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Developments point to possible retrial for death row inmate in Japan

Amnesty International and the Anti-Death Penalty Asia Network (ADPAN) call on the General Prosecutor's Office not to block Hakamada Iwao's appeals for a retrial in view of new serious concerns regarding the evidence used to convict him in 1968.

Hakamada Iwao, who celebrates his 76th birthday on 10 March, has been in detention for over 45 years and under sentence of death for over 43 years.

In order to assess his appeal for a retrial, the Shizuoka District Court commissioned experts from the prosecution and the defence to carry out new forensic testing, comparing DNA traces on clothing which the Prosecution claims Hakamada was wearing at the time of the crime with DNA traces found on the clothing worn by the crime victims. The results, submitted by both parties on 22 December 2011, were inconclusive.

While the defence found that the DNA traces were not compatible, the prosecution concluded that the DNA types on Hakamada's clothing and those found on the victims' clothing may come from the same person, leading the Shizuoka District Court to commission further testing. The results are due in April.

Hakamada was found guilty and sentenced to death by the Shizuoka District Court in September 1968. During the trial he testified that police had beaten and threatened him to force him to sign a "confession" after being interrogated by police for 20 days. He did not have a lawyer present during any of the interrogations. He was convicted of the murder of the managing director of the factory where he worked, and the man's wife and two children.

One of the judges who convicted Hakamada, Kumamoto Norimichi, stated publicly in 2007 that he believed Hakamada was innocent but that he had been outvoted in the decision.

Amnesty International is further concerned that, within months of the finalization of his death sentence in 1980, Hakamada began to show signs of seriously disturbed thinking and behaviour. The prison authorities have refused Hakamada's legal representatives and family members access to his medical records. Article 479 of the Code of Criminal Procedure of Japan provides that a stay of execution be granted if a person is found to be suffering from mental illness.

Japan has not commuted a death sentence since 1975. Four prisoners under sentence of death were acquitted after retrials between 1983 and 1989. In 2011 two men were acquitted of murder and robbery after spending 29 years in prison until 1996. During their retrial the court found that tape recordings of their interrogations, including their "confessions", had been doctored and lacked credibility.

Background information

Executions in Japan are by hanging and are typically carried out in secret. Death row inmates are only notified on the morning of their execution and their families are usually informed only after the execution has taken place. The last executions in Japan were carried out on 28 July 2010, when Ogata Hidenori and Shinozawa Kazuo were hanged in the Tokyo detention centre.

More than two thirds of the countries in the world have abolished the death penalty in law or practice. Out of 41 countries in the Asia-Pacific, 17 have abolished the death penalty for all crimes, nine are abolitionist in practice and one – Fiji – uses the death penalty only for exceptional military crimes.

Amnesty International opposes the death penalty as a violation of the right to life in all cases, regardless of the nature of the crime, the characteristics of the offender, or the method used by the state to carry out the execution.

Launched in 2006, the Anti-Death Penalty Asia Network (ADPAN) is an independent cross-regional network that campaigns for an end to the death penalty across the Asia-Pacific region. ADPAN is independent of governments and any political religious affiliation. Members include lawyers, NGOs, civil society groups, human rights defenders and activists from 24 countries. <http://adpan.net/>

In December 2011 ADPAN published a report on unfair trials in Asia, *When Justice Fails, thousands executed in Asia after unfair trials*, ASA 01/023/2011 highlighting the case of Hakamada Iwao and calling for his case to be re-tried.

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