

DEATH PENALTY NEWS

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AMNESTY

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

TRINIDAD AND TOBAGO - MAN EXECUTED WHILE APPEALS STILL IN PROGRESS

30-year-old Glen Ashby, sentenced to death in 1989 for the murder of an airline pilot, was executed at 6.40 am on the morning of 14 July. He had been on Trinidad's death row for nearly five years.

The execution has caused controversy for several reasons. At the time of the execution Ashby's lawyers were seeking a stay of execution by the Trinidad and Tobago Court of Appeal, and the Judicial Committee of the Privy Council (JCPC) in London, which serves as the final court of appeal in Trinidad and Tobago was hearing a similar application. Ashby had also submitted his case to the Human Rights Committee established under the International Covenant on Civil and Political Rights, where consideration of it was still pending.

Not only were these appeals still in progress, but the Attorney General of Trinidad and Tobago,

Keith Sobion, had given an undertaking to Ashby's lawyers and the JCPC the day before Ashby died that he would not be executed until all applications for a stay of execution had been exhausted. The JCPC in fact granted Ashby a stay but he was executed while the order for the stay was being dictated prior to being faxed to Trinidad. The fax arrived a quarter of an hour too late.

The Trinidad and Tobago Law Association alleged that Ashby was hanged in contravention of the due process of law by a government reacting to public hysteria, while the Bar Association is reported as saying that the hanging was the most serious breach of the due process of law that had taken place in the country. Amnesty International accused the Trinidad and Tobago government of having flagrantly violated its own national law and

Appeal be dismissed. Further proceedings are therefore pending.

Glen Ashby's execution was the first in Trinidad and Tobago for nearly fifteen years: the previous execution was carried out in November 1979.

international standards and of having deceived the judicial body hearing his appeal for a stay of execution.

Another controversial aspect of the case comes from the fact that, at the time of his execution Glen Ashby was just six days short of five years on death row. Had he been there for the full five years he would have become eligible to have had his death sentence commuted, in line with an earlier decision of the JCPC. In November 1993, ruling in the case of Earl Pratt and Ivan Morgan - two Jamaican death row prisoners - the JCPC said that to keep a prisoner on death row for more than five years amounted to inhuman or degrading punishment and recommended that all such cases be commuted to life imprisonment. It further indicated that "there may be difficult borderline decisions to be made"; Ashby's case was obviously one of these "borderline cases".

In the context of the circumstances surrounding the Glen Ashby execution the appeals of Lincoln Anthony Guerra and Brian Wallen to the Court of Appeal were dismissed on 27 July. On 25 July the JCPC had granted a conservatory order staying their executions on the undertaking that they would appeal to the JCPC should their appeal to the Court of

MASSACHUSETTS - STATE LEGISLATURE MOVES TO REINSTATE DEATH PENALTY

For the fourth consecutive year the state governor, William Weld, has introduced a bill to reinstate the death penalty in Massachusetts.

Polls held in Massachusetts have consistently found that the majority of state residents support the death penalty for convicted murderers. However, members of the Massachusetts House voted on 26 July by a vote of 86 to 70 against reinstatement. According to press reports the House Speaker, Charles F Flaherty, argued that the death penalty contained "....a moral contradiction in advocating a policy which imitates the violence it claims to abhor". After the vote the Co-Chairman of the Criminal Justice Committee, Joseph McIntyre, reportedly said that it had been "....a victory for good policy, for a sane criminal justice policy."

ARKANSAS - THREE MEN EXECUTED ON THE SAME DAY



Hoyt Franklin Clings, Darryl V Riehley and James William Holmes (pictured above) were all executed on 3 August in Arkansas. They were executed one after the other at approximately hourly intervals, beginning with Hoyt Clings at just after 7 pm. The method used was lethal injection.

This triple execution follows a double execution in the same state on 11 May, that of Jonas Whitmore and Edward Pickens. According to newspaper reports an official from the Arkansas Department of Corrections has stated that multiple executions save money and are less stressful for state workers than individual executions.

The last time three prisoners were executed on the same day in the United States was in the state of California in 1962.

CALIFORNIA - CHOICE OF DEATH BY FILLING IN A FORM

The state of California has introduced a form (pictured right) allowing prisoners under sentence of death to choose the method of execution. The relevant sentence reads: "I have been notified that my execution date will be _____ and that I may choose either lethal gas or lethal injection as the method of execution."

