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The Case of the 37 Judges

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Abstract: *Japan's criminal justice system has long been criticized for its practice of "hostage justice"* (hitojichi shihō), *which is characterized by prolonged pretrial detention, coercive interrogations, and pressure to confess. Yet accountability has largely focused on police and prosecutors, leaving the role of the judiciary less examined. Lawrence Repeta explores this issue through the case of Shizuo Aishima, who died while in government custody in 2021, after nearly eleven months of detention. Despite repeatedly requesting release to receive medical treatment, his appeals were denied. Prosecutors later withdrew the charges, and in an extraordinary acknowledgment of wrongdoing, joined police officials in apologizing at Aishima's grave. The case has since become the focus of an unprecedented lawsuit in which Aishima's family seeks to hold the Japanese government accountable for the decisions of 37 judges who repeatedly authorized his detention and denied requests for his release. Examining the case and its legal aftermath, Repeta raises fundamental questions about judicial responsibility and constitutional protections in Japan and the failure of Japanese courts to safeguard individual rights.*

Keywords: *Japan's justice system, judicial accountability, pretrial detention, constitutional rights, Shizuo Aishima*

The Tragedy

Shizuo Aishima died of stomach cancer while in government custody on February 7, 2021 at the age of 72. He was arrested together with two colleagues and had been held in detention for nearly eleven months prior to his death. He had repeatedly requested his release to receive medical treatment, but those requests were denied. Eventually, police officers would testify that the charges against Shizuo and his colleagues were "fabricated" (*netsuzo*) and prosecutors would withdraw the indictments.[1] Later, in an unprecedented action, prosecutors joined police officials to make apologies for their actions at Shizuo's grave.[2]

Will this tragedy lead to positive reform? This is the goal of a landmark suit filed by family members on April 6, 2026.[3] At a press conference held at the Foreign Correspondents Club of Japan on April 15, Kazuto Aishima, the decedent's eldest son, declared that the purpose of the suit was to correct the abusive police procedures that led to his father's death.[4]

Foreign observers of Japan's criminal trials soon learn the expression "hostage justice" (*hitojichi shihō*) which describes the harsh conditions faced by persons accused of crime. Human Rights Watch has defined hostage justice with these words: "The authorities strip suspects of their right to remain silent, question them without a lawyer, coerce them to confess through repeated arrests and denial of bail, and detain them for prolonged periods under constant surveillance in police stations."[5]

Shizuo Aishima and his colleagues were victims of hostage justice. They repeatedly proclaimed their innocence, but their requests for release were denied.

The search for accountability for hostage justice tends to focus on police and prosecutors, the officials who select targets for arrest and prosecution and administer interrogations in windowless rooms with no lawyers or other witnesses present.[6] When defendants refuse to confess, prosecutors object to bail requests and, in those cases where judges do grant bail, they file appeals to have those orders overturned. Defendants may languish in detention for many months and sometimes more than a year while their trials go forward.

Under these conditions, nearly all suspects confess. Those who are truly innocent are confronted by a terrifying dilemma: make a false confession and be released? or remain in jail?[7]

Suing the Judges

On April 6, the Aishima family charted a new path in the fight against hostage justice. Their suit levels accusations not against the police or prosecutors, but against the judges who approved Shizuo's arrest and continued detention – all 37 of them.[8]

The CALL4 website has published the Aishima family complaint and other documents related to the suit along with a schedule of upcoming hearings in Tokyo District Court. The website also provides a detailed English language description of Shizuo's treatment by the police and a summary of legal issues and other background information.[9]

The plaintiffs declare that it is the judges who play the central role in the hostage justice system. The police make the arrests, but in most cases they must first obtain arrest warrants from judges. Suspects remain in custody because judges issue detention orders. Judges also rule on defendants' requests for bail. Each stage of the criminal justice process requires a decision by judges.

In Shizuo Aishima's case, attorneys filed eight separate requests with courts for his release, but they were all denied. From the time of his arrest until his death, 37 different judges ruled against him. They approved his arrest warrant and then over a period of eleven months, they summarily accepted the prosecutors' claims that Shizuo could not be released because he would destroy evidence or flee. He died in government custody.

