal abuse

by prison guards who shouted at him through a microphone which had been installed in the cell. Soon after his release from the “protection cell”, he was given another 40-day period of “minor solitary confinement”. M claims that the ill-treatment caused long-term injuries including pain and loss of feeling in his wrists (due to the handcuffs), pain and immobility in his shoulders and neck, muscular twitching in his jaw, swelling around his eye and scars on his legs.

He contacted a lawyer and initiated a claim for damages against the prison guards in 1995. Medical evidence of his alleged ill-treatment was secured on 16 November 1996. Since his sentencing (for drugs-related crimes), he has been transferred to Yokohama Prison where his treatment appears to have improved.

Yokohama Prison: Hiura Yoshitaka

Hiura Yoshitaka entered Yokohama Prison in December 1991. One year later he was placed in a single cell reportedly for a trivial offence. He was held there for over two years and was finally allowed to resume normal communal living in February 1994. Hiura decided to make a formal complaint about his treatment and requested a list of lawyers’ names from the prison authorities. The next day, in response to his threats to sue the prison, Hiura claims he was subjected to a violent assault by prison guards. He claims he was kicked repeatedly and forced face down onto the floor. Guards then proceeded to trample all over his body.

After this assault, Hiura claims he was taken to a “protection cell” where he was bound with leather handcuffs and subjected to a further assault. He was forced face down onto the floor and a prison officer forcibly placed his right foot on Hiura’s back and his left foot on his neck. Hiura cried out in pain saying: “You’ll break my neck! You’re killing me!”. The assault caused Hiura to bite his tongue and it was only after blood started pouring from his mouth that the guard released his hold. The guard then proceeded to tighten his leather handcuffs and also put him in metal handcuffs. Hiura claims he was left like that in the “protection cell” for four days.

Hiura says he was subjected to two further assaults and periods of confinement in a “protection cell”. He claims that this ill-treatment and punishment was arbitrary and groundless. He persisted in his attempts to contact a lawyer, but the prison allegedly obstructed his communications with his legal representatives. Eventually, he succeeded in meeting a lawyer and his case for state compensation is currently being heard at Tokyo District Court.

Hiura has already attended 16 hearings in connection with this case. Evidence has been collected including photographs of the scars on his wrists caused by the handcuffs.

His lawyers have had a number of problems in proving their allegations, since the state initially refused to provide the names of the prison officers at Yokohama Prison on the grounds that they constituted a “state secret”. The lawyers exerted pressure via the media and eventually succeeded in persuading the state to reveal the prison officers’ names. However, the state continued to conceal the ranks and duties of the officers. As a result, the lawyers claim that they summoned one witness by mistake and have now made a formal request to the court to summon a further witness.

Despite these difficulties, Hiura’s lawyers are hopeful that they will win their case. Their allegations have been boosted by claims from guards at the prison stating that one of the witnesses (another guard at the prison) has given false testimony in court. They have written letters to Hiura’s lawyers stating that the guard is notorious for acting brutally and violently to both inmates and other prison staff.

Kyoto Prison: X and Y

Both X and Y claim to have been subjected to ill-treatment in Kyoto Prison on a number of occasions in 1991 and 1992. They were both represented by the same lawyer in court, but due to lack of concrete evidence, their appeals for state compensation failed.

In court, X testified that on 4 September 1991, he was dragged out of his cell by a prison guard and confined in another cell which the guard referred to as a “jack-in-a-box” (*bikkuri-bako*). While he was there, a number of guards kicked him and beat him around the head with office files. He also stated that on 3 November, a guard picked a quarrel with him by accusing him of moving his eyes during a period of “minor solitary confinement” (*keiheikin*). He was taken to the security section of the prison where he was beaten by two prison officers.

A further incident occurred on 2 June 1992 when X was punished for refusing to participate in morning exercises in his cell. He claims he was taken once again to the “jack-in-a-box” where he was kicked in the abdomen and slapped and punched around the head. He was then forced onto the floor and trampled underfoot. Afterwards, he was handcuffed with leather handcuffs so tightly that he could hardly breathe and put in a “protection cell”. While in the cell, he claims he was frequently assaulted by two guards who kicked him and slapped him on the face. He was kept in the “protection cell” for five days until 7 June. During this time, he could not eat due to the tightness of the leather belt and handcuffs. He also claims to have lost sensory feeling in his hands.

Y has testified that he was placed in a “protection cell” after he was accused of not raising his arms high enough while marching from his cell to the exercise yard. He was restrained tightly in leather and metal handcuffs on 18 May 1992 and dragged into the “protection cell” by ten guards. Like X, he claims that the leather belt was so tight that

he could hardly breathe. While in the “protection cell”, Y was punched in the face about fifty times over a ten minute period.

Y claims that he was subjected to similar assaults over the next two days. On one occasion, guards reportedly stamped on his face and dragged him over to the toilet. They then allegedly forced his head over the toilet bowl saying: “We’re going to kill you”. The force of the attack and the tightness of the leather belt caused him to defecate involuntarily. Y was held in the “protection cell” until 20 June 1992. He claims that the handcuffs caused numbness in his fingers and the force of the assaults led to abdomen and back injuries.

The two cases came to court in April 1993, but the court appeared to give more weight to the testimonies of the guards than the plaintiff’s allegations. The guards’ testimonies appeared to be substantiated by the record of inspection which made no mention of any unusual circumstances in the “protection cells”. In the absence of independent witnesses and concrete evidence, the plaintiffs had little hope of proving their allegations and they lost their case.

