

# @DEATH PENALTY NEWS

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A SUMMARY OF EVENTS ON THE DEATH PENALTY AND MOVES TOWARDS WORLDWIDE ABOLITION

## MALAWI - COMMUTATION OF ALL CURRENT DEATH SENTENCES

As a result of recent elections, Malawi has a new president, Bakili Muluzi. In his inauguration speech on 21 May the new president announced the commutation of all death sentences previously imposed by the Traditional Courts. He also announced that any remaining political prisoners of the former government would be released and three prisons notorious for human rights abuses, including the detention, torture and execution of prisoners, would be closed.

photo

The issue of the abolition of the death penalty is still a matter for public debate.

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## FEDERAL REPUBLIC OF YUGOSLAVIA

In June 1993 federal law, which allowed for the possibility of the death penalty for serious crimes such as "genocide" or "crimes against humanity" was brought into line with the 1992 federal constitution which removed the possibility of the death penalty. However, the situation is highly unusual in that the constituent republics of the federation, Serbia and Montenegro, have separate constitutions and criminal codes which still allow for the imposition of the death penalty for "aggravated murder". The authorities have not indicated that they intend to bring the republican laws into line.

The death penalty appears to be a real possibility under republican law in Serbia and Montenegro, as was demonstrated in April 1994 by the first reported sentence passed since the federal constitution abolished it. Milan Ivković was sentenced to death by a court in Niš for the murder of a judge in May 1993. The last reported execution in Serbia was carried out in February 1992.

## SOUTH AFRICA

The new government in South Africa is to maintain its moratorium on executions. During a debate on President Nelson Mandela's state-of-the-nation address at the end of May the Minister of Justice, Dullah Omar, confirmed that the moratorium, which had been first introduced in February 1990 and reconfirmed on 27 March 1992, would continue "for the present". The Justice Minister has also said that capital punishment will be one of the first items on the agenda of the new constitutional court. The court, which will have 11 members, so far has only a president, human rights lawyer Arthur Chaskalson. However it will convene as soon as the other ten members are appointed.

Despite the long moratorium on executions death sentences continued to be handed down by the courts.

There are now over 400 people on death row. During the 1980s well over 1,000 people were executed in Pretoria, the last one being in 1989. In 1990 one person was executed in the former Bophuthatswana "homeland". No executions have occurred in South Africa since then.

### Third Anniversary of Second Optional Protocol to the International Covenant on Civil and Political Rights

On 11 July 1994 it will be three years since the Second Optional Protocol came into force (which means that 10 states had become a party to it). This was the first global treaty aimed at ending the death penalty.

## TURKEY

### University students banned for one year

In early April seven university students were suspended from their college for a year. The seven, all members of the Izmir Nine September University Law Faculty, had been involved in launching a campaign for the abolition of the death penalty. They had taken this action following the approval of the death sentence of Seyfettin Uzundiz by the Judicial Commission of the Turkish Parliament. (See DP News December 1993). All seven students are to apply to court for an annulment of the decision.

### Six Kurdish Members of Parliament (MPs) arrested

The Turkish Parliament lifted the immunity from prosecution of six Kurdish MPs on March 2nd and promptly charged them with "separatism" under an article which carries the death penalty.

Five of the MPs belong to the Kurdish-based Democracy Party (banned by the Constitutional Court on 16 June) and one is an independent. Prime Minister Tansu Ciller said that the six MPs, one of whom is a woman, carried "a cloud of terrorism", linking them with the Kurdistan Workers Party guerrillas fighting in South East Turkey.

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## PHILIPPINES - FIRST DEATH SENTENCE PASSED SINCE REINTRODUCTION

Fernando Galera was found guilty of rape and was sentenced to death on 19 April this year, the first death sentence since capital punishment was reinstated in January.

Under the law the death sentence should be carried out in a gas chamber, but no chamber has been built and execution may be by electric chair until the chamber is constructed. The country's only electric chair was burned some years ago but prison officials are reported as saying that a new one is to be purchased.

