

# Life Imprisonment without Parole: Alternative Punishment to the Death Penalty in Japan or a Hollow Choice?

Mika Obara-Minnitt

## Introduction

On 7 October 2016, the Japan Federation of Bar Associations (JFBA) held their 59th Convention on the Protection of Human Rights and adopted the Declaration Calling for Reform of the Penal System Including Abolition of the Death Penalty. The JFBA strives for the abolition of the death penalty by April in 2020, when the next UN Congress on Crime Prevention and Criminal Justice is due to take place in Kyoto, Japan. International society has created a series of benchmarks for modern democracies regarding the abolition of capital punishment. They are represented by relevant documents and protocols of the United Nations<sup>1)</sup> and the *acquis communautaire* that states must conform to before they can be admitted into the European Union. With states having incentive to adhere to international norms in order to be recognised as legitimate members of international society,<sup>2)</sup> it may appear that it is in their interests to comply with the anti-death-penalty norm. Having said that, the Japanese government has been sticking to the claim that ‘state killing is state business’.<sup>3)</sup> Japan has been treating capital punishment policy as an issue of a criminal justice, not as an issue of human rights, and believes that it has the right to choose sentences within its own criminal justice system without interference from international society.<sup>4)</sup>

The JFBA’s initiative to achieve the abolition of the death penalty revolves around: the reintegration of offenders in society; eradication of miscarriages of justice which could lead to capital punishment cases; and introduction of life imprisonment without parole as an alternative punishment. The JFBA claims that ‘Many offenders commit crimes against a backdrop of familial, financial or educational problems, and are often socialized in environments where they lack moral guidance and experience social discrimination’.<sup>5)</sup> Therefore, the JFBA believes that the penal system should not function for retributive purpose but that even the worst offenders should be given the opportunities for rehabilitation and reform.<sup>6)</sup> The JFBA is also heavily concerned about the issue of miscarriages of justice. Japan has had four main retrial cases in late 1940s and early 50s where death row inmates were not found innocent till several decades later. The JFBA therefore claims that an execution of the innocent is an irreversible human rights violation<sup>7)</sup> and encourages the introduction of life imprisonment without parole in lieu of the death penalty. The JFBA has passed a resolution calling on the Japanese government to replace capital punishment with life imprisonment without parole in August 2012;<sup>8)</sup> and the Decla-

ration in 2016 suggests the imprisonment length to 20 to 25 years but with the possibility of earlier release in cases when prisoners achieve rehabilitation.<sup>9)</sup>

This article will critically look at the JFBA's proposal of introducing life imprisonment with a possibility of a release after at least two decades as an alternative punishment to the death penalty in Japan. It will first review the worldwide trend on life imprisonment and examine the incompatibility of this penalty not only from the constitutional and international human rights perspectives but also from societal moral and ethical perspectives. It will also explore whether or not life imprisonment is a lighter and/or more humane punishment than a death penalty; and whether or not juveniles should be given more opportunities for rehabilitation and reform in comparison to senior offenders. It will then explore whether introduction of life imprisonment can be a precursor to abolition, in supporting a shift in public opinion. It will investigate whether or not life imprisonment would inflict the Constitution of Japan and/or international human rights standard, and what moral and human rights issues may hinder the introduction.

## **1. Life Imprisonment from Domestic and International Legal Perspectives**

Life imprisonment with or without parole has been used, restricted and abolished in various countries in the world and *Life Imprisonment and Human Rights* edited by Dirk Van Zyl Smit and Catherine Appleton offers a comprehensive understanding of the global trend in use of this punishment.<sup>10)</sup> This section briefly summarises their findings in order to explore the legal incompatibility and moral and ethical framework/concerns which are present in particular societies which impose this penalty.