The Criminal Charge (March 2020 — July 2021)

The case began with the March 2020 arrest of three executives of *Ohkawara Kakoki*, a small Yokohama company that manufactures "spray dryers," equipment used to form a dry powder by spraying liquid into hot air to evaporate moisture. They are sold for export to places like China and South Korea where they are used to manufacture a wide range of products such as instant coffee and medicine.[10] According to the government, this equipment could also be used to develop biological weapons and therefore export requires licenses issued under the Foreign Exchange and Foreign Trade Law. This statute makes failure to obtain such licenses a crime, so enforcement moves from the relevant regulatory agency, the Ministry of Economy, Trade, and Industry (METI) — to the police.

The *Ohkawara* executives argued that licenses were not required. Their position was initially supported by METI, but prosecutors persuaded METI officials to change their tune and support the prosecutors' position instead.[11] During the period of nearly eighteen months *prior* to their arrests, the *Ohkawara* executives submitted to voluntary police interviews and otherwise cooperated with the police investigation. According to one, "The three of us accepted questionings by the police for a total of 98 times before our arrests, over a span of about a year and a half. We answered every question honestly and signed many written statements. Time and again, we would explain that the spray dryer could not be used to produce biological weapons."[12] If the executives thought this cooperation would lead to lenient treatment, however, they would be sorely disappointed.

On March 11, 2020, Shizuo Aishima, company president Masaaki Ohkawara, and senior executive Junji Shimada were arrested and charged with criminal violations of the Foreign Exchange and Foreign Trade Law. The arrests were followed by indictments three weeks later and the extended detention of the defendants thereafter. They maintained their innocence throughout.

Case Dismissed

The prosecution would fail. In July 2021,just four days before the first hearing in the criminal trial was to be held, prosecutors withdrew the indictments and the case was dismissed.[13] Ultimately, the criminal prosecution was not terminated by the order of a court, but instead by the prosecutors' own decision to give up.

The nightmare of the criminal prosecution was over, but it was too late for Shizuo Aishima. Diagnosed with stomach cancer in the autumn of 2020, he requested his release in order to undergo diagnostic tests and other treatment, but his requests were denied. Even though Shizuo had no criminal record and was debilitated by cancer, judges decided that the risk he might conceal evidence or flee was just too great. These are the grounds universally cited by judges who deny such requests; they are the engine that powers the "hostage justice" machine.[14] Shizuo remained inside.

Civil Suit for Compensation (September 2021 — June 2025)

The 2026 suit against the judges is not the first action seeking compensation for the tragedy. In a judgment issued on December 27, 2023, a Tokyo District Court panel found the government liable and ordered the payment of 160 million yen to Shizuo's heirs and his two colleagues. That trial featured the courageous testimony from a police official who said that the charges were "fabricated" (*netsuzo*).[15] The government appealed to the Tokyo High Court, but this court also agreed with the plaintiffs and issued a judgment on May 28, 2025 that increased the award to 166 million yen.[16]

The High Court found that in their zeal to pursue wrongdoing at *Ohkawara Kakoki*, the police had made several mistakes, including misinterpreting export regulations and failing to conduct additional tests on the machines that would have shown that no export licenses were required. In addition, the court found police behavior in interrogation rooms improper. Following standard practice, the police drafted affidavits to be signed by the detainees. According to the High Court, however, in this case the affidavits conformed to police claims rather than those of the detainees and the police had defendants sign them without explaining the contents.[17]

The High Court concluded that there was "no reasonable basis" for the arrests. Government attorneys decided that an appeal would be futile and allowed the appeal period to expire. The award became final on June 11, 2025. Leaders of the Tokyo Metropolitan Police Department (MPD) were so embarrassed by the judgment that they issued apologies on the same day and announced that they had "set up an investigation team headed by the deputy commissioner to review the problems with the investigation and compile measures to prevent a recurrence."[18]

Apologies

Why did this injustice occur? According to a report on the first civil trial that appeared in the *Asahi Shimbun*, a judge placed this question to the police official who testified that the case had been fabricated.

