

## DEATH PENALTY

# Stop the state killing

**Two weeks after his 18th birthday in 2006, Sina Paymard was taken to the gallows to be executed in Iran. As he stood there with a noose around his neck, he was asked for his final request. He said that he would like to play the *ney* – a Middle Eastern flute. Relatives of the murder victim, who were there to witness the execution, were so moved by his music that they agreed to accept the payment of *diyeh* (blood money) instead of retribution by death, as is allowed under Iranian law. The noose was removed and he was taken down from the gallows.**

**Sina Paymard was granted a stay of execution while his family and his victim's family negotiated payment of *diyeh*. Although Sina Paymard remains today under sentence of death in Reja'i Shahr prison in Karaj, his story offers a rare glimmer of humanity in the brutal world of state killings.**

### 2006 at a glance

**2**006 saw significant developments and events – both positive and negative – in the struggle against the death penalty. In June, the Philippines abolished the death penalty for all crimes. However, in December, Bahrain carried out its first execution in over 10 years, leaving Israel as the sole abolitionist country in the region.

Statistics show that the use of the death penalty increased slightly in geographical terms but decreased in the number of actual executions. Twenty-five countries carried out executions in 2006, an increase from 22 in the previous year. The worldwide total of reported executions dropped from 2,148 in 2005 to 1,591 in 2006.

The vast majority of the world's executions occur in China. Death penalty statistics are not released by the government. Based on its monitoring of public reports available, Amnesty International calculated that at least 1,010 people were executed during 2006, although the true figures were believed to be around 7,000 to 8,000.

The trend towards abolition of the death penalty is clear. While each one must be opposed, outside China an execution

is becoming an increasingly rare event. Amnesty International recorded around 500 executions worldwide during 2006 outside China and believes that the total figure does not exceed 1,000. Vast swathes of the world are now execution-free. In Africa only six countries executed in 2006; Belarus is the only European country that continues to use the death penalty; and the USA is the sole state in the whole of the Americas to have carried out any executions since 2003. Only Asia and the Middle East remain largely unmoved by the worldwide trend away from the use of the death penalty.

Behind the numbers are the people under sentence of death. It is estimated that the number of individuals currently waiting for the state to end their lives – often living in the appalling prison conditions reserved for those on death row – was between 19,000 and 24,000 at the end of 2006.

The irony of the death penalty is that the majority of condemned prisoners will never be executed – and a lifetime spent on death row is another example of the particular cruelty of this punishment. The death penalty results in thousands of people living in fear – often for decades – of being judicially murdered. The solution is not faster and increased executions, but rather the abolition of the death penalty.



## Steps towards abolition

There can be little doubt that our world is moving towards being execution-free. The question is when this will be achieved and how many more will have to die before then. Some of the leaders of countries that continue to execute talk about their desire to abolish capital punishment. In March 2007 a member of the Iraq government told the media, "We are working at the present moment in order to pave the way to eliminate capital punishment in Iraq, after restricting it to the largest possible extent."

Even in China, progress is being made. On 1 January 2007 an amendment to the court system came into effect requiring all death sentences to be approved by the Supreme People's Court. Speaking in the Human Rights Council of the UN in March 2007, a Chinese delegate, La Yifan, said, "I am confident that with the development and the progress in my country the application of the death penalty will be further reduced and it will be finally abolished."

declared. At first a spokesperson for the Florida Department of Corrections claimed that this was because Angel Diaz had a liver disease, a statement refuted by the Medical Examiner after performing an autopsy. The needle had gone through a vein and out the other side, with the effect that the deadly chemicals had been injected into soft tissue rather than the vein. Two days later Governor Jeb Bush suspended all executions in the state and appointed a commission "to consider the humanity and constitutionality of lethal injections"

- ▶ **Iran:** women continue to be stoned to death for consensual sexual activity outside marriage – a crime in Iran which carries the death penalty. Amnesty International received reports that a man and a woman were stoned to death in May, despite a moratorium being declared by the Head of the Judiciary in 2002. Stoning itself is calculated to cause maximum distress: the size of the stones are selected so as to cause a slow and painful, rather than instant, death.