### **1.1. (In)compatibility of Life Imprisonment with Domestic Constitutions**

Latin America, which is composed of 19 countries, is a death penalty free zone and out of which only six retain life imprisonment: Argentina, Chile, Cuba, Honduras, Mexico and Peru.<sup>11)</sup> Social reintegration is a key element in the prison system in Latin America following a global change in the perception of prison labour: 'During the twentieth century, prison labour stopped being considered an afflictive measure—a punishment within a punishment—and started to be regarded as one of the most important elements in the rehabilitation process.<sup>12)</sup> Furthermore, their prison system appears to be based on the principle that 'the state has the obligation and responsibility to provide for all persons serving a sentence suitable custody, which implies also respect for their lives, safety and moral and physical integrity'.<sup>13)</sup> This makes Latin America look more effective at first sight at making imprisonment years worthwhile for prisoners. The emphasis on imprisonment appears to be the provision of practical skills which would be useful when reintegrated to the society.

Whilst respect for prisoners' dignity thus appears to be observed in Latin America at first sight, academics point out the intensive use of life imprisonment in six aforementioned countries as an alternative to the death penalty.<sup>14)</sup> What is more, incompatibility of life imprisonment with the purpose of rehabilitation and social reintegration has been identified as a major issue in Latin America.<sup>15)</sup> For instance, whilst Article 87 of the Constitution of Honduras stipulates that the purpose of imprisonment is rehabilitation, Article 97 allows the use of life imprisonment to those who

committed serious crimes which has shaken the national community.<sup>16)</sup> Similarly, whilst the Supreme Court in Mexico has ruled life imprisonment without parole as unconstitutional as this punishment is ‘in breach of the principles of liberty, dignity and proportionality’,<sup>17)</sup> life imprisonment with parole has been declared constitutional because ‘even if it prevents freedom of movement, it does not aim to cause pain or physical alteration to inmates’.<sup>18)</sup> Although Mexico clearly forbids life imprisonment without parole, life imprisonment with parole can be effectively a whole life sentence depending on his/her age at the time of the sentence.

Moreover, whilst life imprisonment does not deprive people of ‘life’ it potentially deprives them of a ‘quality of life’. It is highly debatable whether or not depriving prisoners of opportunity or hope to be reintegrated in the society is less inhumane than the death penalty. Lifelong deprivation of liberty could have a significant impact on their psychological state, motivation and their ‘will to live’. Whilst retention of life imprisonment with or without parole is considered sovereign to each government, are these punishments compatible with the international human rights standard governments are signatures to? In order to investigate these points further, it is worth examining the international human rights standard and how countries across the world have adhered to or breached them with regard to the abolition or use of life sentence.

## **1.2. (In)compatibility of Life Imprisonment with the International Human Rights Standard**

Article 7 of the International Covenant on Civil and Political Rights (ICCPR) stipulates that ‘No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment’; and Article 10 (1) provides that ‘All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person’. Article 10 (3) also provides that ‘The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation’. In other words, countries with life imprisonment are expected to treat prisoners with dignity and have re-integration to the society as a key element of imprisonment.

Early conditional release can be therefore granted to prisoners serving life imprisonment in some countries. In India, premature release could be granted to life sentence prisoners after 14 years of imprisonment if recommended by the State Sentence Review Boards or similar body: ‘Once prisoners have been released in this way, they are free to live their lives in society, back with their family without any conditions or supervision’.<sup>19)</sup> This would appear as an ideal form of life sentences with a prospect of release, however, there is no legal clarity in India as to what qualifies life imprisonment prisoners to be given this opportunity.<sup>20)</sup> Moreover, increasing numbers of the public appear to perceive such arrangement as too lenient and demand harsher punishment: ‘The death of the rape victim sparked unprecedented demonstrations across the country demanding stronger anti-rape laws and a change to the widely entrenched practice of blaming the victim rather than the perpetrator’.<sup>21)</sup> Whilst it is extremely important for the voice of the victim lobby to be heard and reflected in the criminal justice system to some extent, it is highly problematic

for the public outcry to be used as an excuse to tolerate the legal ambiguity about the early release of life sentence prisoners.

