

UNITED STATES OF AMERICA

The Death Penalty in Texas: Lethal Injustice

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Introduction

The state of Texas executes more people than any other jurisdiction in the Western world. The death toll is astounding: of the 74 executions carried out in the United States of America (USA) during 1997, one-half (37) occurred in Texas, a record number since the reintroduction of the death penalty. Between the resumption of executions in 1977 and the end of 1997, the USA put to death 432 prisoners nationwide, with Texas alone accounting for one-third of the total (144).

Amnesty International does not seek to excuse the brutal nature of the crimes committed by many of those on death row or detract sympathy from the victims of violent crimes and their families. However, the organization is unconditionally opposed to the death penalty as a violation of the most fundamental human right: the right to life.

Although 29 states in the USA have carried out one or more executions since 1977, no other US jurisdiction can rival Texas' appetite for judicial homicide. Texas has carried out more executions than the next four highest executing states in total: Virginia (46), Florida (39), Missouri (29) and Louisiana (24).

But these grim statistics reveal only a small part of the story. At every step of the process in Texas, a litany of grossly inadequate legal procedures fail to meet minimum international standards for the protection of human rights. The standard of jurisprudence is so poor that the state has even offered a different version of events in the same crime at different trials. This was tolerated by the appeal courts (see the case of Jesse Jacobs on page 8).

Some Texas officials are so keen to have prisoners executed, that they are even willing to openly contemplate the execution of an innocent prisoner. During oral arguments before the US Supreme Court in *Herrera v Collins* the assistant Attorney General of Texas, Margaret Griffey, was asked by Supreme Court Justice Anthony Kennedy "Suppose you have a videotape which conclusively shows the person is innocent, and you have a state which, as a matter of policy or law, simply does not hear new evidence claims, is there a federal constitutional violation?" she replied "No, Your Honor, there is not...such an execution would not be violative of the Constitution."

Texas is prepared to execute prisoners without first ensuring that their conviction and sentence complies with the US Constitution by completing the appeal process. Of the 144 prisoners executed up to the end of 1997, 14 had refused to appeal their sentences and had

consented to their execution. Some of these prisoners had requested the death penalty during their trial, making their execution little more than state-assisted suicide. Furthermore, the conditions of incarceration of death row inmates in Texas are so severe that no prisoner should be seen as freely “consenting” to their execution, but rather as making a choice not to go on living under such harsh conditions.

In particular, Amnesty International remains profoundly concerned over the appallingly low standard of legal representation afforded at trial to many of those facing the death penalty in Texas. The lack of effective legal representation during the trial is compounded by the appeal courts' unwillingness to adequately examine the fairness and constitutionality of death row inmates' convictions and sentences.

The rulings of the Texas Court of Criminal Appeals (TCCA), the highest court in Texas, in death penalty cases are a maze of contradictory and sometimes bizarre decisions. In one recent case, the Court acknowledged that the defence attorney had fallen asleep repeatedly during a capital murder trial. Nonetheless, the TCCA upheld the conviction, finding that this gross misconduct *had not* affected the outcome of the trial. Seven of the nine judges on the TCCA are affiliated to the Republican Party and appear to vote as a block rather than as individual judges deciding each case on its merits.

Executions in Texas are carried out using lethal injection. Texas was the first US state to use this method in December 1982, when Charles Books Jr. was executed. Contrary to US popular opinion, lethal injection is not always quick and painless. Numerous prolonged executions by lethal injection, where the prisoner may have suffered their death in agony, have been documented. For example, James Autry, executed in 1984, complained of pain during the execution, which took ten minutes¹.

The racial nature of the use of the death penalty

Since the resumption of executions in 1977, Amnesty International has continually monitored the racial bias with which the death penalty is implemented, particularly around the race of the murder victim. For example, although nearly half of all murder victims are black, 82.62 per cent of those executed nationwide were convicted of the murder of a white. This pattern of racial disparities is repeated in Texas. A study conducted for the *Dallas Times Herald* in the mid-1980s showed that the killer of a white was anything up to 10 times more likely to receive a death sentence than the killer of a black victim.

¹For further information see *Lethal Injection: The medical technology of execution*, published January 1998, AI index AMR 51/01/98.

These statistics are upheld by an analysis of the victims of those executed in Texas. Of the 144 prisoners executed up to the end of 1997, 127 (88 percent) were executed for the murder of a white victim. Yet approximately 58 percent of murder victims in Texas are from ethnic minorities.

Racial minorities are also over represented on Texas death row. As of 1 January 1998, Texas' death row comprised 436 men (171 white, 173 black and 89 Hispanic, including 11 Mexican nationals² and three others) and six women (four white and two black): a total of 442.

Amnesty International believes that, while the organization opposes **all** executions, at the very least the Texas authorities should take steps to ensure that the death penalty is applied in a race neutral manner.

The role of politics and poverty

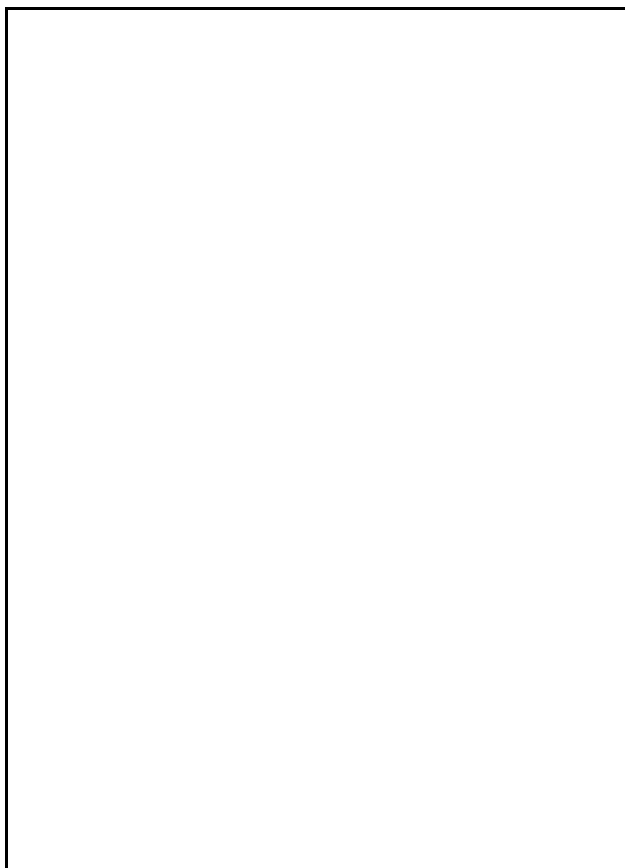
Article 5 of the United Nations Economic and Social Council (ECOSOC) Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty states: "*Capital punishment may only be carried out pursuant to a final judgement rendered by a competent court after legal process which give all possible safeguards to ensure a fair trial...including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to adequate legal assistance at all stages of the proceedings.*"

Public support for the death penalty in Texas remains strong, undermining any political will that might ensure the provision of competent and adequate legal aid for indigent defendants on trial for their lives. This politicization of the death penalty extends even to the judiciary: Texas judges are elected officials, many of whom ran for office on a pro-execution platform. The fear of not being seen as pro-death penalty led one District Attorney to state to the *Texas Lawyer* publication (in May 1995): "*You can't quote me [by name]; that would kill me politically if people around here thought I didn't go for a death sentence whenever possible.*"

There is no statewide system of legal aid in Texas and no standards of competence exist for court-appointed defence attorneys, even in capital cases. As a consequence, indigent defendants are frequently represented by incompetent or underpaid attorneys, greatly increasing the risk that death sentences will fall disproportionately on the poorest members of society.

