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# amnesty international

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## UNITED STATES OF AMERICA

### Supreme Court to revisit constitutionality of executing child offenders

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The decision by the United States Supreme Court to revisit its 1989 ruling allowing the execution of 16- and 17-year-old offenders offers hope that the USA will belatedly join the overwhelming global consensus that such executions are wrong.<sup>1</sup>

International law unequivocally prohibits the use of the death penalty against child offenders, anyone who was under 18 at the time of the crime. One of the four human rights treaties that contain this prohibition, the Convention on the Rights of the Child, has been ratified by 192 countries, all but the USA and Somalia.

The USA is the world's worst perpetrator of this international illegal practice. It accounts for 54 per cent of the world's executions of child offenders known since 1990 (19 of 35) and 65 per cent of those reported since 1998 (13 of 20). Although sporadic executions of child offenders have occurred in a small number of other countries, the USA is now the only country which openly acknowledges executing child offenders and claims for itself the right to do so.

Iran has been the second worst violator on this issue, having reportedly executed eight child offenders since 1990.<sup>2</sup> However, a bill drafted by the Iranian judiciary to raise the minimum age for imposition of the death penalty to 18 was approved by parliament in December 2003. Amnesty International expects the bill to be ratified into law.

In June 2002, in *Atkins v Virginia*, the US Supreme Court overturned its 1989 decision allowing the execution of people with mental retardation, ruling that "standards of decency" had evolved in the USA to the point that such executions were no longer constitutional.

Amnesty International believes that the Supreme Court cannot claim to be a consistent arbiter of the US Constitution and not outlaw the execution of child offenders as well. The organization argued this in detail in a 100-page report following the *Atkins* decision.<sup>3</sup>

The *Atkins* decision noted that the international community "overwhelmingly disapproved" of the execution of the mentally retarded. The international condemnation is even clearer in the case of child offenders.

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<sup>1</sup> It is reported that oral arguments will be scheduled to take place in the autumn of this year (November), in which case the Court's ruling would not be released until the first half of 2005.

<sup>2</sup> It has been reported that on 25 January 2004, Mohammad Mohammadzadeh was hanged in Iran for a murder committed when he was 17 years old. Agence France Presse, also Peyk-e Iran (internet news site), 26 January 2004. Worldwide, this was the sixth execution of a child offender known since 2000. Four of the other five were carried out in the USA and the fifth in China.

<sup>3</sup> USA: *Indecent and internationally illegal: The death penalty against child offenders*, September 2002, <http://web.amnesty.org/library/Index/ENGAMR511432002>

In 2002, the Inter-American Commission on Human Rights concluded that the prohibition on the execution of child offenders had become a peremptory norm of international law (*jus cogens*). The Commission noted that “the acceptance of this norm crosses political and ideological boundaries” and that the norm was binding on all countries, including the USA. No country can exempt itself from this global ban.

In October 2002, four dissenting US Supreme Court Justices described the execution of child offenders as a “shameful practice” and “a relic of the past”. One more Justice is needed for a majority.

In a speech last October, Justice Sandra Day O’Connor, not one of the four dissenters, said that “no institution of government can afford any longer to ignore the rest of the world”, and that the US Supreme Court “will rely increasingly on international and foreign law in resolving what now appear to be domestic issues”. To do so, Justice O’Connor continued, “may not only enrich our own country’s decisions; it will create that all-important good impression.”<sup>4</sup>

In his State of the Union address last week, President George Bush said that “Americans are rising to the tasks of history”. The nine Justices on the Supreme Court must now recognize that the USA is on the wrong side of history on this fundamental human rights issue. They must outlaw the execution of child offenders once and for all.

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**For further information, see:**

USA: *Evolving standards of decency*, January 2004

<http://web.amnesty.org/library/Index/ENGAMR510032004>

USA: *Indecent and internationally illegal: The death penalty against child offenders*,

September 2002 <http://web.amnesty.org/library/Index/ENGAMR511432002>

USA: *Dead Wrong: The case of Nanon Williams, child offender facing execution on flawed evidence*, January 2004 <http://web.amnesty.org/library/Index/ENGAMR510022004>

*Stop Child Executions!*, January 2004

<http://web.amnesty.org/library/Index/ENGA500012004>

*The exclusion of child offenders from the death penalty under general international law*, July 2003, <http://web.amnesty.org/library/Index/ENGA500042003>

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<sup>4</sup> Remarks at Southern Center for International Studies, Atlanta, Georgia, 28 October 2003.