The witness responded that "The export itself was not a problem, but the personal greed of the investigator made it so." When the judge asked him to explain, he said, "We did all these investigations even though there were no objective facts." "I thought the case was built up in the way that the investigators wanted. I can't think of anything else other than this." He said investigators can become greedy "when they look at their retirement and think about how far they can be promoted."[19]

This shocking testimony of the misuse of police power to serve private interests would surely have a big impact on the trial. We can only applaud the courage of the junior officer willing to deliver such an indictment of police investigators in open court. The *Asahi* did not name the witness or the "greedy" investigators.

Following the 2025 High Court judgment, the police conducted their own investigation into the cause of this miscarriage of justice and issued a report that was released at a press conference on August 7, 2025. The report echoed the findings of the High Court, including the unavoidable catch-all that senior police officials should have more effectively monitored the case. It did identify some specific problems, such as the investigators' failure to conduct experiments that would have validated the defendants' claims that no export license was required.[20]

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Ohkawara Kakohki also held a news conference on August 7. President Ohkawara and attorney Tsuyoshi Takada expressed their disappointment with the government report. In particular, they criticized the report's failure to specify the personal responsibility of individual actors. Who was truly responsible for this gross injustice? Apparently, the government report doesn't say.

Commenting on the news that 19 officials from the MPD's Public Security Bureau were subject to some form of discipline, attorney Takada said the disciplinary action was "too lenient" adding that "this is a direct reflection of the inadequate review." He and his clients demanded an investigation by an independent third party.[21]

Overwhelmed by grief and rage at their terrible loss, bereaved family members did not attend the company's news conference and refused to accept the apologies of government representatives.

The family's demands for a greater expression of remorse led to a truly extraordinary event. On August 25,senior officials from the MPD and the prosecutors' office stood before news cameras at Shizuo Aishima's grave and bowed their heads in apology to the deceased. At a press conference that day, MPD Chief Yuji Sakoda said, "I once again deeply apologize to the three individuals arrested and everyone else investigated for the significant trouble and anguish we put them through." Yoshinobu Kusunoki, commissioner-general of the National Police Agency, said, "Public security and foreign affairs departments nationwide will sincerely reflect on the shortcomings revealed in this case and will ensure that measures are implemented to prevent a recurrence."[22]

What About the 37 Judges?   (April 6, 2026 — ___)

As shown not only by the trial record and the arguments of defense counsel, but also by the admissions and apologies of police and prosecutors, there never was even a minimal case against the three defendants. Nonetheless, 37 different judges acted uniformly to uphold prosecutors' demands for their extended detention that continued for nearly a year.[23]

The Constitution establishes the judiciary as an independent branch of government and grants courts the power to determine the constitutionality of any government act.[24] The people rely on judges to protect their rights against the misuse of government authority. The *Ohkawara Kakoki* case is a story of the complete failure of Japan's criminal court judges to fulfill this role.

Family members filed a complaint with Tokyo District Court on April 6, 2026, that seeks compensation of more than 150 million yen. As in the earlier civil case, this complaint identifies the national government as the sole defendant with responsibility to compensate the plaintiffs for their loss. In this case, however, the complaint goes on to identify each of the 37 judges who had an opportunity to release Shizuo from detention, but did not. An appendix to the complaint lists 34 different acts by those judges that occurred between the issuance of an arrest warrant on March 10, 2020 and an order extending Shizuo Aishima's detention on January 21, 2021. Plaintiffs assert that these acts led to Shizuo's death eighteen days after the final order extending his detention.

In a press conference held at the Foreign Correspondents Club on April 15, 2026, Takashi Takano, an attorney for the Aishima family, expressed his outrage at the judges who agreed with prosecutors that Shizuo should not be released because he might tamper with evidence. "Tamper with evidence?" Takano cried. What "evidence"? The *Ohkawara* executives had voluntarily submitted to police interrogations and searches over a period of nearly a year and a half *before* their arrests. The police were already in possession of whatever evidence was to be had. And if the executives had really thought of flight, they would already be gone.

When a reporter asked whether the plaintiffs had been in contact with the 37 judges, Takano explained that the attorneys had sent a series of questions to each of them. In the US system, such questions would be called "interrogatories." As of the date of the press conference, the 37 judges had yet to respond.