Until recently, no post-conviction funding was provided beyond the single mandatory review of death sentences required by Texas law. Since virtually all death row inmates are financially impoverished, many were left with no attorney to represent them on appeal. This

²For further information see USA: *Violation of the Rights of Foreign Nationals Under Sentence of Death*, AI publication AMR 51/01/98



Public support for the death penalty remains high but its use clearly brutalizes. Pro-death penalty demonstrators celebrate the execution of Karla Faye Tucker on 3 February 1998. The placard is a reference to the pickaxe Tucker used to murder her victims. Photo: Ann N Paterra.

crisis was compounded by the withdrawal of federal funding for the Texas Resource Center in 1995, thus removing the primary source for legal representation and the recruitment of volunteer attorneys for death row inmates³.

Recently enacted state legislation is intended to ensure the appointment and funding of attorneys to represent condemned prisoners in state post-conviction appeals. However, the legislation sets no standards for the appointment of competent counsel and the courts are struggling to find enough attorneys to fill the void. In any event, most of the resulting “*habeas corpus*” appeals are dismissed after a cursory review by the Texas Court of Criminal Appeals.

Until 1996, most reversals of US death sentences occurred in the federal courts, which found defects in the trial meriting reversal in approximately 40 percent of appeals. However, the

situation has changed dramatically with the implementation of a new federal statute, the *Anti-Terrorism and Effective Death Penalty Act (AEDPA)*⁴, signed into law by President Clinton on 24 April 1996.

The intent behind the new statute is to increase the number of executions by imposing strict time limits on appeals, to restrict access for prisoners to the federal courts and to empower

³For more information see *USA: Death Penalty Developments 1995*, AI index AMR 51/01/96

⁴For further information see *USA: Death Penalty Developments in 1996*, AI index AMR 51/01/97

the state courts to redress any constitutional violations. Federal courts are now directed to show deference to state court findings.

One of the key provisions of the new law required condemned prisoners whose convictions had been affirmed by state courts to file an appeal in federal court no later than April 1997. In response to the deadline facing hundreds of Texas death row inmates, the Texas Court of Criminal Appeals reportedly conscripted 48 new defence lawyers in November of 1996. Many of the attorneys had never handled a capital case before or have no experience with the complexities of post-conviction litigation of death sentences.

The overall performance of the Texas Criminal Court of Appeals does not justify the confidence which the US Congress has placed in the capacity of state courts to fairly and rationally interpret constitutional protections. On one occasion, the Court arbitrarily created a new precedent which flew in the face of well-established federal court rulings, simply in order to deny a compelling “*habeas corpus*” appeal.⁵

The infliction of the death penalty on juvenile offenders

All international human rights treaties prohibit the imposition of the death penalty on anyone under 18 years of age at the time of the crime. The United Nations Economic and Social Council Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty resolution 1984/50, adopted in December 1984, state in article 3 that “*persons below 18 years of age at the time of the commission of the crime shall not be sentenced to death...*”.

The United Nations Convention on the Rights of the Child also prohibits the execution of juvenile offenders under the age of 18 at the time of the offence. However, the USA is one of only two countries (the other being Somalia) that have not ratified the Convention.

Since 1990, only five countries are known to have executed juvenile offenders: Iran, Pakistan, Saudi Arabia, Yemen and the USA. The majority of these executions were carried out in the USA (9), five of them in Texas⁶. At the end of 1997, there were 25 men on death row in Texas who were sentenced at the age of 17, the minimum age stipulated by Texas death penalty law.

⁵See the case of César Fierro on page 21.

⁶Texas was the first US state to execute a juvenile offender when Charles Rumbaugh was put to death on 11 September 1985.

The racial disparities in the sentencing of juvenile offenders to death in Texas may well be the most disproportionate in the USA. Of the 25 juvenile offenders under sentence of death, 23 are from ethnic minorities (92 percent).

The case of Joseph Frank Cannon

Typical of the juveniles on death row in Texas is Joseph Frank Cannon, black, sentenced to death in 1982, for the murder of Anne Walsh, white, when he was 17-years-old. Cannon came from a highly abusive

The “*exceptional depravity and oppressiveness*” of Cannon’s upbringing has meant he has thrived better on death row than in his home environment.

background. At the age of four, he was hit by a pickup truck and spent 11 months in hospital. Upon release his mother placed him in an orphanage because of her inability to care for him. Cannon was unable to function in school due to his learning disabilities and was expelled at age six. He began sniffing glue and solvents; at the age of ten he was diagnosed as suffering from organic brain damage resulting from solvent abuse. He was further diagnosed as schizophrenic and was treated in mental hospitals from an early age.

Joseph Cannon was sexually abused by his stepfather (his mother's fourth husband) at ages seven and eight and was regularly sexually assaulted by his grandfather between the ages of 10 and 17. He attempted suicide when he was 15 years old.

At his murder trial in 1980, Cannon unsuccessfully pleaded not guilty by reason of insanity and was sentenced to death. This conviction was overturned in 1981 and he was re-tried in 1982. At his second trial he again pleaded not guilty. At trial his lawyers offered no mitigating testimony concerning his mental health or disturbed upbringing. At the time, the wording of the Texas capital procedures increased the risk that such compelling mitigating factors might actually weigh against him in the jury's decision as to whether a defendant would pose a future danger to society.

Provided with no information on his shockingly deprived background, a Texas jury once again sentenced Joseph Cannon to death.

A psychologist who later examined Cannon considered his case history “exceptional” in the extent of the brutality and abuse he had received as a child. He concluded that such was the “depravity and oppressiveness” of his upbringing that Cannon has thrived more on death row than he ever did in his home environment. Joseph Cannon has learnt to read and write since being in prison.

Joseph Cannon is scheduled for execution on 22 April 1998.

