

Is it right to relate the maintenance or abolition of the death penalty to the adoption of the life imprisonment without parole?

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I. Following the Executions of the Death Row Inmates from the Aum Shinrikyo Incident

On July 6, and 20 days later on July 26, 13 criminals on death row for the series of attacks carried out by Aum Shinrikyo, including its founder, Chizuo Matsumoto, also known as Shoko Asahara, were put to death. Seven criminals were executed on July 6, which was the largest number of executions carried out on a single day since the Ministry of Justice began announcing executions in 1989. The total of 13 criminals executed in a span of three weeks was the largest scale of executions carried out since the end of World War II. This case has strongly impacted not only the victims and others, who were involved, but also society as a whole. On the July 27, newspapers printed articles after the world reacted to the executions, including the following: «On the July 26, EU member nations and others made a joint statement calling for Japan to 'adopt a moratorium on executions with a view to abolishing this punishment.' The international human rights organization Amnesty International also called on Japan to push forward with talks aimed at abolishing the death penalty.» (*Shimbun*) The 28 EU member nations, as well as Iceland, Norway and Switzerland responded to the executions carried out on July 6 with a joint declaration, announcing, «We convey our heartfelt sympathy to the victims and their fa-

milies, and absolutely condemn terrorist attacks. However, we are strongly and unequivocally opposed to the use of the death penalty under all circumstances. The death penalty is cruel and inhumane and fails to act as a deterrent to crime.' They also announced, 'We will continue our active pursuit of abolishing the death penalty in Japan—a friend and like-minded country—with which we share values and principles.'» (*Shimbun*)

In Japan, too, this occasion has reignited interest regarding the death penalty. The following opinion was expressed by Professor *Makoto Ida* in *Yomiuri Shimbun* on July 27: «Now that we've reached a critical juncture with the Aum incident, the time has come to have a sensible debate with regard to the death penalty.» *Asahi Shimbun* also collected a wide range of opinions through an online survey. It appears that these developments have led intelligent people to hope that a genuine debate can now be had concerning the death penalty.

II. Arguments for and Against Abolishing the Death Penalty

Upon reexamining public opinion regarding the death penalty, about 80 percent support the death penalty, while about 10 percent oppose it. However, under the condition that we introduce a system of life imprisonment without parole, which currently does not exist in Japan,

public opinion shifts to 52 percent against abolishing the death penalty, and 38 percent in support of it. According to these results, there seems to be among many a favorable view of replacing the death penalty with life imprisonment. (2014 Public Opinion Survey on the Basic Legal System, Cabinet Office, <https://survey.gov-online.go.jp/h26/h26-houseido/2-2.html>)

As we delve into the subject of public opinion on this issue, the following arguments are made by individuals who support continuing the death penalty. First, they argue that it is the legal conviction of citizens that anyone who kills another person should have to pay with their own life. Next, the existence of the death penalty acts as a deterrent toward felonious offenses, such as murder. Finally, the death penalty is the ultimate and most effective method of protecting society from dangerous criminals. On the other hand, those who oppose the death penalty and support abolishing it claim that as long as the state forbids murder by law, it is irrational for the state itself to carry out murders, and because of this, it is not possible to allow it. In addition, the argument that the death penalty acts as a deterrent to crime has never been proven; in fact, some criminals commit murder hoping to receive the death penalty. And finally, it is not possible to rule out the possibility of a miscarriage of justice, and if such error is discovered after the fact, the punishment is irreversible.

However, it can be said that the opinions on neither side offer enough grounds for argument to fully support its legitimacy. Among advocates of the social contract theory, there are an equal number of people who are for and against the death penalty, and there is not enough meaningful data with regard to the deterrent effect against crime. In addition, although the argument about the possibility of wrongful sentencing is convincing in favor of abolishing the death penalty, the possibility of someone wrongfully convicted spending their entire life in prison, only to have it discovered after their

death that they were innocent, can be said to be equally cruel.

III. Life Imprisonment and Life Imprisonment Without Parole as a Replacement for the Death Penalty

When someone is sentenced to life in prison, the current law grants the possibility of release on parole after 10 years. If you just observe this point, you might assume that no matter how cruel of a crime someone commits, they are eligible to return to society after a number of years in prison. However, out of the roughly 1'800 prisoners sentenced to life imprisonment, the number of those released on parole is in the single digits. (On a side note, the number of those who die while in prison is about 20 per year.) Furthermore, in practice (from the fact that the maximum prison sentence is 30 years), those who receive prison sentences not exceeding 30 years are not granted parole. By observing these facts, we can conclude that in our country, we are, in practice, sentencing people to life imprisonment without parole.

One may argue then, that there is no reason not to introduce a system of life imprisonment without parole as a replacement for the death penalty and that nothing bad can come of it. However, there is an unequivocal difference between life imprisonment and life imprisonment without parole. For those who are sentenced to life with a chance for parole, the possibility of release is a faint light at the end of a dark tunnel. The prisoner lives their life with the hope that one day they may return to society, and they spend each day with that faint hope. Of course, many of them fully understand that their situation is different from that of other prisoners, but they can still hold on to that light and can spend their days with that sliver of hope. The hope of those who are sentenced to life is supposedly conveyed to the prison officers that watch over them on a daily basis. Even if they believe that parole is next to impossible, the prisoner, as well as the prison officer, can live with that faint hope that offers a reason to live and lead them to work toward

rehabilitation and the eventual return to society. However, if we were to introduce a system of life imprisonment without parole, the prisoner loses all hope of one day returning to society, which in turn would sever all connections they have to society, causing unfathomable despair. How can prison officers approach such people who are guaranteed to never receive a chance to return to society? What purpose would their life have? The level of mental burden that must be carried by these prison officers is also immeasurable. They are shown to have to endure a high level of stress.

IV. Can Life Imprisonment Without Parole Serve as a Viable Alternative?

This is an idea that should be revisited, but is the punishment of losing all hope as a human being and spending your life in prison the only acceptable treatment of those who commit heinous crimes? Even for prisoners, isn't it their right as human beings to have some sliver of hope while they spend their lives in darkness? Is it acceptable to take away that right by introducing a system of life imprisonment with no parole?

Furthermore, if we introduce a system of life imprisonment without parole, those who would

receive the death penalty under the current law would instead receive life imprisonment without parole, and in the environment of public opinion that seeks heavy punishments, criminals that would, under the current law, receive life imprisonment with a chance of parole would instead receive life imprisonment without parole. For example, based on current trends in sentencing, we can assume that if someone commits a murder-robbery leaving three victims dead, they will most likely receive the death penalty. If there are two victims, there is a 66% chance that they will receive the death penalty. If there is only one victim, they will most likely receive life imprisonment with a chance of parole. Changing the system could result in the criminals in these cases receiving life imprisonment without parole, whether there are two victims or one. This trend could continue into similar cases, resulting in more life imprisonment without parole for crimes that would have previously only resulted in life imprisonment with a chance of parole.

As we debate whether or not to abolish the death penalty, the adoption of life imprisonment without parole as a replacement is something that should be approached with skepticism.