All death sentences are subject to automatic review by the Philippines Supreme Court, which can either uphold, reduce or reverse the original ruling.



## USA

### **Death penalty reinstated in Kansas**

During the months of February and March 1994 a bill for the reinstatement of the death penalty was discussed in the Kansas Senate and House of Representatives. As a result of these deliberations two different versions of the bill were passed - that of the House of Representatives on 11 February and the Senate version on 1 March. However, both chambers finally agreed that the Senate bill should stand and it passed into law on 23 April 1994.

The Governor of the State, Joan Finney, a Catholic personally opposed to the death penalty, could have vetoed the bill but decided merely to take no action and allowed it to pass into law without her signature.

The law, which provides the death penalty for

persons over the age of 18 for seven types of intentional, pre-meditated murder including that of a rape victim or a police officer, will come into effect on 1 July 1994. The method of execution chosen is lethal injection and the legislation provides for a panel of three medical professionals to be involved in the process.

A public opinion poll carried out in Kansas in April 1994 found that 66% of those interviewed preferred life without parole plus restitution to the victims' families as an alternative to the death penalty. Figures available in December 1992 show that the murder rate in Kansas at that time was 6 per 100,000 inhabitants, lower than the average for those states with the death penalty which was 8.6 per 100,000. The last execution carried out in Kansas was in 1965.

### **Extension of scope of death penalty under federal law**

The House of Representatives passed a bill on 21st April which would expand the federal death penalty to encompass over 60 crimes. A similar measure was passed by the Senate in November 1993. A final version of the crime bill might be agreed in a joint version of the Committee and signed by the President before it becomes law.

At present the death penalty is only authorised under federal law for murder during the hijacking of an aircraft or for drug-related killings. No one has been executed under federal law in the USA since 1963.

### **Racial Justice Act**

The House of Representatives version of the omnibus crime bill included the Racial Justice Act, specifically formulated to address the problem of racial bias in the way death penalties are derved and often carried out. The provision would permit condemned defendants to challenge their state or federal death sentences by showing

a pattern of racial bias in past death sentences handed down under their jurisdiction. However, the Senate version of the bill contained no such measure.

It is therefore uncertain whether this would be included in the final version of the bill.

### **Maryland - lethal injection option now available**

John Thanos was executed by lethal injection on 17 May 1994. This was the first execution in Maryland

for over 32 years and the first where the prisoner was offered an alternative to the gas chamber.

In an effort to assist another prisoner in his appeal John Thanos had volunteered to have his execution video-taped while his brainwaves were monitored by electroencephalograph. These two different types of data were then to be put

State legislature passed a bill in March allowing lethal injection as an alternative to execution in the gas chamber and John Thanos chose this option.

together in an attempt to prove that execution by gas was cruel and fell outside the bounds of the Eighth Amendment to the US Constitution.

Before this could happen, however, Maryland

### Another Attempt to show an Execution on TV

Once again an attempt has been made to video an execution so that it can be televised.

David Lawson died in the gas chamber in North Carolina on 15 June, having decided not to opt for death by lethal injection. Lawson himself had contacted a number of television shows with a view to having his life story televised as a warning to others, and a video made of his actual execution as he thought it would make a meaningful contribution to the public debate on the death penalty by showing the cruel and unusual nature of the punishment. At the same time Lawson's attorneys were endeavouring to stop his execution altogether on the same grounds - that death by gas constitutes cruel and unusual punishment.

A television "chat-show" host applied to broadcast the video of Lawson's execution on his television show but his application was turned down by the North Carolina Supreme Court, as was his appeal. Both requests, that of the attorneys and that of the "chat-show" host, then went before the US Supreme Court but both were turned down without comment or dissent.

In 1991 a TV station in California attempted to video an execution in order to televise it (see "Book Review" below). This attempt was also unsuccessful.



