

SYSTEM AND PRACTICE TO CONTROL AND REDUCE PRISON POPULATION IN JAPAN

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Prison overcrowding in Japan

	average daily number of inmates in penal institutions		rate of imprisonment of penal institutions	
	Sentenced inmates	Untried inmates	Sentenced inmates	Untried inmates
1993	45057	7664	78	52
1998	51986	9060	89	58
2003	59062	12052	115	70
2008	69020	8336	98	47

Pre-trial Detention : System

- Limitation of detention period before indictment
 - 23 days for an offence (maximum)
- Bail after indictment
 - Mandatory and discretionary bail
- Speedy trial procedure for not serious offence

Speedy trial procedure

<Conditions>

- consent of the defendant with defense counsel

<Effect>

- trial within 14 days after indictment and judgment on that day
- simplification of examination of evidence
- limitation of sentencing:
 - imprisonment with a stay of execution or fine

Pre-trial Detention : Practice

Moderate use of pre-trial detention

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Arrest rate:

about 30 % of all suspects

Diversion : System

- Principle of discretionary prosecution

(Code of Criminal Procedure)

Article 248:

Where prosecution is deemed unnecessary owing to the character, age, environment, gravity of the offense, circumstances or situation after the offense, prosecution need not be instituted.

Diversion :Practice

- Active use of discretion by the prosecutor
 - The prosecutions of about 40 % of all suspects for non-traffic penal code offenses are suspended, although there is enough evidence to prosecute.
 - The prosecution of serious offences can be suspended.
- Compensation to the victim as one factor in deciding the suspension of prosecution

Suspended prosecution rate, by type of offense in 2008

Total	60.2
Penal code offenses	80.6
Non-traffic penal code offenses	42.1
Homicide	4.2
Robbery	4.0
Injury	39.7
Theft	42.6
Causing Death or Injury through Negligence in driving a vehicle	90.0
Special act offenses	31.3
excluding violations of road traffic related acts	39.8
Immigration Control Act	56.5
violations of road traffic related acts	29.6