In fact, this can be a serious human rights issue in some African countries, which have either abolished or have not used the death penalty in practice, as they tend to impose life imprisonment for the remainder of the offender's life. For instance, 'in Liberia courts are empowered to sentence offenders convicted of serious offences to up to 90 years in prison;<sup>22)</sup> case law from Namibia shows that some offenders have been sentenced to lengthy prisons terms of up to 80 years' imprisonment'.<sup>23)</sup> What is more, 'the Ugandan Prisons Act does not deal clearly with the release of life prisoners nor set out a framework for establishing the conditions to which they should be subject in the community after release.'<sup>24)</sup> Liberia retains the death penalty however no one has been executed for the last decade. Setting symbolic years of imprisonment appears to demonstrate Liberia's strong stance of the use of life imprisonment as a severe punishment in the absence of the death penalty, not as an alternative punishment which could provide offenders with hope to live and opportunity for rehabilitation and reintegration to the society. This is a significant human rights violation as reformed and remorseful prisoners continue to be punished without a prospect of release solely based on their acts in the past. Would it be less inhumane to offenders if the maximum years of imprisonment would be set to much lower numbers such as 20 to 25 years, as suggested by the JFBA? If so, how would this arrangement impact senior offenders who would be likely to die in prison naturally or shortly after the release in comparison to youth offenders who would be still relatively young when they finish their imprisonment years?

The UN Convention on the Rights of the Child (UNCRC) forbids the life sentence on children below eighteen and Article 37 stipulates that:

States Parties shall ensure that: (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age; (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time; (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age.

Despite these provisions, life sentences can be imposed on children in countries including Australia, England and Wales and African countries. For example, Kate Fitz-Gibbon claims that it is a major human rights violation that Australia, which has ratified both ICCPR and UNCRC, imposes life sentence on child offenders.<sup>25)</sup> She claims that this 'illustrates the prioritisation of punishment and community protection over the welfare of the child and the sentencing principle of rehabilitation'.<sup>26)</sup> In England and Wales, 'The life sentence for children under the age of 18 is known as 'Detention during Her Majesty's Pleasure' and that for young persons between 18

and 21 is known as ‘Custody for Life’.<sup>27)</sup> Besides the controversial issue of countries which have ratified international agreements on children’s rights yet impose the life sentence to children below eighteen, scholars point out that criteria on the early release of youth offenders from life sentence has not been set out appropriately in some countries. As Mujuzi Jamil Ddamulira discusses, ‘In some African countries children convicted of serious offences, such as murder, are sentenced to be detained at “the President’s pleasure” and in some jurisdictions the law is unclear as to when and how such children may be released.’<sup>28)</sup> Given that the UNCRC outlaws life sentences on children without the prospect of release, legal ambiguity on this is a serious violation of human rights.

Academic discussions of whether or not the criminal justice system should distinguish between children and adults in life sentence are widely split however. The majority view is that ‘youth are not fully formed in their capacity to appreciate the consequences of their actions or to control impulsivity until their mid-20s’.<sup>29)</sup> In contrast, others claim that ‘While juveniles may be *uniquely* capable of change, so, too, are adults able to mature and transform their lives. The 25-year-old convicted of murder in many cases will be a very different person by the age of 40’.<sup>30)</sup> Should youth offenders get treated more favourably than senior offenders and be encouraged to be released earlier after certain years under assessments? Do not senior life imprisonment prisoners, even those without family members or those with short life expectancy, deserve an opportunity to be welcomed back to free society? How about the life of senior offenders’ family members including their children? Article 9 (1) of the UNCRC forbids separation from parents:

States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child.

