

JFBA No. 54
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To: Mr. Ken Saito
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Tokyo, Japan

Letter of Request regarding the Death Penalty System, including its Abolition

I. Main Points of Request

1. Enacting legislation to abolish the death penalty system
2. Placing a moratorium on executions until the death penalty system is abolished

II. Grounds for Request

1. The death penalty is the punishment that allows the state to deprive people of the right to life, which is at the core of fundamental human rights. It is the harshest penalty and the only such penalty still left in modern penal systems that have been reformed from corporal punishment to imprisonment under the modern ideology of human rights. The Japan Federation of Bar Associations (the "JFBA") adopted its "Declaration Calling for Reform of the Penal System Including Abolition of the Death Penalty" during the 59th JFBA Convention on the Protection of Human Rights in 2016, and has called on the Japanese government to abolish the death penalty and reform the penal system.
2. As is well known, from an international perspective, many countries have already abolished their death penalties. The global tide of abolishing the death penalty is gaining more momentum, as exemplified by the U.S. Attorney General's recent issuing of a memorandum imposing a moratorium on scheduling federal executions under the Biden administration. Under these circumstances, it is quite regrettable that death row prisoners are continuing to be executed in Japan which has a pacifist Constitution.
3. The penal system should serve not only for the retribution for crimes, but also for the

rehabilitation of offenders, which will consequently lead to the achievement of increased safety throughout society as a whole. In June 2022, the criminal law was amended to integrate imprisonment with work and imprisonment without work into a new custodial sentence, and this amendment represents a shift in the punishment system from “imposing a penalty” to “focusing on rehabilitation and education.” However, under the criminal law, the death penalty is a penalizing system that does not intend to rehabilitate offenders and hence, it is inconsistent with the philosophy of imprisonment.

4. For many years, the reasoning underpinning the Ministry of Justice’s justification for retaining the death penalty has been the outcome of opinion polls showing the majority of the public being in favor of the death penalty. However, there is a question of whether conducting opinion polls is appropriate given the lack of information on the death penalty to begin with. In addition, the findings from opinion polls conducted in 2014 and 2019 have also indicated a likelihood that, depending on the protocol of an alternative punishment, the abolition of the death penalty may be accepted. In addition, the UN Human Rights Committee and other UN human rights bodies have repeatedly advised the Japanese government to favorably consider abolishing the death penalty “regardless of opinion polls.” Thus, justifying the retention of the death penalty on the grounds of the results of opinion polls results is no longer warranted.
5. For these reasons, the JFBA calls for enacting legislation to abolish the death penalty system, along with placing a moratorium on all executions until the death penalty system is abolished.

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