NEW CRIME BILL EXPANDS SCOPE OF FEDERAL DEATH PENALTY

On 25 August, after a stormy passage through the US Congress, approval was finally given by the Senate to a major new crime bill which increases the number of crimes punishable by death under federal law from two to about 60, and will apply to a range of crimes which includes non-homicidal offences, such as the attempted assassination of the President and major drug-related crimes. Previously the death penalty was authorised under federal law only for aircraft hijacking and drug-related homicides. No one has been executed under federal law since 1963. The bill passed into law on the 13 September, having been signed by President Clinton.

An earlier version of the bill which included a provision which would have allowed defendants to challenge their death sentences on grounds of racial discrimination (the Racial Justice Act) was dropped from the final version.

Amnesty International said in a statement that it deeply regretted the expansion of the federal death penalty in the bill, which it called a major setback for human rights in the USA, and which would add to the grave concerns it already has about the use of the death penalty in the USA. It was especially concerned that the Racial Justice Act was not included in the final version of the bill.

TANZANIA - JUDGE RULES DEATH PENALTY UNCONSTITUTIONAL

On passing sentence in Dodoma High Court on two prisoners who had been convicted of murder, Justice James L Mwalusanya has ruled that the death penalty in Tanzania is unconstitutional. The defence counsel had argued that the death penalty offended the right to dignity as provided for in Article 13(6)(d) of the Tanzanian Constitution and the right to life as provided for in Article 14. He had also maintained that it was cruel, unnatural and degrading punishment as prohibited by Article 13(6)(e).

Judge Mwalusanya allowed the argument of the defence counsel, saying in conclusion that: "...it is therefore my finding that the death penalty is unconstitutional and so void as per Article 64(5) of the Constitution and order accordingly". He therefore sentenced the two men concerned to life imprisonment.

The response of the Tanzanian Government to Justice Mwalusanya's ruling is not yet known.

The relevant articles of the Constitution are as follows:

13(6)(d): "In order to maintain human justice and equality, human dignity will be protected in all areas and matter of investigation and matters involving crime and in all other activities where an individual is under protective custody, or in ensuring the application of punishment."

13(6)(e): "It is forbidden for a person to be tortured, to be punished unnaturally or to be given punishment that humiliates or degrades him."

14 : "Everyone has the right to exist and receive from society protection for his life, in accordance with the law."

64(5) : "...this Constitution will have the legal powers in the whole of the Union Republic and in any case any other law violates the conditions contained in this Constitution, the Constitution will prevail, and any other law, in as far as it violates the Constitution, will be void."

SOUTH AFRICA - AMNESTY INTERNATIONAL CALLS ON PRESIDENT MANDELA TO ABOLISH THE DEATH PENALTY

In a recent letter to South African President Nelson Mandela Amnesty International welcomed the announcement by Justice Minister Mr Dullah Omar in May that the government would maintain the moratorium on executions, and would be attempting to resolve the issue of the death penalty expeditiously. AI urged that in the meantime, the death sentences under which nearly 400 people in South Africa were awaiting execution be commuted.

The letter recommended a "bold and early" decision from the President's government to abolish capital punishment, saying that this would "...give a tremendous boost for human rights in South Africa and set a vital example for certain other countries in Africa and elsewhere where the death penalty is still in operation".

In this letter to President Nelson Mandela AI congratulated his new government on its decision to accede to the International Covenant on Civil and Political Rights and other international human rights instruments and also the African Charter on Human and Peoples' Rights. The organisation said that South Africa's acceptance of the importance of becoming party to these treaties will help to encourage similar action from those governments who have not yet done so.

BELIZE - JUDICIAL COMMITTEE OF THE PRIVY COUNCIL REDUCES TWO MURDER VERDICTS TO MANSLAUGHTER

Dean Eduardo Vasquez and Cataline O'Neil were given last minute leave to appeal by the Judicial Committee of the Privy Council (JCPC) in London, which is the final court of appeal in Belize.