Fatal flaws: prosecutorial misconduct and the lack of effective legal representation

Amnesty International has documented numerous capital cases in Texas where defence counsel totally abdicated their responsibility to their clients, in effect condemning them to death. Equally, prosecutors are often guilty of concealing evidence favourable to the defendant from the defence attorneys, in contravention of their legal and ethical obligations, and of urging juries to impose death sentences because “the community demands it”.

Frequently, defence attorneys make almost no attempt to persuade jurors not to impose a death sentence. In the case of Kenneth Mosley, sentenced to death in Texas in October 1997, his defence attorney told the jury that he believed his client should be put to death, but that a prison sentence was a worse punishment. In his closing statement he told the jury: “You saw what a pitiful, hollow, insignificant, snivelling human being he [Mosley] has become. Is this the kind of person you want to put out of his worthless misery?” The attorney declined an offer from Mosley's mother to testify on behalf of her son. The jury took less than 30 minutes to reach a recommendation of death.

Authorities in the state of Texas have taken no steps to remedy the poor quality of defence counsel in capital cases. Amnesty International believes this problem stems from a lack of political will: no politician will address the appallingly low standards of legal representation for fear of being seen as 'on the side of the murderer'. It is far easier to simply deny that the problem exists than it is to sanction the funding necessary to address it.

In Texas, attorneys for poor capital defendants are appointed by the trial judge and are often woefully underpaid. In a 1990 report entitled “Towards a More Just and Effective System of Review in State Death Penalty Cases”, the American Bar Association stated that the “inadequacy and inadequate compensation of counsel at trial was one of the principal failings of the capital punishment system in the [United] States today”.

In 1993, the Spangenberg Group issued a report entitled “A Study of Representation in Capital Cases in Texas”. Commissioned by the Texas Bar Association and the Texas Bar Foundation, the report delivered a scathing indictment of criminal defence procedures for indigent defendants. The study concluded that “Texas has already reached the crisis stage in capital representation...the problem is substantially worse than that faced by any other state with the death penalty”.

Until recently, Texas refused to appoint counsel to represent indigent death row inmates during their “*habeas corpus*” appeals, thus forcing inmates to rely upon those few lawyers willing to give their services free of charge. This wholly unsatisfactory situation came to an end in 1995, when the Court of Criminal Appeals was mandated to “appoint competent counsel” to

represent indigent defendants on death row. Attorneys would henceforth be compensated and, upon request, receive funds for investigation and experts.

While Amnesty International acknowledges the provision of legal representation, the new rules are also designed to speed the time between sentence and execution by imposing a 180-day deadline on the filing of appeals -- a completely unrealistic limitation. The new regulations also restrict the filing of a second appeal.

However, while removing the safeguards against unconstitutional executions, officials in Texas are willing to incorporate suggestions from the "victims' rights" movement. In December 1995, political pressure led to a change in the rules regarding those who are allowed to witness executions. The changes allow five members of the prisoner's victim's families to witness the execution. Following the new rules, the room from which executions are witnessed was divided into two: one side for the relatives of the execution victim, the other for the relatives of the murder victim.

The case of Jessie DeWayne Jacobs

Jesse DeWayne Jacobs was executed in Texas on 4 January 1995. He was sentenced to death in 1986 for the murder of Etta Ann Urdiales. At his trial, the prosecution had argued that "the simple fact is that Jesse Jacobs,

"This is not going to be an execution. This is premeditated murder... I am not guilty of this crime."
Final statement of Jessie DeWayne Jacobs.

and Jesse Jacobs alone, killed Etta Ann Urdiales." Seven months later Jacobs' sister, Bobbie Jean Hogan, was also put on trial for the murder of Urdiales. At Hogan's trial the same district attorney, Peter Speers, who had prosecuted Jacobs' case, told the jury that "through the course of it all I have changed my mind about what actually happened. And I'm convinced that Bobbie Hogan is the one who pulled the trigger." Jesse Jacobs was a "central" witness in Hogan's trial and the prosecution urged the jury to believe him. Bobbie Jean Hogan was convicted of shooting Urdiales and was sentenced to ten years' imprisonment for involuntary manslaughter.

Jacobs remained on death row despite the fact that his sister had been convicted of shooting Etta Ann Urdiales. The prosecution argued that Jacobs was still guilty of a capital offence as an accessory to the murder. However, this argument ignored the fact that the jury who sentenced Jacobs to death believed him to be the triggerman in the killing of Urdiales and that the prosecution had put forward two different versions of the killings at the two trials.

The US Supreme Court denied Jacobs' motion for a stay of execution on the grounds that it could not overturn the jury's determination of fact. In his dissent from the majority decision, Supreme Court Justice Stevens wrote: "I find this course of events deeply troubling. If the prosecutor's arguments at the trial of Jacob's sister are to be believed, then Jacobs is

innocent of capital murder. In my opinion, it would be fundamentally unfair to execute a person on the basis of a factual determination that the state had formally disavowed.”

In his final statement in the execution chamber, Jesse DeWayne Jacobs protested the injustice of his death, stating: "There is not going to be an execution. This is premeditated murder by the appointed district attorney and the State of Texas. I am not guilty of this crime.”

The case of Bobby Moore

Bobby Moore was convicted in June 1980 for the robbery and murder of a convenience store clerk three months earlier. Moore hired two Houston lawyers, Al Bonner and C.C. Devine, to represent him. The latter was in poor health during the trial and died shortly after its conclusion. Bonner has since been disbarred for life from practising law for offences of dishonesty. Following the trial, former state prosecutors stated that the defence lawyers were “an embarrassment to the bar”.

Prior to the trial, Moore's mother alleged that Bonner went to her home and ransacked it looking for stolen jewellery that would help pay his fee. According to the mother, when Bonner failed to find anything of value he lost interest in the case.

Upon arrest Moore made a full confession, stating that he intended to rob the premises but that the shooting was accidental. Other evidence supported his account. His defence lawyers told him that “if he stuck with that he would receive death” and requested the state to remove any mention of accidental shooting when the confession was introduced before the jury. Rather, his attorneys concocted a false alibi, placing him in Louisiana at the time of the crime. The alibi was destroyed at trial when it was revealed that bullets recovered from the crime scene matched a gun found under the bed where Moore slept in Houston. Moreover, a wig used in the robbery was found on the same premises. The state also called an accomplice whose testimony placed Moore at the scene. The defence failed to interview this witness and was aware of the other damaging information prior to the trial.

Once convicted, Moore's lawyers presented no punishment phase testimony on his behalf, even though he was borderline mentally retarded and had suffered at the hands of an alcoholic and abusive father. State courts denied Moore's appeals but his sentence was quashed by the federal District Court, after it determined that his trial counsel was ineffective.

