



**AMNESTY
INTERNATIONAL**



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MATSUMOTO KENJI'S APPEAL TO MINISTER OF JUSTICE

Dear Minister,

I am very concerned about death row prisoner Matsumoto Kenji, who has a mental and intellectual disability which have affected his ability to assist defence counsel. I write to respectfully ask you to use your powers to commute his death sentence as granted by Article 479 of the Criminal Procedure Code.

Matsumoto Kenji has been facing the death penalty since 1993. While on death row, he has been detained in cruel conditions which include solitary confinement and without knowing when his final day would be. During this time, Matsumoto Kenji developed a delusional disorder which, together with his intellectual disability, has made it difficult for him to communicate with others. His lawyer said he has been unable to understand and participate in the legal proceedings in his case, or help to prepare appeals in his defence. A psychologist hired by his defence team diagnosed the delusional disorder in 2011 and – on top of his pre-existing intellectual disability – noted that Matsumoto is having difficulty making a distinction between reality and perception.

Imposing the death penalty on people with mental or intellectual disabilities violates international law and standards. No one should be sentenced to death if they have mental or intellectual disabilities at the time of the commission of the crime; if they were first affected by or diagnosed with a mental or intellectual disability after being arrested, while in detention facing trial, or after being sentenced to death, while spending time on death row. The government of Japan should initiate an immediate independent review of the cases where there is credible evidence that prisoners may have mental disabilities and could fall within the scope of the Article 479 of the Criminal Procedure Code.

Furthermore, Matsumoto Kenji's seventh request for a retrial, submitted on 16 June 2016, was denied in March 2017. The decision has been challenged by his lawyers and a decision on this is still pending. His lawyer has filed an additional complaint. In 2017, three among four men executed had their appeals for retrial pending. This was the first time since 1999 that anyone with a retrial pending was executed. This is in direct contradiction to the UN Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty which prohibit execution of individuals with appeals or other proceedings still pending; and Article 457(2) of Criminal Procedure Code, which implies that those requesting to restore the right to appeal shall not be executed within the timeline required by law.

The case of Matsumoto Kenji is emblematic of a much wider failure by the Japanese authorities to take into account the mental and intellectual disabilities of those facing execution in Japan, or the conditions under which those on death row are held. I urge you to establish a moratorium on executions with a view to abolishing the death penalty and ensure that the cases of all those currently facing the death penalty – whether they are at trial stage or on death row – are reviewed to ensure that they are afforded all the protections contained within international safeguards on the use of the death penalty.

Yours sincerely,
Nirajan Thapaliya
Director
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