The lawyers for the two men had put forward the argument that the Belize Criminal Code's definition of the term "extreme provocation" which, if present, would reduce the offence from murder to manslaughter, was so unclear and the references to it in the Criminal Code so contradictory that the sentences did not even satisfy the Constitution's requirement that death sentences may only be carried out "in respect of a criminal offence" and be "authorised by law". They also argued that the failure of the Criminal Code to inform defendants of the burden of proof which they had to meet to reduce a charge of murder to

manslaughter on the grounds of extreme provocation, as well as the court's directions to the jury based on contradictory definitions in the Criminal Code of extreme provocation, deprived the defendants of their constitutional rights to a fair trial. In addition they claimed that placing on the defendants the burden of establishing the existence of extreme provocation violated the constitutional principle of the presumption of innocence. This principle places the burden on the prosecution to prove a defendant's guilt beyond reasonable doubt.

On 29 June 1994 the JCPC announced that the verdicts in both cases should be reduced from murder to manslaughter and that the cases should be returned to the Court of Appeal in Belize for re-sentencing. Both men were originally sentenced to death in 1991.

SHORT NEWS ITEMS

Nigeria : On 2 August 38 prisoners were executed by a firing squad before a crowd of 20,000 in Enugu, southeast Nigeria. One man reportedly survived the experience and an hour later got to his feet asking for water. He was put in the same lorry as the corpses and his eventual fate is unknown.

Since the military coup in November 1993 the government has restored mass public executions by firing squad. Since February 1994 at least 97 people have been executed in this way.

Croatia : According to a Croatian news agency report of 14 August 1994 the Government of Bosnia-Herzegovina has decided to abolish the death penalty. It will be replaced by a 15-year prison sentence. The de facto jurisdiction of the Bosnia-Herzegovina courts excludes the areas occupied by the Bosnian Serb Army. Two men are believed to be on death row in Sarajevo.

Macao - Ban on capital punishment could remain

China is willing to refrain from extending the death penalty to Macau when it regains sovereignty in 1999, the Portuguese news agency Lusa reported.

Lusa quoted Macau's Governor-General Vasco Rocha Vieira as saying China's leaders had assured him the Portuguese ban on capital punishment could remain after 1999 if it was in post-1999 Macau's best interest.

PHILIPPINES - CHURCH AND HUMAN RIGHTS GROUPS PETITION SUPREME COURT

The death penalty was reinstated in the Philippines in late 1993. Since then, Amnesty International is aware of at least five people who have been sentenced to death. The first to receive the death penalty was a 26-year-old street vendor who claims that his trial was prejudiced by the fact that he was not able to afford good legal representation. His appeal for a retrial was refused.

Domestic pressure continues to be exerted on the government to abolish the death penalty. A recent petition to the Supreme Court from several church and human rights groups called for the abolition of the death penalty, stating that judicial executions do not deter crime.

All death sentences are automatically appealed to the Supreme Court. The President has the power to commute death sentences.

BOOK REVIEW

Dead Man Walking

Helen Prejean

Published in the UK by Fount; Price £7.99; UK ISBN: 0006278140

Published in the USA by Random House; Price \$21; US ISBN: 0679403582

"I've heard that there are two situations that make interesting stories: when an extraordinary person is plunged into the commonplace and when an ordinary person gets involved in extraordinary events. I'm definitely an example of the latter." So begins an unusual book by an "ordinary person" that fate led into extraordinary events.

Sister Helen Prejean is a Louisiana nun who in 1982 was working in St Thomas, a New Orleans housing project for poor black residents - "not death row exactly" as she says "but close". This is the story of the 10-year journey which took Sister Helen from St Thomas to death row - from being close, to the actuality, and from the execution chamber to beyond - to advocacy groups such as those for homicide victims' families.

It began when a friend asked her to become a "pen pal" to a man on death row. She began by writing letters, progressed to visiting the prisoner concerned and then his brother, also a prisoner although not on death row. After the execution of her first correspondent, at which she was present, she began visiting another death row inmate, following the same path to the execution chamber. Interwoven with her story of the men and her experiences in the prison and at the executions are other themes - the agony of the victims' families and the efforts Sister Helen - she thinks belatedly - made to help them; her attempts to comfort and assist the murderers' families; the attitude of the outside world; the personal, ethical and legal issues involved and overall the sheer futility and cruelty of it all.

She does not have new arguments against the death penalty, it is her experience at the heart of those arguments, her knowledge of what it really means to be there which makes this book so powerful and compassionate. This is a book which balances the suffering of the victims, their relatives, the criminals and those involved in the process of state killing and examines the complex issues involved from inside.