Moreover, Article 9 (4) provides that:

Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Separation of offenders from their young children for the rest of their lives can make a huge impact on the wellbeing of the latter. With their parents behind the bar with no consideration of release, would their children be encouraged to learn how to live

their lives lawfully? As already mentioned in the introduction, the JFBA claims that ‘Many offenders commit crimes against a backdrop of familial, financial or educational problems, and are often socialized in environments where they lack moral guidance and experience social discrimination’.<sup>31)</sup> It appears more beneficial for offenders to be given opportunities to get rehabilitated and ultimately become a positive role model for their children. Distrusting the potential of senior offenders to change and incarcerating them indefinitely under the name of public protection<sup>32)</sup> does not appear to be a constructive means of preventing reoffending. The next section will briefly examine the extent to which life imprisonment infringes on the European human rights standard.

### **1.3. (In)compatibility of Life Imprisonment with European Human Rights Standard**

Despite that ‘European human rights law [...] seeks to ensure that there are no wholly irreducible, hope-destroying life sentences’<sup>33)</sup> there exists a huge divergence within European countries about the use of life sentences with or without parole. For instance, whilst Hungary is ‘the only country in the world to constitutionalise sentences of life imprisonment without parole’<sup>34)</sup> Norway abolished life imprisonment in 1981 claiming that ‘life imprisonment is not compatible with our conception of humanity’.<sup>35)</sup> In Netherlands, life imprisonment was introduced in 1870 as an alternative punishment to the death penalty after in-depth discussions in the Parliament regarding whether life imprisonment was too lenient or too severe compared to the death penalty. In the case of Portugal, it ‘abolished life imprisonment in 1884 and that its constitution has prohibited life imprisonment and other forms of indefinite detention since 1911. The maximum sentence of imprisonment is 25 years and exceptions for the indefinite detention of persons who are seriously mentally ill are closely circumscribed and carefully monitored’.<sup>36)</sup> This is based on the principle that all prisoners should be given the opportunity to be reintegrated in the society.<sup>37)</sup> In fact, Article 30(1) of the Constitution stipulates that ‘punishment which involves deprivation or restriction of liberty may not be for life, nor be of unlimited or indeterminate duration’ and Article 40 of the Penal Code also claims that ‘punishment shall also serve the aim of reintegrating the offender into society’.<sup>38)</sup>

Examination of the worldwide trend of life imprisonment with or without parole has thus posed several open-ended questions: Is this penalty in line with the domestic constitutions or international and European human rights standard?; Is a *de facto* whole life imprisonment a deprivation of fundamental rights for offenders to live?; and Should youth offenders take precedence over senior offenders when earlier release would be considered? The next section will look at what legal and human rights dilemmas would arise if life imprisonment without parole would be introduced in Japan in lieu of the death penalty.

## 2. Issues Regarding the Introduction of Life Imprisonment as an Alternative Punishment to the Death Penalty in Japan

### 2.1. (In)compatibility of Life Imprisonment with the Constitution of Japan and the Juvenile Law

In order to investigate the constitutionality of life imprisonment in Japan, it deserves examining the constitutionality of the death penalty first, which is currently the severest punishment in Japan. According to Article 31 of the Constitution of Japan ‘No person shall be deprived of life or liberty, nor shall any other criminal penalty be imposed, *except according to procedure established by law*’. Article 36 of the Constitution also provides that ‘[t]he infliction of torture by any public officer and cruel punishments are absolutely forbidden’ therefore it could be argued that retention of the death penalty is unconstitutional. It is a cruel punishment which deprives people of life and as former death row inmates have revealed, forced confessions with the use of violence in the police detention is paramount.<sup>39)</sup> Having said that, it has been declared constitutional by the Supreme Court since 12 March 1948, and so is the execution method, which is specified as hanging in Article 11 of the Penal Code.<sup>40)</sup> If the death penalty counts as an exception allowed in Article 31, it is most likely that life imprisonment without parole would be justified without any amendments of the Constitution if introduced. Whilst Article 31 forbids punishments which deprive people of liberty, it allows an exception; and whilst Article 36 forbids cruel punishments life imprisonment would be most likely to be justified as a penalty which does not deprive prisoners of life.