What is the chance of success in a case like this? After all, the case against the 37 judges will be tried before a panel of their judicial colleagues. Can we really expect a court to rule against them? Attorney Takano expressed optimism. Whatever judgment the court renders, the judges will have to explain the rationale for their actions. The case against them is clear, he says.

The question remains: why do judges in Japan's criminal courts disregard rules of law intended to protect the rights of the accused? Pressed with this question at the April 15 press conference, attorney Takano ventured a response.

In Japan's system, the elite members of all three branches of the legal profession: judges, prosecutors, and attorneys, must attend and graduate from the same legal training institute operated under the auspices of the Supreme Court. Graduates are recruited directly into those three branches. Thus, like prosecutors and attorneys, most judges embark on their careers while they are still in their twenties.

Takano pointed to this life experience as a fundamental cause of the judges' behavior. They must begin issuing judgments at a very young age, with no experience working in defense of people arrested by the police. So they follow the practices established by senior judges rather than focusing on the strong provisions written into the Constitution and the law. Apparently, they learn that prosecutors' claims are to be taken at face value.

What about the constitutional right to remain silent? Incredibly, Takano suggested that not only do these judges ignore the strong provisions written into the Constitution, they interpret a suspect's refusal to confess itself as a sufficient reason to deny bail.

Kazuto Aishima followed Attorney Takano at the April 15 press conference, expressing his own words of outrage and pain. He declared that the purpose of this suit is to do away with hostage justice and ensure there are no more innocent victims like his father. He finished his presentation with a passionate declaration: "I do not want the country I love to continue with such brutal practices. We must not allow such a dark and ruthless system to be passed on to our children's generation. We must modernize Japan's criminal justice system into one where human dignity is respected."[25]

The agony of Shizuo Aishima is not the only case of abuse of police powers to reach Japan's courts in recent years.[26] The Aishima family's case against the 37 judges is currently being heard in the civil division of Tokyo District Court. Perhaps the court's judgment will lead to a true revival of the judges' role as a check on the excessive zeal of police and prosecutors.