The federal district judge stated that the attorney's tactic in ignoring the accidental shooting theory “...transcends ineffective layering. To fail to seek out or to ignore this evidence is inexcusable”. The judge continued:

"It is the Court's opinion that the inadequate investigation and trial counsel's persistence in the alibi defence, in light of the overwhelming weight of evidence to the contrary, was not the result of trial strategy, but instead gross incompetence".

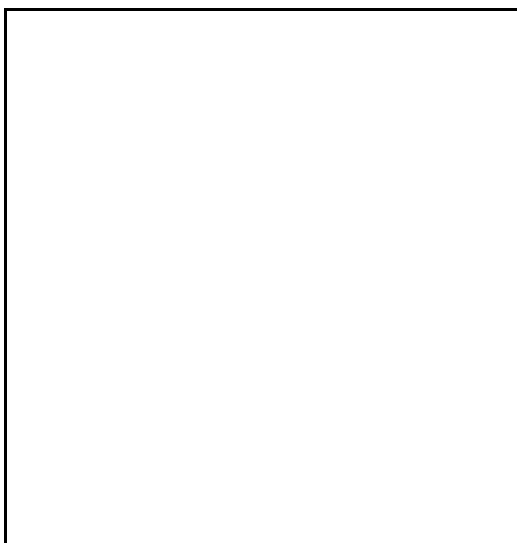
As the District Court pointed out, Bobby Moore's attorneys grossly mishandled his legal representation and violated their oath as members of the bar with astonishing frequency, from the time that they were retained in the case to the very end.

According to the District Court, "Trial counsel presented a defence that contravened the overwhelming weight of the evidence and successfully excluded or ignored the exculpatory evidence that was most crucial to any defence. The egregiousness of their conduct not only jeopardized the rights of the petitioner, but denigrated the legal system as a whole, the aggregate effect of which resulted in a sure death sentence."

The state appealed the reversal to the US Fifth Circuit Court of Appeals, which held that the new *Anti-Terrorism and Effective Death Penalty Act* (AEDPA) applied retroactively to Moore's case and that, under these amended standards of review, Moore's appeal must be denied. However, the US Supreme Court has remanded the case back to the Fifth Circuit Court of Appeals, in light of their finding that the AEDPA should not have been applied retroactively.

The case of Calvin Burdine

Calvin Burdine was convicted in 1984 for robbery and murder. Since then, he has survived six execution dates. Although Calvin Burdine is openly homosexual, he was defended at trial by Joe Frank Cannon, a lawyer who has referred to homosexuals as "fairies" and "queers" -- and who fell asleep during the trial.



Calvin Burdine

According to information received by Amnesty International, Burdine was an adopted child who ran away from home when he was 15 years old, after suffering years of sexual and physical abuse at the hands of his parents, including repeated rapes by his father. Burdine eventually met the victim, an older man, who provided him with a place to stay. A sexual relationship began, where Burdine was again subjected to abuse. He left after the victim tried unsuccessfully to get him to work as a male prostitute.

Calvin Burdine then met his co-defendant, Doug McCreight. The two decided to

leave the Houston area but first visited the victim's house, intending to obtain money that Burdine was owed. Burdine told McCreight to be careful because the victim kept a gun in the house. On arriving, McCreight went to the bathroom and discovered a gun and knife. He then murdered the victim.

Upon his arrest, Burdine admitted taking the money but denied any involvement in the murder. In his second 'confession', he stated that he joined McCreight in stabbing the victim. Burdine was without a lawyer during both interviews. At trial, he testified that the first statement was true and that the police had concocted the second version.

Burdine was prosecuted for capital murder, while McCreight pleaded guilty to murder and refused to testify for either the state or the defence. He has since been released on parole.

During the trial, defence counsel was seen by both jurors and court staff to be sleeping. According to an affidavit by the foreman of the jury, Cannon slept on more than one occasion: "...I observed that Mr Joe Cannon appeared to doze off into a state of sleep on at least a few different occasions, perhaps as many as five different times."

Cannon claimed that he was simply concentrating on his pending cross-examination of state witnesses. On appeal, the state court quashed the conviction and death sentence, finding that defence counsel had fallen asleep during the trial. However, this sensible decision was overturned by the Texas Court of Criminal Appeals which held that in Texas, unlike other US jurisdictions, a sleeping defence attorney does not qualify as "ineffective assistance of legal counsel" unless it occurred during a "substantial portion of the trial".

Amnesty International is alarmed and appalled that the Texas Court of Criminal Appeals is prepared to tolerate attorneys so lacking in commitment to the lives of their clients that they have slept during the trial.

Cannon presented no mitigating evidence during the punishment phase of the trial, even though a wealth of material was available. According to a defence expert, Burdine suffers from a severe identity disorder and post-traumatic stress syndrome "caused from a history of early deprivation and significant physical and sexual abuse arising out of his childhood". At the time of his adoption, he was severely malnourished and his sister was suffering from rickets, a serious nutritional disease.

Such expert testimony at trial would have offered jurors a compelling psycho-social assessment of Burdine, giving them a powerful reason to spare him from the death penalty. This much was apparent to Calvin Burdine, if not his counsel, when he wrote the following letter, prior to the trial, pleading for help:

“What I feel would be the best possible defence at this present time would be for me to get some psychiatric evaluation . . . I DO ADMIT that I need some drastic help, I have for along [sic] time, I am powerless over my own dicisions [sic], I have tried for several years to become my own man and failed at it miserably. . . . I just pray that the Court will show some murcey [sic] to a very broken down individual”.

Much of the trial had homophobic overtones. During the penalty phase, the prosecutor argued in favour of a death sentence by suggesting that a homosexual man might "enjoy" prison life: “Sending a homosexual to the penitentiary certainly isn't a very bad punishment for a homosexual and that's what he [the defence attorney] is asking you to do.”

Burdine was to be executed on 4 August 1987. The date was rescheduled to 7 October, but on 2 August prison authorities told Burdine that he was to be taken to “death watch”, the final phase before execution.⁷ Burdine produced the court order staying the proceedings, but prison staff refused to stop preparations for the execution. He was refused permission to call his lawyers. Thereafter he had his “final” meal and was instructed to make out his will. On 3 August, within five hours of the “scheduled” execution, the prison authorities conceded they had made a “mistake”.

A very similar pattern of events took place when Burdine was scheduled for execution on 17 January 1995.

Burdine has faced six execution dates. In two of these instances the prison authorities may have continued preparations for Burdine’s execution despite their knowledge that the courts had issued a stay of execution. For the authorities to subject a prisoner to the gratuitous extreme mental suffering of being put through the preparations for an execution which they know will not take place, can amount to a form of torture as defined by the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by the USA on 21 October 1994.