With regard to the minimum age that life imprisonment would be sentenced at, it is worth examining how the Juvenile Law has been amended historically in order to punish youth offenders from an earlier age. Although the Juvenile Law stipulates that those younger than 19 cannot be punished with death, it has been amended in 2000 to lower the minimum age for sending minors to reformatories followed by a high profile murder case committed by a youth in 1999. On 14 April 1999, an 18-year-old male broke into a house in Hikari city in Yamaguchi prefecture, raped and strangled a 23-year-old woman and strangled her baby daughter. Her husband and father of the victims called for the death sentence vocally, and his victim-driven campaign appears to have led to, or was strategically used to amend the Juvenile Law in 2000 for the first time since World War II.<sup>41)</sup> It lowered the minimum age for sending minors to reformatories from 16 to 14 in 2000 and from ‘14 to around 12 (in 2007), stirring concerns among lawyers and legal experts that tougher penalties might infringe on the rights of minors and might not lead to a reduction in juvenile delinquency’.<sup>42)</sup> Given that harsher punishment of juvenile offenders was thus legalised as if it was influenced by the voice of the victim lobby, it is not unlikely that the minimum age for life sentence could be lowered below eighteen if introduced. In fact, there is a danger that the Japanese government would try to make this alternative punishment as severe as possible in order to convince the pro-death-penalty victim lobby. The next section will examine whether or not the introduction of life imprisonment without parole in Japan would be a breach of international or European human rights standard.

## **2.2. (In)compatibility of Life Imprisonment with International and European Human Rights Standard**

Before investigating the incompatibility of life imprisonment in Japan with international and European human rights standard, it is again worth examining how the Japanese government has been justifying the retention of the death penalty against the worldwide declining trend in the number of states retaining it. As previously discussed, Japan has been treating capital punishment policy as an issue of a criminal justice, not as an issue of human rights, and believes that it has the right to choose its own criminal justice system without interference from international society.<sup>43)</sup> In fact, the Japanese government did not respond to the Council of Europe when it threatened Japan's observer status. Japan obtained observer status in the Council of Europe in 1996 and is entitled to participate in the Committee of Ministers and all intergovernmental committees. However, Japan has not met the requirement declared in the Statutory Resolution (93) that those who acquire observer status should be 'willing to accept principles of democracy, the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms'.<sup>44)</sup> In 2001, the Parliamentary Assembly of the Council of Europe warned both Japan and the US, the other industrialised democracy which retain the death penalty, that the possession of observer status would be threatened if any significant progress in the implementation of the resolution could not be made by 1 January 2003.<sup>45)</sup> The Japanese government did not respond to them maintaining that it is strictly a domestic issue.

If life imprisonment would be introduced in Japan on the basis of law, it is most likely to be justified with the same strategy—it is a state business which should not be interfered by the international society. In fact, a great divergence in the view of life imprisonment within Europe could make it challenging for the European lobby to criticise Japan for the retention of life imprisonment, the length of maximum year set for life imprisonment, and ethical and moral dilemma of life sentence on children below eighteen.

## **2.3. Divergence in Opinions within Anti-Death-Penalty NGOs in Japan**

What should be also noted is that some disagreement can be observed within the anti-death-penalty lobby and among death row inmates on the option of introducing life imprisonment. As previously mentioned, the JFBA passed a resolution calling on the Japanese government to replace the death penalty with life imprisonment without parole in August 2012;<sup>46)</sup> and the Declaration in 2016 suggests the imprisonment length to 20 to 25 years but with the possibility of earlier release in cases when prisoners achieve rehabilitation.<sup>47)</sup> Forum 90, the largest anti-death-penalty NGO in Japan, has also been supporting the idea of introducing life imprisonment without parole as an alternative to capital punishment.<sup>48)</sup> This is because both bodies acknowledge that the general public will not support the immediate abolition of capital punishment, believing in the deterrent effect. They claim that introducing a penalty of an equivalent amount of suffering can be a compromise and a firm step towards the abolition of capital punishment.<sup>49)</sup>

