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The Role of Culture in the Capital Punishment Policy in Japan

There is a worldwide declining trend in the number of countries that have retained capital punishment since the end of the World War II, and the international society has created a series of benchmarks for modern democracies represented by the *acquis communautaire* by the European Union, and relevant covenants by the United Nations. However, the Japanese government does not try to match it up and is rather running backwards in the international trend. More precisely, whilst human rights violations cannot be permitted over cultural manifestations, the Japanese government proclaims that the capital punishment policy is culturally determined. This paper examines Jap-

anese institutional and cultural context, and clarifies: (1) the extent to which the Japanese culture has been influencing the capital punishment policy; and (2) in what way European and international anti-death penalty advocates can approach the Japanese government more effectively.

The first part of this paper will briefly review the extant theoretical research on the role of culture in political decision making. Firstly, it will review a normative theory which tries to offer a way to observe an international norm diffusion mechanism from cultural perspectives. Jeffery Checkel claims that diffusion is more rapid and smooth when a 'cultural match' exists to a great extent, which varies from positive (+), null (0) to

negative (-) indicating a degree of a congruence between international and domestic norms. Similarly, David Garland argues from sociological perspectives that penal regulations and institutions are operated within cultural codes. In order to investigate the actual role that culture plays in the capital punishment policy in Japan, the second part will investigate cultural features which appear to be associated with the capital punishment policy: (1) a social norm, which treats death a price worth paying for serious crimes; (2) Japanese legal and human rights consciousness. The third part will then investigate the institutional framework within which policy elites operate. Introducing a closed Japanese decision-making system, which restricts leading actors to bureaucrats, business community, and the ruling party, this paper will highlight the elite-driven nature of the capital punishment policy. Given that important decisions regarding the capital punishment policy are made by selected elites in selected governmental agencies, it will contend that it is policy elites' recurring use of language, which makes reference to culture, that has been influencing the public and scholars to be-

lieve that the capital punishment policy is domestically and culturally determined. Critical assessment of which specific approaches can help European and international anti-death penalty lobby influence Japan more effectively concludes this paper.