Calvin Burdine is not the only Texan prisoner facing the death penalty to be defended by a lawyer who slept during the trial. George McFarland, sentenced to death in 1992, was represented by an attorney who admitted he had slept, stating: “I’m 72-years-old. I customarily take a short nap in the afternoon.” When interviewed about the attorney sleeping, the trial judge, Doug Shaver, replied: “The Constitution says everyone’s entitled to the attorney of their choice. The Constitution does not say the lawyer has to be awake.” The Texas Court of Criminal Appeals affirmed McFarland’s conviction and death sentence. Carl Johnson, executed in Texas on 19 September 1995, also accused Joe Cannon of sleeping while defending him during his trial.

⁷While on death watch prisoners are held in a small cell adjacent to the execution chamber and kept under 24-hour surveillance in order to prevent them from committing suicide.

The case of Henry Lee Lucas

Henry Lee Lucas was convicted of the capital murder of a young, unidentified woman whose body was found near Georgetown, Texas, on 31 October 1979. He was convicted on the basis of his confessions, although he later disavowed those statements. Nowhere in Lucas' accounts concerning the "Orange Socks" murder, as the case became known, did he provide any more information about the victim or crime than law enforcement officers already possessed. The authorities ignored an alibi placing him in Florida at the time of the murder.

Lucas was convicted of murder in the course of committing or attempting to commit aggravated sexual assault; the sexual assault element was needed to qualify Lucas for the death penalty. Prior to the arrest of Lucas, the Williamson County Sheriff's office had concluded that the victim was not sexually molested because there was no evidence of sexual assault. The prosecution were unable to produce any physical or circumstantial evidence lending any independent support to the actual occurrence of the underlying felony offence charged.

Lucas was arrested in June 1983, on suspicion of murdering two other people, Kate Rich and Frieda Powell. Lucas embarked upon a lengthy course of confessions to unsolved murders; at one point he claimed to be the most prolific serial killer in history, attributing to himself more than 600 murders over about a 10-year span covering almost every state in the USA and some foreign countries. These included high-profile cases such as the disappearance of the trade union leader Jimmy Hoffa. Lucas also claimed he delivered the poison for the mass suicide of the cult led by Jim Jones in Guyana.

In 1985 and 1986, the Office of the Attorney General conducted an investigation into the background of Henry Lee Lucas in order to determine the reliability of his confessions to unsolved murders around the state and country. Problems with the confessions had been brought to the attention of police agencies, prosecutors, and journalists who questioned their accuracy and veracity. The Attorney General's investigation was to determine whether murder cases were being prematurely closed on the basis of false confessions by Lucas, possibly allowing the real perpetrators of the crimes to escape justice.

The final report, entitled the "Lucas Report", was published in April 1986. It concluded that Lucas was perpetrating a massive hoax on the law enforcement authorities. According to the report, Lucas obtained a lot of his information about crimes from the interview process itself, during which different officers would talk to him about the crimes; he would be shown crime reports with details and photographs of the victims and crime scenes. Although the Attorney General uncovered clear and convincing evidence of the hoax, the Texas Rangers (a statewide police force) continued to insist that Lucas had murdered hundreds of people.

The "Orange Socks" murder is no exception to the general pattern the Attorney General found in other Lucas cases. There was no physical evidence to support the confession that he

had raped and murdered the unidentified female victim. Quite the opposite was true. The investigation found trustworthy work records and other evidence that showed Lucas was in Jacksonville, Florida, at the time of the crime.

Attorney General Mattox stated in 1986, “[that] we found work records, check cashing evidence, all information indicating Lucas was somewhere else. [W]e found nothing tying [Lucas] with the crime he confessed to and was convicted of.” In addition, the results of a lie detector examination of Lucas indicated that he did not commit the “Orange Socks” slaying.

The Attorney General concluded that “no rational trier of fact could find beyond a reasonable doubt that Henry Lee Lucas committed the “Orange Socks” murder and left the unidentified victim in a Williamson County culvert around October 31, 1979.” In a later affidavit the Attorney General stated that his office would not intervene in the “Orange Socks” case because they were sure the Texas Court of Criminal Appeals would reverse the conviction. The Court denied the appeal and Lucas remains on death row.

Death versus a life sentence

In Texas a death sentence is imposed by the trial court if the jury concludes that the defendant would pose a future danger⁸ if allowed to live (often referred to as the “future dangerousness” question) and rejects any mitigating evidence that may warrant a life sentence.

Although juries are required to assess a capital defendant’s “future dangerousness” before deciding upon the sentence, the Texas Constitution prohibits a defence attorney from informing the jury when the defendant would be eligible for parole if sentenced to life imprisonment. Amnesty International believes this increases the likelihood of juries recommending a death sentence as they fear a defendant’s early release may endanger society. Jurors cannot be informed that a capital defendant sentenced to a life sentence must serve a minimum of 40 years imprisonment before they become eligible for parole. Amnesty International condemns this as it seems to be a further perversion of justice.

⁸The American Psychiatric Association believes that it is unethical and unscientific for a psychiatrist to give a medical opinion about the long term future dangerousness of a violent offender because the best scientific studies have found that psychiatrists are wrong more often than right when they give such opinions. *Barefoot v Estelle*, 463 US.880, 897, 901 n.5 & 7 (1983)

Amnesty International believes that providing juries with full information regarding sentencing when deciding between life or death increases the likelihood of a life sentence. The findings of numerous public opinion polls support this premise. A recent poll⁹ found that 61 percent supported the death penalty in Texas as it now stands, but that support drops to only 41 percent if there was a life without parole option. Support drops to only 23 percent if Texas would also require life-sentenced capital murderers to work for money to pay their victims' families.

These findings are also supported by polls in other states. In Nebraska, 80.4 percent support the death penalty, but only 51.6 percent prefer a death penalty when the alternative is parole ineligibility for 25 years.¹⁰ The data shows that in a number of states, support for the death penalty drops when parole eligibility is at least 25 years.¹¹ The death penalty becomes even less attractive when the length of parole ineligibility increases.

The failure of the Texas courts to provide complete sentencing information to juries at the penalty phase came under attack in a recent opinion by Justice Stevens of the US Supreme Court (joined by three other Justices). In an opinion dissenting from the Court's ruling in *Brown v Texas*, Justice Stevens described the situation in Texas as "especially troubling" and urged that the lower courts give the matter further study so that "the issue can be resolved correctly".

The US Supreme Court has held that in states that impose life sentences without parole, if the prosecutor raises the issue of "future dangerousness" defendants have a due process right to inform juries that they will never be eligible for parole. Amnesty International strongly opposes the prohibition in Texas on providing the jury with accurate information on the alternatives to a death sentence. The perversity of this practice is glaringly obvious, considering that Texas juries in non-capital cases must be told when a defendant will become eligible for parole.