By contrast, some NGOs such as the Centre for Prisoners' Rights do not support

the introduction of alternative punishment as a temporary solution. Their argument is that: (1) imprisoning prisoners for life can be more cruel than capital punishment, since it deprives them of any chance to get rehabilitated and go back to society; and (2) it is not ethically right to replace a punishment with an equally severe punishment in the first place.<sup>50)</sup> Furthermore, according to Fukushima Mizuho, deputy leader of the Social Democratic Party, who conducted surveys among death row inmates on this issue in 2012, opinions also vary amongst death row inmates. For example, a death row inmate, Kaneiwa Yukio, supports the introduction of life imprisonment without parole since it can relieve him from fearing every morning if the prison guard will stop at his door for the execution.<sup>51)</sup> On the other hand, another death row inmate, Okamoto Keizo, claims that such a penalty is more cruel as it will deprive inmates of a purpose to live.<sup>52)</sup> Although public opinion polls by a newspaper agency demonstrate that the Japanese public are not necessarily resistant to an alternative penalty to capital punishment,<sup>53)</sup> internal disagreement within the anti-death-penalty lobby appear to have been preventing constructive discussion of the subject in Japan.

It is highly questionable whether a life imprisonment fully served until the offender's natural life would bring justice to the victims and their bereaved families. However, despite the JFBA's recommendation of setting the maximum life imprisonment years as 20 to 25 years, it is possible that the Japanese government would introduce a rigorous imprisonment with a remote prospect of release as an alternative punishment to the death penalty. This would not be necessarily based on the belief amongst the governmental officials that incapacitating offenders for the remainder of their natural lives could maximise security in Japan. Rather, it would be based on the belief that such cruel punishment could be supported as a second most cruel alternative which could satisfy the victim lobby who would consider the death penalty as the only method to bring justice to the victims otherwise.

### **3. Conclusion**

This article examined the JFBA's proposal to introduce life imprisonment without parole as an alternative punishment to the death penalty in Japan. It reviewed how life imprisonment has been imposed, restricted and abolished worldwide in line with or in breach of domestic constitutions and international and European human rights standard. It also examined what issues would arise if Japan introduces life imprisonment without parole from several viewpoints: constitutionality, compliance with the international and European human rights standard and divergence in opinions within domestic anti-death-penalty NGOs in Japan. Currently, Japanese government's stance is that an issue of criminal justice system should be left as an issue of national sovereignty. It is very likely that the introduction of life imprisonment would be justified on the basis of law and retributive feelings of victims' bereaved families in the same way that the death penalty is being justified.

The death penalty is a cruel punishment which deprives offenders of life and abolition or the moratorium is an urgent matter for the Japanese government to deal with and an introduction of an alternative punishment may make this more realistic. Having said that, given that the death penalty is currently justified on the basis of

law despite the Constitution clearly forbidding cruel punishment which involves a deprivation of life and liberty, the introduction of life imprisonment may mean imposing a second most cruel alternative which can deprive offenders of their fundamental human rights to live with dignity and their family members' rights not to be separated from their parents. It is crucial for the Japanese government to prioritise the fundamental purpose of imprisonment including rehabilitation and reintegration to the society when maintaining or amending the current criminal justice system regardless of the victim lobby's or the public views to see either punishment as an indispensable instrument to maximise security in Japan.