## Cruel, inhuman and degrading

There is no acceptable execution but 2006 witnessed many particularly horrific state killings:

- ▶ **Somalia:** Omar Hussein was publicly executed in May. He was hooded, tied to a stake and stabbed to death by the 16-year-old son of the man whom he had admitted stabbing to death in February. Omar Hussein had been sentenced to death hours earlier by a Shari'a court which does not allow the right to legal representation or appeal.
- ▶ **Kuwait:** Sri Lankan national Sanjaya Rowan Kumara was executed in November. Initially declared dead immediately after the hanging, Sanjaya Rowan Kumara was taken to the morgue where medical staff noticed he was still moving. According to newspaper reports, further examinations found a weak heartbeat. He was eventually pronounced dead five hours after the execution had begun.
- ▶ **Florida, USA:** Angel Diaz was executed by lethal injection in December. After the first injection was administered, Angel Diaz continued to move, squinting and grimacing as he tried to mouth words. A second dose was administered, and 34 minutes passed before death was

## Selecting who will die: the death penalty is an arbitrary punishment

Some proponents of the death penalty argue it must be maintained for the "worst of the worst" criminals. The reality is that this criterion is rarely used for selecting who will be sentenced to death and who will live – on the contrary it is an arbitrary process, both in terms of who is condemned by the judicial process and who on death row is chosen for execution.

In the USA, approximately 3,250 men and 50 women live on death row. In 2006, 53 were put to death. At this rate, the USA will take more than 60 years to execute every condemned prisoner – not including those who will be sentenced in the future. In Pakistan, over 7,000 men and women await execution; at the current rate of executions it will take over 85 years to execute everyone.

Japan would take approximately 25 years – and given that many of the condemned are already elderly, the majority will not survive to see their day of execution. Okunishi Masaru, sentenced to death in 1969, is now 81 years old. Oohama



Shouzou, sentenced in 1975, is 79. Both have spent decades under sentence of death, living in almost complete isolation from other prisoners or the outside world and, as they are given no warning of their executions, living in constant fear that every day would be their last. Who is eventually executed has the appearance of being a random selection: Hidaka Hiroaki, 44; Fukuoka Michio, 64; Akiyama Yoshimitsu, 77; and Fujinami Yoshio, 75, all lived under these conditions for decades before being executed on 25 December 2006. Fujinami Yoshio was taken to the gallows in the Tokyo Detention Centre in a wheelchair while partially blind Akiyama Yoshimitsu, who also could not walk, had to be helped to the execution chamber by prison guards. Both had been appealing against their death sentences.

## Executions after unfair trials

The UN High Commissioner for Human Rights has called for the "complete abolition of the death penalty". Until that is achieved, the UN has agreed that the infliction of the death penalty is sufficiently grave that it can only be carried out after application of the very highest standards of justice. Yet numerous governments continue to execute their citizens after grossly unfair trials. 2006 again produced examples of gross violations of the right to fair trial in death penalty cases:

- ▶ In **Jordan** many prisoners have been executed following convictions obtained through confessions extracted under torture. In March 2006 Salem Sa'ad Bin Sweid and Yasser Fathi Ibrahim Freihat were executed after unfair trials. Both defendants claimed in court that they had been tortured to extract "confessions" while they were held without contact with anyone from the outside world for more than a month. Despite evidence that they had been tortured, the executions of both men went ahead.
- ▶ In **Saudi Arabia**, death sentences are imposed and carried out after secret and summary trials with disregard for all international standards relating to trials and the use of capital punishment. Foreign migrant workers from Africa have been executed after legal proceedings carried out in a language they did not understand – in some cases without even knowing they had been sentenced to death.

## Executing the innocent

All criminal justice systems are vulnerable to error. Numerous countries have released prisoners from death row after newly discovered information exonerated them. For others, the information came too late and the execution proceeded despite doubts about the guilt of the person being put to death.