The misuse of psychiatric evaluation in capital cases

During the penalty phase of Texas capital cases, the prosecution often calls upon an "expert" witness to testify that the defendant would pose a future danger to society. In a high proportion of the cases of those on death row in Texas, Dr James P. Grigson, a Dallas forensic psychiatrist, testified that in his opinion the defendants were "absolutely" and "most certainly" a danger in the future. This "expert" opinion, usually based wholly on hypothetical questions posed by the

⁹Quoted in *The Houston Chronicle*, 1 February 1998

¹⁰See Bowers, Vandiver & Dugan, A New Look At Public Opinion On Capital Punishment; What Citizens And Legislators Prefer, 22 Am. J. Crim. L.77 (1994)

¹¹ 77% to 62% in Arkansas, 64% to 45% in Virginia, 75% to 62% in Georgia.

prosecutor, was offered to urge the jury to impose death because the defendant would pose a future danger to others if given a life sentence.

Dr Grigson (often referred to as “Dr Death”) has testified for the prosecution in at least 140 Texas capital trials; jurors imposed death sentences in more than 98 percent of these cases. Dr Grigson has repeatedly testified that his predictions are 100 percent accurate.

A report compiled by an investigator for the Dallas County District Attorney's Office provides unequivocal proof that Dr Grigson's testimony regarding his predictions of the danger posed by a defendant in the future was in fact wildly inaccurate. This report, dated 29 July 1988 and sent directly to Dr Grigson by First Assistant District Attorney Norman Kinne, shows that Grigson's accuracy in predicting future violent behaviour by capital defendants approaches zero percent.

The Kinne Report documents the conduct of 11 former death row inmates who were convicted in Dallas County, but whose death sentences were either commuted to a life sentence or reduced to a term of imprisonment. Dr Grigson testified for the State in 10 of these 11 cases. Yet despite Dr Grigson's near-identical predictions that each inmate would “beyond any doubt,” “absolutely,” and “without any question” commit acts of dangerousness in the future, the Kinne Report reveals that not a single one of Dr Grigson's predictions about these individuals has been accurate.

For example, in the case of Doyle Boulware, convicted of capital murder in 1976, Dr Grigson testified that Boulware had a “sociopathic personality disorder” that was “as severe as one can become.” According to Dr Grigson, the “prognosis” for Boulware was that his “antisocial behavior” would “only continue” and “become gradually and increasingly worse,” regardless of whether Boulware were released into society or incarcerated in an institution.

Further, Dr Grigson testified that there was no way that Boulware's condition would improve over time: “[T]his is not a passing fancy or a - growing pains or anything of this sort. This is a - it's fixed. It's been there for years. It will remain there for years.... There is absolutely nothing in medicine or psychiatry that modifies, changes in a beneficial way.”

In this case, Dr Grigson went beyond mere predictions of future dangerousness, instead guaranteeing that Boulware would “certainly” kill someone “if there is any way at all he was given the opportunity to.” Boulware was sentenced to death.

The Kinne Report showed these predictions to be totally inaccurate. According to the report, during 12 years of imprisonment following Dr Grigson's testimony, Boulware had only one disciplinary report, for an unarmed fight with another inmate. The report also noted that Boulware was a State approved trustee who “causes no problems” and was at that time up for Parole Review.

In the case of Randall Dale Adams, Dr Grigson continued to maintain that his prognosis was correct, even *after* Adams had been released from death row in 1988, having been proved innocent (Grigson also maintained that Adams was guilty). Dr Grigson testified during the trial in January 1977 that Adams has a “sociopathic personality disorder,” and was “at the very extreme, worse or severe end of the scale.” “Very significant” to Dr Grigson’s “diagnosis” of Adams as a “sociopath” was Adams’ “absolute absence of any type of guilt or remorse, regret feelings.” According to Dr Grigson, Adams “will continue his previous behavior,” and his behavior will “ascend” and he may even kill again. According to Dr Grigson, “nothing known in the world today” could help to change Adams.

On cross-examination during the trial, Dr Grigson stated his view that Adams was a sociopath, even if he assumed that Adams *was innocent* of the crime he was charged with, and even though he claimed to be aware that Adams had never previously been convicted of any felony. Adams was sentenced to death.

The Kinne Report reveals Dr Grigson’s predictions to be wrong. According to the report, Adams was an “ideal inmate,” who “works as a clerk in the Garment Factory,” and “[l]ives in a Dormitory as opposed to a cellblock, [which is] indicative of minimum custody and supervision.” No disciplinary incidents whatsoever were noted. Randall Adams has, to Amnesty International’s knowledge, not been convicted of any crime since his release.

In both 1980 and 1982, Dr Grigson received confidential reprimands from the American Psychiatric Association for his trial testimony. Finally, in 1995, Dr Grigson was expelled from both the American Psychiatric Association and the Texas Psychiatric Association for unethical behaviour, as a direct result of his grossly unscientific predictions in death penalty trials.

Amnesty International is appalled by the testimony of Dr Grigson and the devastating impact it had upon jurors. Amnesty International believes that the disclosure of the Kinne Report, coupled with Dr Grigson’s expulsion from the APA, amply establish the inaccuracy of his testimony. The organization urges that an urgent review of all death penalty cases in which Dr Grigson testified for the prosecution be carried out by the Office of the Attorney General. The review should be conducted with a view to commuting the questionable death sentences to life imprisonment.

The infliction of the death penalty on the mentally ill or the mentally retarded

The execution of the mentally retarded contravenes international human rights standards. For example, the United Nations Economic and Social Council (ECOSOC) resolution 1989/64, adopted in May 1989, recommends “eliminating the death penalty for persons suffering from mental retardation or extremely limited mental competence.”

In June 1989, the US Supreme Court ruled in the case of *Penry v Lynaugh* that the execution of a mentally retarded defendant is not prohibited by the US Constitution. There is, however, widespread and growing support across the USA for repealing laws which permit the execution of prisoners with mental retardation.

Advocacy groups concerned with mental health issues have condemned the application of the death penalty on the mentally retarded; the American Association on Mental Retardation and the Association for Retarded Citizens have stated their opposition, as have the American Psychological Association and the American Bar Association. A growing number of states prohibit the execution of the mentally handicapped.¹²

However, despite the above, it is common practice for prosecutors to attack any suggestion that a defendant should not be subjected to the death penalty because of their mental retardation, asserting that the defendant is only borderline retarded or “malingering”.

The case of Terry Washington

Terry Washington was sentenced to death for the murder of a college student in 1987. Tests administered on him following the sentence indicated that he has a mental age of six; in two intelligence quota (IQ) tests he scored 58 and 69, below the threshold for significant mental retardation (the average for a person of normal intelligence is 100). On appeal, a federal court agreed that he suffered from organic brain damage attributed to fetal alcoholic syndrome, which was exacerbated by years of appalling poverty, physical abuse and constant seizures. Terry Washington's jury knew none of these facts because his defence failed to present any mitigating evidence.