#### Notes

- 1) For example, Article 3 of the Universal Declaration of Human Rights stipulates that 'Everyone has the right to life, liberty and security of person'; and Article 5 stresses that 'No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment'. Moreover, the Second Optional Protocol to the International Covenant on Civil and Political Rights clearly aims at the abolition of capital punishment.
- 2) Robert Axelrod, "An Evolutionary Approach to Norms", *The American Political Science Review*, 80(4), 1986, 1095–1111, 1105. Available at: <http://www-personal.umich.edu/~axe/Axelrod%20Norms%20APSR%201986%20%282%29.pdf>. [accessed on 25 August 2019]; Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change," *International Organization*, 52(04), 1998, 887–917, 895.
- 3) David T. Johnson, "The Death Penalty in Japan: Secrecy, Silence, and Salience," in Austin Sarat and Christian Boulanger (eds.), *The Cultural Lives of Capital Punishment: Comparative Perspectives*, (Stanford, CA: Stanford University Press, 2005), 260.
- 4) Midori Moriyama, *Legal Affairs Committee of the House of Representatives, Official Record of the Proceedings of the 153rd session of the Diet*, 19 October 2001, (2001), 8.
- 5) The Japan Federation of Bar Associations, "Declaration Calling for Reform of the Penal System Including Abolition of the Death Penalty (Summary)," 7 October 2016, (2016), 1. URL: <https://www.nichibenren.or.jp/en/document/statements/161007.html> [accessed on 25 August 2019]
- 6) "Lawyers to campaign for abolition of capital punishment in Japan," *Japan Times*, 22 September 2016, (2016). URL: <https://www.japantimes.co.jp/news/2016/09/22/national/crime-legal/lawyers-campaign-abolition-capital-punishment-japan/#.WncdEXagLIV> [accessed on 25 August 2019]
- 7) *Ibid.*
- 8) "Opinion Divided on Life Term without Parole," *Japan Times*, 21 February 2013, (2013). Available at: <http://www.japantimes.co.jp/news/2013/02/21/national/opinion-divided-on-life-term-without-parole/#.UU-ChRwZFBM> [accessed on 25 August 2019]
- 9) The Japan Federation of Bar Associations, *op.cit.*, 1; "Opinion Divided on Life Term without Parole," *Japan Times, op.cit.*, 2.
- 10) Dirk Van Zyl Smit and Catherine Appleton (eds.), *Life Imprisonment and Human Rights*, (Oxford: Hart Publishing, 2016).
- 11) Beatriz Lopez Lorca, "Life Imprisonment in Latin America," *ibid.*, 44.
- 12) Helena Henriksson and Ralph Krech, "International Perspectives," in Dirk van Zyl Smit and Frieder Dunkel (eds.), *Prison Labour: Salvation or Slavery?*, (New York: Ashgate, 1999). Cited in *ibid.*, 53.
- 13) Méndez (M. 821. XLIII. Méndez, Daniel Roberto s/recurso de casación, 1 de noviembre de 2011), (2011), 57. Cited in *ibid.*, 56–7.
- 14) *Ibid.*, 43.
- 15) *Ibid.*
- 16) *Ibid.*, 54–5.
- 17) *Marcelino Tineo Silva y mas de 5.000 ciudadanos 2003* (0010-2002-AI/TC, 2 de enero de 2003). Cited in *ibid.*, 61.
- 18) *Ibid.*, 60.