Asahikawa Prison: Matsuura Michinobu

Matsuura Michinobu launched a civil action against the authorities in 1990 on the grounds that he had been subjected to ill-treatment in Asahikawa Prison. He is one of the few complainants to have succeeded in proving his case to the satisfaction of the court and to have been awarded compensation for his suffering.

Matsuura was involved in a disturbance in his cell on 4 August 1989 in which he was beaten and kicked by another inmate of the prison. As a result he sustained cuts and bruising around his mouth and one of his teeth was broken. However, despite being the victim of the attack, he was also judged to be "at risk of behaving violently" by a prison officer. He was taken to the security section of the prison where he was interrogated and restrained in both metal and leather handcuffs.

Matsuura was then taken to a “protection cell” where he was held for three days. While he was in the cell, he was forced to wear *mataware pants*. However, he managed to refrain from using the toilet throughout his detention in “protection cell”. Since his hands had been fastened to opposite sides of the leather belt, when he lay down one arm was continuously trapped underneath his body and he found it impossible to sleep.

Matsuura filed a suit against the government on 16 April 1990 claiming compensation of five million yen (about US\$50,000). In addition to his claims of assault, he argued that his detention in the “protection cell” was illegal since there was no danger

of him behaving violently. For its part, the prison claimed that Matsuura was hysterical during the interrogation and there was sufficient reason to believe that he would behave violently. They stated that the decision to place him in a “protection cell” complied with the regulations. However, they could not produce a photograph taken of Matsuura during his interrogation that would have substantiated their testimony, since the photograph had “been destroyed”.

In similar cases in the past where there have been conflicting interpretations of the facts and no substantial evidence, courts have usually sided with the prison and ruled against the alleged victim. In this case, however, the court examined the evidence, agreed with Matsuura’s interpretation of the facts and upheld his complaint. The testimony of the authorities relied mainly on the behaviour of Matsuura before his transfer to the “protection cell”. However, in this case, the alleged destruction of the photograph cast doubt on the testimony of the prison officers, and the court lent more weight to Matsuura’s testimony. He was awarded 50,000 yen (about US\$500) in compensation and the state did not appeal. This trial has been seen as a landmark case by groups and NGOs in Japan campaigning for improvements to the treatment of detainees in Japanese prisons.

Ogura Prison: Z

Z was convicted of attempted blackmail and injury and began a prison sentence of two years and four months in Ogura Prison in September 1993. He claims that on 2 November 1994 he was told to step aside during the daily march from the prison factory to the body-search room. When he asked why he had to step aside, the prison officers appeared to take exception to his attitude, handcuffed him and marched him quickly to an investigation room. Z claims that he was then subjected to severe ill-treatment from the guards including beatings to his face and kicks on his back. He was then taken to a “protection cell”. On the way, Z claims that a prison officer thrust his knee into his face which broke one of his teeth. He was kept in the “protection cell” from 2 November until 4 November and was forced to wear both leather and metal handcuffs for the whole period.

Z decided to make a formal complaint about his alleged ill-treatment and asked his family to contact a lawyer. On 25 January 1995, his lawyer contacted the Fukuoka District Prosecutor’s Office to make an official request for a prosecution. He expected the investigation to take some time since there were a number of witnesses to the ill-treatment. However, the prosecutor dismissed the case as “unfounded” just five days later.

Z’s lawyer managed to win a review of the decision by contacting the Prosecutors Supervisory Committee. The Committee came to the conclusion that it was improper for the case to be dropped and called for a prosecution on the grounds that the

treatment of Z in the “protection cell” may have constituted assault and humiliation. The case was passed back to the Fukuoka District Prosecutor’s Office for reconsideration. Z and his lawyer are currently considering making a separate claim for state compensation.

5. Summary of Recommendations

Amnesty International urges the Japanese government to implement the following measures to minimize the risk that abusive punishments will occur in prisons. By implementing these recommendations, the government would be helping to improve human rights safeguards for all prisoners in Japan.

- Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to the International Covenant on Civil and Political Rights.
- Ensure that prisoners have access to adequate, independent and confidential complaints mechanisms. Prisoners must never be punished for making a complaint about their treatment.
- Enact and enforce clear legislation which details the precise circumstances under which instruments of restraint and “protection cells” may be used in prisons.
- Conduct a thorough and systematic review of the use and abuse of “protection cells” in prisons and prevent the punitive use of “protection cells”, leather handcuffs, body belts, metal handcuffs and *mataware pants*. No one should be placed in a “protection cell” without first undergoing a medical examination.
- Conduct full, impartial and independent investigations into all deaths in custody and all cases of alleged ill-treatment in prisons. If it is established that allegations are well-founded, the perpetrator should be brought to justice and victims should be afforded redress and compensation.
- Abolish “minor solitary confinement” in its current form.
- Remove the secrecy that surrounds prisons in Japan and reinforce their accountability by allowing unrestricted access to centres of detention by independent national and international bodies, including non-governmental organizations.

- Publish all prison rules and amend those which do not conform with international human rights standards. Prison officials must be prevented from meting out severe punishments for minor infractions of prison rules.
- Ensure that all prisoners have access to independent doctors and other medical professionals.

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