Terry Washington's lawyer made no attempt to explore his client's mental capabilities or his background. Washington's trial attorney later conceded that he was unaware of a US Supreme Court decision that allows funding for defence attorneys to hire mental health experts for conducting pre-trial examinations. Medical evaluations conducted after Washington's trial concluded that he would have been unable to assist in his own defence and that he was totally unaware of his surroundings during his trial.

The overwhelming evidence that Terry Washington was mentally incompetent to stand trial was presented by new lawyers for the first time during his “*habeas corpus*” appeal, filed on 14 June 1993. The very next day, the state court held a “hearing” and the following day

¹²Georgia, Tennessee, Kentucky, New York, Arkansas, Colorado, Washington, New Mexico, Kansas and Maryland.

issued a ruling denying the petition. On that same day, the Texas Court of Criminal Appeals affirmed the conviction and sentence of death.

Terry Washington was executed on 6 May 1997.

The case of Johnny Frank Garrett

Johnny Frank Garrett was executed in Texas on 11 February 1992 for the murder of a nun, a crime committed when he was 17-years-old. The execution proceeded despite his long history of severe mental illness and childhood abuse.

Garrett was extremely mentally impaired, chronically psychotic and brain-damaged... a mental health expert described Garrett as *“one of the most virulent histories of abuse and neglect...I have encountered in 28 years of practice.”*

As a youth, Garrett was raped by his stepfather, who then hired him to another man for sex. From the age of 14 he was forced to perform bizarre sexual acts and participate in pornographic homosexual films. He was first introduced to alcohol and other drugs by members of his family at the age of ten and subsequently indulged in serious substance abuse involving brain-damaging substances such as paint-thinner and amphetamines. Garrett was regularly beaten and on one occasion was put upon the burner of a stove, resulting in severe scarring.

Information on Johnny Frank Garrett's abusive upbringing and mental health problems were not made available to the jury. According to three mental health experts who examined him between 1986 and 1982, Garrett was extremely mentally impaired, chronically psychotic and brain-damaged as the result of several severe head injuries he sustained as a child. He suffered from paranoid delusions, including a belief that the lethal injection would not kill him. One of the experts described Garrett's case as *“one of the most virulent histories of abuse and neglect...I have encountered in over 28 years of practice.”*

Following appeals for clemency from Pope John Paul and the nuns from the victim's convent, then-Governor Ann Richards granted Garrett a rare 30-day executive reprieve. However, after a grossly inadequate clemency hearing, the Texas Board of Pardons and Paroles voted unanimously not to recommend commutation of his death sentence and the execution of Johnny Frank Garrett was allowed to proceed.

Politics and the death penalty: the lack of competent legal counsel for those facing death

The Texas Legislature has failed to set down any guidelines for those who qualify as "competent counsel" in capital cases. The current policy is that any member of the Texas Bar is eligible to be appointed to represent an indigent death row inmate, regardless of their legal experience, even though capital law is highly complicated. In March 1997, Judge Charles Baird of the Texas Court of Criminal Appeals appeared before a lawyers' seminar, urging **anyone** to come forward and accept an appointment. The urgency was due to the impending deadline set down by the *Anti-Terrorism and Effective Death Penalty Act*.

Amnesty International calls upon the Executive, Legislature and Judiciary in Texas to ensure that rigorous standards are met before the courts appoint a lawyer to defend a capital case, whether at trial or on appeal. Amnesty International finds it inexplicable that the State of Texas refuses to impose similar criteria and standards as those enforced by the federal court regulations. Title 21, U.S.C 848 (q) (6) states that at least one lawyer must have been authorized to practise before a federal court for at least five years and must have had at least three years experience in handling felony cases.

The appeal courts: unwilling to uphold the US or Texas Constitution

The Texas Court of Criminal Appeals has consistently refused to uphold the appeals of death row inmates, even when clear violations of the law or Constitution have taken place. The continued use of the "harmless error" doctrine has meant that in Texas the appeal courts are, in Amnesty International's opinion, simply part of the process towards execution, rather than an independent arbiter of the legal process.

The case of César Roberto Fierro

In the case of Mexican national César Roberto Fierro, sentenced to death for the murder of a taxi driver in 1980, the Texas Court of Criminal Appeals ignored the most blatant violations of "due process" of law. The most crucial piece of evidence against Fierro was his confession, which he alleged was coerced. Fierro claimed that upon his arrest in Texas the police in Juarez, Mexico, took his parents into custody, after agreeing to do so with the US police. Fierro was then informed of their detention and told that they would continue to be held until he confessed. At the trial, the officer who obtained the confession denied making any such threat and claimed he had no knowledge of the detention of Fierro's parents.

During the course of the appeals, the defence uncovered a police document indicating that the interrogating officer had been in contact with the Mexican authorities, was aware of the

detention of Fierro's parents and actually put Fierro on the telephone to talk with the Juarez police commander.

On appeal, the state trial court concluded that the confession was coerced and, in a highly unusual decision, quashed the conviction and ordered a re-trial. The Texas Court of Criminal Appeals agreed that César Fierro's due process rights had been violated by perjured testimony but that the "error" in introducing the involuntary confession was "harmless". The Court reached this extraordinary conclusion by simply increasing the standard for capital defendants filing "*habeas corpus*" petitions. Where previously in successful appeals defendants would only have to show that the error "possibly" contributed to the conviction or sentence, they now had the burden of proving it by a "preponderance of the evidence" (i.e. a probability).

Fierro's appeal was denied, even though the trial prosecutor filed an affidavit stating that, had he known how the confession was obtained, he would have supported an application to suppress it. He went on to state that without the confession he would have "move[d] to dismiss the case". To this day, no physical evidence of any kind links César Fierro to the crime for which he awaits execution.

After denying Fierro relief, the state court set an execution date of 19 November 1997. However, in a highly unusual move, the US Fifth Circuit Court granted Fierro a stay of execution and gave him permission to file a second federal "*habeas corpus*" petition.

Killing without mercy: the lack of a meaningful clemency process

Article 6 of the International Covenant on Civil and Political Rights¹³ states "*anyone sentenced to death shall have the right to seek pardon, or commutation of sentence; pardon or commutation of sentence may be granted in all cases...*"

Clemency and commutation have been the historic remedies for preventing miscarriages of justice where the judicial process has been exhausted. In 1992 the US Supreme Court in *Herrera v Collins*¹⁴ described clemency as the "fail-safe in our criminal justice system". Although the US Constitution does not require a state to provide a death penalty clemency process, the State of Texas, like all other death penalty states, has established a clemency review mechanism. Article IV, Section 11 of the Texas Constitution and Article 48.01 Texas Code of Criminal Procedure both provide for clemency review and commutation in capital cases.

¹³Ratified by the USA in June 1992.