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1. "Officer testifies criminal case against company was fabricated," *Asahi Shimbun*, July 3, 2023. https://www.asahi.com/ajw/articles/14947331. "During witness examinations in June 2023, an assistant inspector in the MPD attested to "fabrication" of the case." *Mainichi Shimbun*, December 7, 2023. https://mainichi.jp/english/articles/20231207/p2a/00m/0na/010000c. ↵
2. "Tokyo police, prosecutors apologize to late adviser of machinery maker over false charges," *Mainichi Shimbun,* August 25, 2025. https://mainichi.jp/english/articles/20250825/p2a/00m/0na/008000c. ↵
3. "Lawsuit targets judges in death of falsely accused man in custody," *The Asahi Shimbun,* April 6, 2026, https://www.asahi.com/ajw/articles/16478468. ↵
4. https://www.fccj.or.jp/event/press-conference-hostage-justice-dock-takashi-takano-kazuto-aishima A video of the press conference is available on YouTube: "Hostage Justice in the Dock," https://www.youtube.com/watch?v=pAI5RqQrm0U. ↵
5. See "Japan: 'Hostage Justice' System Violates Rights," https://www.hrw.org/news/2023/05/25/japan-hostage-justice-system-violates-rights. For recent developments in the fight for reform, including reference to the Okawara case, see Kanae Doi, "Recent Developments in 'Hostage Justice' in Japan: Advocacy for Legal Reform," https://www.hrw.org/news/2026/07/19/recent-developments-in-hostage-justice-in-japan-advocacy-for-legal-reform. ↵
6. The scholar Setsuo Miyazawa neatly summarized the situation faced by criminal suspects more than twenty years ago: "[T]he accused must defend himself against the efforts of the police to obtain a confession; he must survive without the assistance of a lawyer in an environment totally controlled by the police." Setsuo Miyazawa, "Introduction: An Unbalanced Adversary System – Issues, Policies and Practices in Japan, in Context and in Comparative Perspective," in Malcolm M. Feeley and Setsuo Miyazawa (eds.), *The Japanese Adversary System in Context* (Palgrave-Macmillan, 2002), p. 2. ↵
7. This is the dilemma presented in the 2007 film about a man falsely accused of crime, *Sore de mo boku wa yatte-inai* ("Even so, I didn't do it") directed by Masayuki Suo. ↵
8. Because judges are employees of the state and they were acting in their official capacity, the defendant in this case is the state and not the judges as individuals. ↵
9. https://www.call4.jp/info.php?type=items&id=I0000173 ↵
10. Karin Kaneko, "Tokyo court rules executives of spray dryer firm were wrongly indicted," *The Japan Times*, December 27, 2023. https://www.japantimes.co.jp/news/2023/12/27/japan/crime-legal/ohkawara-kakohki-ruling-investigation-fabrication/. ↵
11. "The Ministry of Economy, Trade and Industry, which oversees exports, had initially reacted negatively to the Public Security Bureau's own interpretation that the spray dryers were subject to regulations. The ministry may have eventually changed its interpretation in favor of the bureau after senior police officials encouraged them to do so." https://mainichi.jp/english/articles/20250530/p2a/00m/0op/017000c ↵
12. Comment of Junji Shimada, https://innocenceprojectjapan.org/archives/4953. See also the video report at https://asiasociety.org/video/guilty-until-proven-innocent-japans-hostage-justice-system https://www.youtube.com/watch?v=zT_FoFA-mmE. ↵
13. "Prosecutors noted Tokyo police could been seen as twisting reading of law in dropped case," *Mainichi Shimbun*, December 7, 2023. https://mainichi.jp/english/articles/20231207/p2a/00m/0na/010000c. ↵
14. Code of Criminal Procedure, Article 89. ↵
15. "Officer testifies criminal case against company was fabricated, *Asahi Shimbun*, July 3, 2023. https://www.asahi.com/ajw/articles/14947331. "During witness examinations in June 2023, an assistant inspector in the MPD attested to "fabrication" of the case." *Mainichi Shimbun*, December 7, 2023. https://mainichi.jp/english/articles/20231207/p2a/00m/0na/010000c. ↵
16. Saori Kuroda, "Court increases compensation for victims of 'illegal' investigation," *Asahi Shimbun* May 28, 2025. https://www.asahi.com/ajw/articles/15802106. ↵
17. "No appeal of major award to falsely accused firm will be filed," *Asahi Shimbun*, June 11, 2025. https://www.asahi.com/ajw/articles/15835687. ↵
18. "No appeal of major award to falsely accused firm will be filed," *Asahi Shimbun*, June 11, 2025. https://www.asahi.com/ajw/articles/15835687. ↵
19. "Officer testifies criminal case against company was fabricated," *Asahi Shimbun*, July 3, 2023. https://www.asahi.com/ajw/articles/14947331 ↵
20. "Police probe releases scathing report in falsely accused firm case," *Asahi Shimbun*, August 8, 2025. https://www.asahi.com/ajw/articles/15957231. ↵
21. "Police probe releases scathing report in falsely accused firm case," *Asahi Shimbun*, August 8, 2025. https://www.asahi.com/ajw/articles/15957231. ↵
22. Sakoda and Kusunoki's comments are quoted from "Tokyo police, prosecutors apologize to late adviser of machinery maker over false charges," *Mainichi Shimbun,* August 25, 2025. https://mainichi.jp/english/articles/20250825/p2a/00m/0na/008000c. ↵
23. At least one judge ordered the Aishima's (the defendants) release, but he was overruled by a three-judge panel the same day. Appendix to the Complaint filed on April 6, 2026. ↵
24. Constitution articles 76 and 81. ↵
25. Quotations are from the video of the press conference available on YouTube: "Hostage Justice in the Dock," https://www.youtube.com/watch?v=pAI5RqQrm0U. ↵
26. For a comprehensive report on another shocking example of the abuse of police powers, along with proposals for change, see David T. Johnson, "The Acquittal of Hakamada Iwao and Criminal Justice Reform in Japan," *Asia-Pacific Journal: Japan Focus*, November 30, 2024. https://apjjf.org/2024/11/johnson. ↵

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