In 2006, Tanzania released Hassan Mohamed Mtepeka from death row. He was condemned to death in 2004 for the rape and murder of his stepdaughter. The Appeal Court found that his conviction overwhelmingly rested on circumstantial evidence which "did not irresistibly point to his guilt". In Jamaica, Carl McHargh was released from death row in June after being acquitted on appeal. In the USA, John Ballard became the 123rd person to be released from death row since executions resumed in 1977 after his conviction was overturned on appeal. It stated that the original judge should have dismissed the case because the evidence against John Ballard was so weak.

In some cases official acknowledgement that a state has executed an innocent person takes decades. In January 2007 eight pro-democracy activists in South Korea were posthumously acquitted of treason charges, more than 30 years after they were hanged in 1975. The Seoul Central District Court found they were not guilty of forming an underground party aiming to overthrow the authoritarian government of then President Park Chung-hee.

## Taking the world into the execution chamber

In December 2006, the highest profile execution of the year took place when former President Saddam Hussein went to the gallows in Iraq after an unfair trial. Silent film of the execution up to the moment before the hanging took place was officially released by the Iraqi authorities and shown worldwide. However, further images, illicitly recorded by mobile phone, were then made available via the internet. This film – which included sound – showed prison guards taunting Saddam Hussein and details of the execution until the moment the trap door opened.

This spectacle had a profound effect upon world public opinion. Many people who were supporters of the death penalty reacted with revulsion. Others were angry that the brutal film caused them to feel sympathy for a man held responsible for so many victims that their true total will never be known. Still others believed that Saddam Hussein should have been hanged – but were distressed at the manner in which the execution took place. For Amnesty International members worldwide, it underlined the importance of the abolition message: that under no circumstances should anyone be executed by the state. Its practice is antithetical to human rights principles, and is too arbitrary and too prone to manipulation for it to continue. For many, the execution of Saddam Hussein galvanized their opposition to the death penalty.

## The growing global campaign for abolition

More than 600 activists against the death penalty from every part of the globe gathered in Paris in February 2007 for the third World Congress Against the Death Penalty. The Congress addressed obstacles that need to be overcome if global abolition of the death penalty is to be achieved.

The Congress also heard from some of the relatives of those who have been murdered – and those put to death – both of whose profound suffering is often ignored. All those involved in an execution may be deeply affected, including the firing squad, the hangman or the lethal injection strap-down team, but the loved ones of the condemned prisoner are rarely heard when the death penalty is being debated. A new organization has been formed in the USA – No Silence, No Shame – to help give a voice to those suffering the trauma of having their relatives executed by their government.

Amnesty International believes every execution increases the suffering in society and multiplies the victims of violence.

The chain reaction of lives lost must be stopped. As the 10-year-old daughter of a man executed in Texas, USA, put it: "They're going to kill him because he killed somebody, so when they kill him, who do we get to kill?"

A new, growing and dynamic network was also represented at the World Congress. The Anti-Death Penalty Asia Network (ADPAN) was established in 2006. ADPAN is made up of lawyers, parliamentarians and abolitionist activists from numerous countries including Australia, Hong Kong, India, Indonesia, Japan, South Korea, Malaysia, Mongolia, Pakistan, Papua New Guinea, Singapore, Taiwan and Thailand.

## Political courage needed to rid the world of judicial state killing

The world is moving towards abolition of the death penalty. In the past 10 years, over 30 nations have put an end to this cruel and inhuman practice. Time has shown that public opinion in many countries will accept the removal of capital punishment from the lawbooks. In other countries many still believe that the death penalty is required for law and order – but these numbers are decreasing and more and more are looking forward to the day when their own country becomes execution-free.

Will politicians lead their populations and stop executions? The time has come for those governments in favour of abolishing the death penalty to have the courage of their convictions and lead by example. Amnesty International believes that the next few years hold great promise, with the number of executions predicted to drop, the number of men and women on death row to decrease, and ultimately the number of governments prepared to declare their countries execution-free to increase.