

Episode 19: Japan

AH: Hello and welcome to the Death Penalty Information Center's podcast exploring topics related to capital punishment. I'm Anne Holsinger, Special Projects Assistant at the Center. In this edition, we will be discussing the death penalty in Japan with our guest, Michael H. Fox, director of the Japan Innocence and Death Penalty Research Center. Thank you for joining us, Professor Fox. Please take a moment to introduce yourself

MF: Thank you very much, Anne. The Japan Innocence and Death Penalty Research Center supports those who have been wrongfully accused, wrongfully convicted, and others who are facing a possible sentence of death and those who have been sentenced to death. I am based in Western Japan, about one hour West of the Osaka-Kobe metropolis. I became interested in the death penalty after hearing a wrongfully accused woman speak about her experiences and how the death penalty is used to coerce confessions out of suspects during interrogation.

AH: Could you start by giving our listeners a short overview of the state of the death penalty in Japan? Are there many executions? What is the size of death row?

MF: There are currently 135 prisoners whose sentences have been confirmed by the Supreme Court, so the size of death row in Japan is currently 135. This is the largest number in its post-war history. In addition, there are 33 prisoners who have been sentenced to death by lower courts. Their sentences will probably be confirmed in time. In Japan, the death penalty is carried out by hanging. In terms of executions, in recent years we have seen swings from periods with few executions to periods of large amounts of executions. Currently, we have not had an execution in 20 months. But, from December 2006 through January 2009, in a short span of 25 months, Japan hung 32 prisoners. This amounts to about 1/3 of its death row at the time. So, as you can see, there is very little consistency over long periods of time.

AH: You also mentioned that there are big swings in the number of executions. Could you discuss the factors that affect the number of executions in a given year?

MF: The decision to execute rests firmly in the hands of the Minister of Justice. If the Minister wants to execute and not say, he is free to do so. If the Minister has abolitionist tendencies, there will be no hangings for long periods of time. One Justice Minister executed 13 inmates in 12 months, and only stopped after one of the leading vernacular newspapers began to call him "the Grim Reaper," *Shinigami-san* in Japanese. He later stated that he regrets that he didn't authorize 30 or 40 executions during that period.

AH: Are there any other social or political factors affecting the decision to execute?

MF: In 2006, a delegation from the European Union traveled throughout Japan giving public lectures about the reasons for abolition on the European continent. It was a large success attended by many people from many walks of life. Upon their departure, the Ministry of Justice showed its appreciation in a gruesome act: it hung four inmates on December 25th, 2006. So, thank you very much, and merry Christmas. I also strongly believe that the changing face of Tokyo is advancing capital punishment. Compared to the rest of the country, foreign faces are evident everywhere in Tokyo. During the early years of the 20th Century in the U.S.A., when immigration was peaking, the number of executions rose astronomically. Foreign faces are perceived as a threat to the social structure, and the forces that be will always respond with heavy policies of law and order. Japan is no different.

AH: Is the treatment of death row prisoners in Japan comparable to the United States?

MF: No, the conditions are very severe in Japan. Inmates may not have televisions, radios, or CD players. Television may be allowed during certain holidays, but for the most part, you sit in your cell and vegetate. There are no telephone privileges, and worst of all, mail and visits are mostly restricted to immediate family members and attorneys. Now, I have visited a number of death penalty inmates in the U.S.A. – all you need to do is get on their list. In Japan, this is possible in some places, impossible in others. You might have noticed that many prisoners change their family names once their death sentence is confirmed. Inmates are mostly abandoned by their own families, and by changing their name, they're able to access another family's, what we still call a family register in Japan, and therefore, they're able to get visits from compassionate people who take them under their wing. Changing one's name allows adoption by a new family, and hence, family visits.

AH: Japan has been criticized for the secrecy of its executions – not informing the prisoner until the day of reckoning, and withholding information from the press. Has this been changing?

MF: Keeping the prisoner uninformed of the execution until the day of reckoning has not changed. We don't know exactly at what juncture a prisoner will be informed that he will be executed. He does not have to be informed until the day of his execution. So, since prisoners are executed very early in the morning, around 8 o'clock, they do not have to be told until approximately 12:01 AM. Necessarily, though, waking up somebody in the middle of the night to tell them that they will be executed is not a really desirable situation, and so they could be informed perhaps the night before. We have no written records of when they were informed, and so it is only a guess right now, looking at the situation. In regards to the Ministry of Justice, sometimes they have announced the names of people being executed, sometimes not, sometimes they state that there have been executions. Basically, we used to find out about executions from attorneys who would be informed that their clients had been executed, they, in turn, would inform Amnesty International, and Amnesty International and attorneys would inform the mass media, and this is the way that executions were – the information of executions were broadcast.

AH: Where does public opinion stand on the death penalty in Japan?

MF: Public opinion is very strongly in support of the death penalty. How strong is difficult to say. The government often finds in surveys that it's well above 80%, private agencies have found out that it's less, that it could be in the mid-seventies. Why does Japan have such strong support of the death penalty? A lot of it has to do with communal values. There's a strong belief in sanctions in order to maintain social order. Also, penal populism is a growing force in Japan, as it is in the States. Japanese society is very much a demeritocracy, in other words, those who succeed are those who make the fewest mistakes. It's quite similar to the military. There is a lot of overtime work in Japan, and little reward for it, so when news of a death penalty or news of an execution reaches the public, I believe that there is a sardonic, visceral pleasure attached to it.

AH: Death row exonerations have affected public opinion in the United States. Is the issue of innocence significant in Japan, and have there been any exonerations in recent years?

MF: There has been a new tide of consciousness regarding wrongful convictions in Japan, and it is a delight to see the media getting more involved. Unfortunately, this has not yet impacted attitudes regarding the death penalty. There have only been four exonerations of confirmed death sentences, and all of these occurred between the years 1983 and 1989. But, I'm happy to report that as of March 15th, a prisoner (who, incidentally, was a former Osaka prison guard, and whose death penalty was upheld at the High Court level, meaning he was sentenced to death by a district court, the sentence was appealed, and it was later confirmed by the High Court) upon appeal to the Supreme Court, the Supreme Court erased the death penalty and remanded the case back to the High Court to be reheard. He was recently found innocent, and so we are starting to see some cracks in the big pillar.

AH: What do you see in the future for capital punishment in Japan? Is abolition likely?

MF: Most Japanese capital punishment abolitionists believe that if the U.S.A. were to abolish capital punishment, Japan would follow. Why is that? As we know, in Europe, most countries have already abolished the death penalty. Japan has always followed the United States model politically, culturally, and socially. Japan has always looked up to the United States, and the United States has always been its largest trading partner, and it was the United States which led to Japan's enormous capitalistic development throughout the 1940s, 50s, and 60s. So, as we say, "as goes U.S.A., so goes Japan." So we hope that new developments will occur in the U.S.A. and that we will feel the side effects in Japan sometime in the future.

AH: Is there anything else you'd like to share with our listeners?

MF: Well, Professor Dieter suggested that I may say a phrase or two in Japanese. So, what I would like to say is that we stretch our hands out to the American people, and we hope to form a union of abolitionists across the ocean. In Japanese, [Japanese words].

AH: Thank you, Professor Fox, for sharing your expertise with us. We really appreciate it. We would also like to thank our listeners for joining us for this edition of our podcast. To learn more about the death penalty in Japan, and about the work of the Japan Innocence and Death Penalty Research Center, you can visit them online at jiadep.org. You can also find other editions of DPIC's podcasts by clicking the podcast button on our homepage at deathpenaltyinfo.org.