¹⁴Leonel Herrera was executed in Texas on 12 May 1993

Since the reintroduction of the death penalty in 1976, the Texas Board of Pardons and Paroles has never recommended commutation after considering a request from a condemned inmate and has held only one clemency hearing in a death penalty case (see the case of Johnny Frank Garrett, page 20).

Every commutation of a death sentence granted in Texas since reinstatement (a total of 36), was sought by the State trial officers (the judge, prosecutor and/or sheriff) and was based on a policy of judicial expediency: a decision to commute in order to avoid the costs of a re-trial. No commutations have been granted in Texas for “humanitarian” reasons since the resumption of executions.

In 1997, the Board received 16 applications for clemency in capital cases. Not one of the 18 Board members voted for commutation in any of these cases. In six cases, some Board members failed to vote while one member abstained in 15 of the cases. The Board does not meet the inmate filing the request nor does it meet to discuss a pending application or provide written reasons for rejecting an application.

Although the Board has no criteria for what objective standards should be applied to a request for commutation, recent comments by the Board’s Chair, Victor Rodriguez, and Texas Governor George Bush indicate that the cases will only be reviewed to determine whether the inmate is innocent and had fair access to the courts. Governor Bush has previously made numerous comments expressing complete faith in the criminal justice system. It is therefore extremely unlikely that he would use the above criteria for commuting a death sentence.

Seven men have been released from Texas’ death row since 1987 after being found innocent. Several others have been executed despite troubling doubts about their actual guilt. None was granted a clemency hearing.

Amnesty International considers the clemency/commutation procedures in Texas to be in violation of international human rights standards. The process fails to comply with any reasonable concept of a fair procedure and provides no protection against arbitrary decision-making.

The Board and Governor’s current criteria completely rule out the historical basis for granting commutation through executive clemency, which consider such factors as mercy, mental illness, equity and rehabilitation. Nine other US states have commuted death sentences based in part upon the inmate’s rehabilitation.

In 1991, Governor Wilder of Virginia commuted the death sentence of Joe Giarratano because of his “rehabilitation, salvation and kindness to strangers”. In 1997, Governor Allen of Virginia commuted the death sentence of William Ira Saunders purely on the basis of his

rehabilitation; both Georgia and Montana have previously commuted death sentences on the same grounds.¹⁵

Conditions on death row

In October 1997, an Amnesty International delegation, lead by the organization's Secretary General, Pierre Sané, visited Texas and inspected the State's male death row, Ellis Unit 1. The



delegation toured the facilities afforded to death row inmates and met with three condemned prisoners, Robert Carter, César Fierro (see page 21) and Kenneth Ransom.

Texas is one of the few states that allows death row inmates to work. Inmates who are deemed "work capable" are offered the opportunity to work, for no pay, in the prison's garment factory which manufactures prison guards uniforms - ironically the uniforms that may be worn by the

Texas' death row, described by Amnesty International's Secretary General as "rows of tiny cages reminiscent of the dark ages."

guards who take part in putting them to death at a later date - and bags. In return the prisoners are allowed larger, shared cells and more visits. Many prisoners choose not to work in the factory. One inmate told the delegation: "A lot of people are not comfortable working for the state that's going to kill them."

Non-working prisoners are held in the "segregation" unit. The unit is divided into three categories, according to the behavioural record of the prisoner. All the categories are kept in tiny cells 5 x 9 feet (approximately 1.5 x 2.7 metres) which contain a bed and toilet. There is no air conditioning in the cell blocks in an area that reaches more than 40 degrees Celsius in the summer. Inmates are also left without food for 12 hours with a meal schedule of breakfast at

¹⁵William Neal Moore and David Cameron Keith respectively.

4am, lunch at 10am and dinner at 4pm. Prisoners spend up to 23 hours per day confined to their cells.

Amnesty International has received an increasing number of complaints from death row inmates detailing ill-treatment by guards and unfounded accusations of rule infringements, again by guards, which result in disciplinary action, such as periods of solitary confinement, being taken against inmates.

After the visit, Pierre Sané spoke of this reaction to the “overwhelming and emotionally draining” conditions he had witnessed: “I had never before met a healthy human being who knew the exact date, time and way in which he would be killed in cold blood. We have witnessed how a deliberate policy aimed at dehumanizing prisoners is implemented coldly, professionally and heartlessly. The effect is such that it has also dehumanised their keepers. The condemned await their deaths in rows of tiny cages reminiscent of the dark ages, their spirits are slowly broken. The conveyor belt of death in Texas must be stopped.”

Kenneth Ransom was put to death 19 days after the delegation met him.

Recommendations



Karla Faye Tucker, the first woman executed in Texas since 1863.

On 3 February 1998, Texas executed Karla Faye Tucker. Tucker, a “born again” Christian, was the first woman to be executed in Texas since 1863 and only the second woman in the USA since the reintroduction of the death penalty. Her execution attracted worldwide media attention and led to an increased debate concerning the morality and appropriateness of the death penalty. Immediately prior to the execution Governor Bush defended Texas’ use of the death penalty but expressed a willingness to consider other options such as life imprisonment without parole:

“I’m satisfied that everybody who has been put to death in the state of Texas has been given full accord under the law. I believe our system has treated people on death row fairly. I will be open minded to different aspects of reform if people

want to bring them up. If people think there's a better way, I'd like to hear the debate."

Amnesty International welcomes Governor Bush's commitment to consider other options to the death penalty but strongly disagrees with his opinion that it is applied fairly in the state. The organization is seeking to meet with Governor Bush to discuss its concerns.

Amnesty International is alarmed at the State of Texas' failure to set minimum standards for legal counsel to represent indigent defendants charged with or convicted of a capital crime. The organization believes that even the most ardent supporter of the death penalty should accept that a defendant on trial for their life should be adequately represented and urges the Texas authorities to adopt the minimum standards for the appointment of legal counsel in death penalty cases set down by the American Bar Association.

Amnesty International believes that the disclosures in the Kinne Report, coupled with Dr Grigson's expulsion from the American Psychiatric Association, indicates the unsound nature of his testimony in over 137 cases. The organization recommends that the Office of the Attorney General urgently review those cases with a view to commuting the affected death sentences to life imprisonment.

Amnesty International urges the State of Texas to comply with international standards and cease the execution of juvenile offenders and the mentally retarded or the mentally ill.

Amnesty International remains concerned that the politicalization of the judiciary, via the electoral process, in Texas detracts from its ability to dispense justice in an impartial and fair manner. The organization recommends that adequate measures are taken to ensure that trials and appeal hearings are not contaminated by the political considerations of the legal officials involved.

Amnesty International is appalled at the lack of any meaningful clemency procedures in Texas and urges the Texas Board of Pardons and Paroles and the Governor to institute humanitarian criteria for the granting of clemency in capital cases.