### KUWAIT - TWELVE DEATH SENTENCES COMMUTED.

Twelve prisoners, ten Jordanians of Palestinian origin, one Iraqi and one man of unknown nationality, were sentenced to death by the State Security Court in 1992 and 1993 following their convictions on charges of "collaboration" with Iraqi forces during the occupation of Kuwait.

During sessions held in March and June 1994 the Kuwaiti Court of Cassation reduced all twelve death sentences to terms of imprisonment - one for life, one for ten years and the remainder for 15 years.

Three of those whose death sentences were reduced to 15 years:

Hussain Rashid  
Hussain (aged 22)

Walid Jassim  
Mahdi

Mu'ayyad Yassir  
Hussain (aged 23)

## INTERNATIONAL TREATIES ON THE DEATH PENALTY

In the March 1994 issue of the Death Penalty News the chart which showed the signatures and ratifications of international treaties has three alterations.

We have since learned that **Romania** signed the Sixth Protocol to the European Convention on Human Rights on 15 December 1993, so this country should be added to **Belgium, Greece, Estonia and Slovenia**; also that on 24 February 1994 **Hungary** ratified the Second Optional Protocol to the ICCPR. **Austria** ratified the Second Optional Protocol to the ICCPR on 2 March 1993 and we reported this in the June 1993 issue of the Death Penalty News. Please add this country to the list of those ratified/accepted and remove it from the list of those who have signed and not ratified.

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## SHORT NEWS ITEMS

Until April this year a person under sentence of death in **Texas** had only 30 days to request a retrial based on factual evidence not presented at his original trial. In a ruling on 20 April the Texas Court of Criminal Appeals decided to allow convicted murderers to present related evidence of their innocence outside the 30-day limit.

In **Sweden** the government decided not to extradite an Iranian man, Lali Fereidoon, to Japan because he ran the risk of execution if convicted of the murder of which he was accused. Swedish law stipulates that suspects can only be extradited to countries without the death penalty. It has been reported that the Swedish authorities may bring proceedings against him in Sweden for this crime.

In December 1993 the **Algerian** government suspended executions while seeking a solution to the political crisis in the country. However, although no executions have taken place so far, the special courts began sentencing people to death again in March 1994, leading to fears that executions may recommence.

### EXECUTION OF JUVENILES

According to information received by Amnesty International the following statistics apply to countries which execute juveniles:

During the last ten years executions of juveniles are known to have been carried out in seven countries: Bangladesh, Pakistan, Iran, Iraq, Saudi Arabia, Yemen and the USA.

During the last five years they are known to have been carried out in five countries: Pakistan, Iran, Saudi

Arabia, Yemen and the USA.

During the 1990's they are known to have been carried out in three countries: Saudi Arabia, Yemen and the USA.

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*Book Review*  
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*Pictures At An Execution*

Wendy Lesser

Harvard University Press, Cambridge, Massachusetts, USA  
and London, England  
Price: £19.95

This book considers and analyses some of the more difficult moral questions of the technological age.

In 1991 KQED, a public television station based in San Francisco, sued the governor of San Quentin penitentiary for the right to film a forthcoming execution (see *Death Penalty News* October 1991). The TV station argued that the public had a right to see the sentence carried out in its name, as well as to read about it - it was, they said a First Amendment issue. The state replied that the presence of the cameras and the attendant publicity amounted to a security risk.

This was a case explicitly about one thing and implicitly about many others. Explicitly it was about the First Amendment (to the American Constitution) and to what extent the public, through the medium of the press and TV, has the right of access to a public event like an execution. Implicitly it brought into consideration other elements such as the right of the state to kill its own citizens; the presentation of violence on television and in newspapers, books, films and photographs; concerns about individual dignity and privacy weighed against the public's right to know; the sheer bad taste of witnessing an execution in the living room and how the public would differentiate between watching a fictional execution and an actual one. In the end KQED lost the case and the execution was not televised.