- 19) Madhurima, Dhanuka, "A New Form of Life Imprisonment in India?," in Dirk Van Zyl Smit and Catherine Appleton (eds.), *op.cit.*, 121.
- 20) *Ibid.*, 121.
- 21) *Ibid.*, 124–5.
- 22) Jamil Ddamulira Mujuzi, "High Crime Rate Forces Liberia to Reintroduce the Death Penalty and Put International Treaty Obligations Aside: What the Critics Missed?," *African Journal of International and Comparative Law*, 17(2), 2009, 342–54.
- 23) Jamil Ddamulira Mujuzi, "Life Imprisonment and Human Rights in Uganda" in Dirk Van Zyl Smit and Catherine Appleton (eds.), *op.cit.*, 111.
- 24) *Ibid.*, 113.
- 25) Kate Fits-Gibbon, "Life without Parole in Australia: Current Practices, Juvenile and Retrospective Sentencing," in *ibid.*, 83.
- 26) *Ibid.*
- 27) Catherine Appleton and Dirk Van Zyl Smit, "The Paradox of Reform: Life Imprisonment in England and Wales," in *ibid.*, 223.
- 28) Jamil Ddamulira Mujuzi, "Sentencing Children to Life Imprisonment and/or to be Detained at the President's Pleasure in Eastern and Southern Africa," *International Journal of Punishment and Sentencing*, 6(2), 2010. Cited in *ibid.*, 107.
- 29) Marc Mauer and Ashley Nellis, "The Impact of Life Imprisonment on Criminal Justice Reform" in *ibid.*, 36–7.
- 30) *Ibid.*, 38.
- 31) The Japan Federation of Bar Associations, *op.cit.*
- 32) Jamil Ddamulira Mujuzi in Dirk Van Zyl Smit and Catherine Appleton (eds.), *op.cit.*, 138.
- 33) Van Zyl Smit et al., "Introduction," in *ibid.*, 9.
- 34) Miklos Levay, "Constitutionalising Life Imprisonment without Parole: The Case of Hungary," in *ibid.*, 167.
- 35) Tapio Lappi-Seppälä, "Life Imprisonment and Related Institutions in the Nordic Countries," in *ibid.*, 472.
- 36) Van Zyl Smit et al. *ibid.*, 12.
- 37) *Ibid.*
- 38) Ines Horta Pinto, "Punishment in Portuguese Criminal Law: A Penal System without Life Imprisonment" in *ibid.*, 293–4.
- 39) Mika Obara-Minnitt, *Japanese Moratorium on the Death Penalty*, (Palgrave Macmillan, 2016), 137.
- 40) Although the execution method in Japan varied from strangulation or decapitation, to *seppuku* or ritual disembowelment, after the Meiji Restoration in 1868 Japan made hanging the official execution method, importing the Western criminal system.
- 41) Koichi Hamai and Thomas Ellis, "Japanese Criminal Justice: Was Reintegrative Shaming a Chimera?," *Punishment & Society*, 10(1), 2008, 25–46, 33. Available at: <http://www.port.ac.uk/departments/academic/icjs/staff/documentation/filetodownload,73687,en.pdf> [Accessed 25 August 2019]
- 42) "Experts Doubt Wisdom of Proposal to Let Victims Attend Juvenile Trials," *Japan Times*, 11 April 2008, (2008). Available at: <http://www.japantimes.co.jp/text/nn20080411f2.html> [Accessed 25 August 2019]
- 43) Midori Moriyama, *op.cit.*, 8.
- 44) The Council of Europe, *Statutory Resolution (93) 26 of the Committee of Minister on Observer Status, 14 May 1993*, 1. Available at: <http://conventions.coe.int/Treaty/en/Treaties/Html/Resol9326.htm> [Accessed 25 August 2019]
- 45) The Council of Europe, *Resolution 1253: Abolition of the Death Penalty in Council of Europe Observer States*, 2001, 3. Available at: <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta01/ERES1253.htm> [Accessed 25 August 2019]
- 46) "Opinion Divided on Life Term without Parole," *op.cit.*
- 47) The Japan Federation of Bar Associations, *op.cit.*, 1; "Opinion Divided on Life Term without Parole," *Japan Times*, *op.cit.*, 2.

- 48) Japan Federation of Bar Associations, “*Ryōkei Seido wo Kangaeru Chōtōha no Kai no Keihō nado no Ichibu wo Kaisei suru Hōritsuan (Shushinkei Dōnyu Kankei) ni Taisuru Ikensho*” (Written Opinion on the Legislative Bill which Nonpartisan Association Proposes the Partial Amendment of the Criminal Law (Introduction of Life Sentence without Parole), 18 November 2008, (2008), Available at: <http://www.nichibenren.or.jp/library/ja/opinion/report/data/081118.pdf> [Accessed 25 August 2019]; Interview with two NGO workers, Tokyo, 17 May 2011.
- 49) Japan Federation of Bar Associations, *op.cit.*, 2008.
- 50) Interview with an NGO member, Tokyo, 12 April 2011.
- 51) “Opinion Divided on Life Term without Parole,” *op.cit.*
- 52) *Ibid.*
- 53) Mika Obara-Minnitt, *op.cit.*, 87 and 90.