

# DEATH PENALTY NEWS

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

## 'UNPRECEDENTED NUMBER OF COUNTRIES ABOLISH OR SUSPEND THE DEATH PENALTY' - UN 1995 Quinquennial Report (see story on page 5)

### MORATORIA ON EXECUTIONS IN ALBANIA AND MOLDOVA

Preparatory to joining the 34-nation Council of Europe, Albania and Moldova have committed themselves to cease executions and to ratify the Sixth Protocol to the European Convention on Human Rights concerning the abolition of the death penalty. In a declaration signed on 29 June, Pjeter Arbtori, President of the Albanian Parliament, said he was willing to commit his country to "sign, ratify and apply Protocol No. 6 of the European Convention on Human Rights on the abolition of the death penalty in time of peace within three years of accession [to the European Convention on Human Rights], and to put into place a moratorium on executions until [the] total abolition of capital punishment". Moldova committed itself on 27 June to "sign and ratify Protocol No. 6... in time of peace within three years of accession, and to uphold the moratorium on executions until the total abolition of capital punishment".

### POLAND - ABOLITIONIST BILL DRAFTED

The Polish Government has agreed on the text of a bill to abolish the death penalty. The bill must be approved by the parliament and signed by President Lech Wałęsa before becoming law. The government's decision followed a vote in the lower house of parliament (*Sejm*) on 9 June to introduce a formal five-year moratorium on executions. Ministry of Justice spokesman Andrzej Cudala was quoted by Reuters news agency as saying his government wanted to abolish the death penalty

before the country's planned entry into the European Union.

### MAURITIUS ABOLISHES DEATH PENALTY, BUT PRESIDENT REFUSES TO SIGN BILL

On 3 August 1995 the National Assembly by a large majority passed a bill which abolished the death penalty for all offences, replacing it with a mandatory sentence of 20 years' imprisonment. However, President Cassem Uteem has returned the bill to the parliament, which reconvenes in late October, for further discussion. He is seeking an increase in the mandatory prison sentence. Until the President signs the bill the death penalty remains in law, but it is believed that the delay is only temporary.

### SRI LANKA - NO FIRM DECISION TO IMPLEMENT DEATH PENALTY

In a letter replying to Amnesty International's concerns that on 9 June the parliament had unanimously passed a private member's motion to implement the death penalty, specifically in extreme cases of murder which shock the public conscience, Minister of Justice Professor G L Peiris wrote: "I wish to state categorically that there has been no firm decision to reintroduce executions." The Minister claimed the bill was in response to "agitation on the part of the public in recent years against...early releases" of prisoners

serving life sentences after death sentences imposed on them had been commuted; one prisoner had been released as early as six years after conviction. The death penalty is retained in the country's penal law, but there have been no judicial executions in Sri Lanka since 1976.

## JUVENILE EXECUTIONS - A STUDY

A new Amnesty International study gives details of juvenile offenders reported to have been executed in eight countries since 1985. The eight countries are Bangladesh, Iran, Iraq, Nigeria, Pakistan, Saudi Arabia, Yemen and USA. The execution of juvenile offenders - people sentenced to death for crimes committed when they were under 18 years old - is prohibited under international human rights instruments including the International Covenant on Civil and Political Rights, the UN Convention on the Rights of the Child and the American Convention on Human Rights. More than 100 countries whose laws still provide for the death penalty have legal provisions which exclude the use of the death penalty against juvenile offenders or can be presumed to exclude such use by virtue of having become parties to one or more of the above treaties without making a reservation to the relevant article. ("Juveniles and the Death Penalty, Worldwide Executions since 1985", AI Index: ACT 50/05/95, August 1995)

## CANADA - SLIGHT DROP IN SUPPORT FOR DEATH PENALTY

Forty-four per cent of Canadians would strongly support the return of the death penalty, according to a National Angus Reid Poll conducted among a representative cross-section of 1500 adult Canadians between 26 and 30 June 1995. The figure is slightly lower than the 46 per cent who expressed strong support for the return of the death penalty in March 1987 when a vote on the issue was about to be held in the Canadian parliament.

Twenty-five per cent of those polled expressed moderate support for the return of the death penalty compared with 27 per cent in 1987. Eleven per cent were moderately opposed to the return of the death penalty (up from six per cent in 1987) and 18 per cent were strongly opposed, the same percentage as in 1987.

Canada abolished the death penalty for capital murder in 1976. A move by the Progressive Conservative Party to restore the death penalty for murder was defeated by the

Canadian House of Commons on 30 June 1987 by 148 votes to 127.

## CHINA - MULTIPLE EXECUTIONS PRIOR TO UN CONFERENCE

The Chinese authorities carried out multiple executions as part of a "clean-up" of Beijing, the capital, before the UN Fourth World Conference on Women, held there from 4 to 15 September. Beijing Daily newspaper reported on 10 August that 10 people convicted of murder, robbery, "hooliganism" and other crimes had been executed to ensure "public order". Six more were executed on 16 August immediately after sentencing, according to the Beijing Evening News newspaper. The impending arrival of an estimated 20,000 foreign visitors for the conference led the authorities to strengthen security measures in the capital. In a press briefing in Beijing on 10 August Amnesty International Secretary General Pierre Sanz commented: "To welcome the world to Beijing, must people die?"

Earlier, in June, multiple executions were carried out in connection with the UN-declared International Day against Drug Abuse and Illicit Trafficking (26 June), as has happened each year since 1991. On 23 June 34 prisoners convicted of drug offences were executed in Guangxi province after their sentences were announced at public rallies throughout the province.

## **KAZAKHSTAN - AI PROTEST OVER TELEVISED EXECUTION**

AI has written to government officials and to the Chairman of the Kazakhstan Television and Radio Company protesting about the televised broadcasting of an execution carried out in June. In the film, the camera follows a handcuffed prisoner as he is marched into a small room and shot in the back of the head. The film was rebroadcast to millions of viewers in the European part of the former Soviet Union in July. In its letter AI said: "Executing people to punish serious violent crime only serves to perpetuate a cycle of violence. Televising such executions extends that cycle of violence by taking it into people's homes."

## **NIGERIA - PUBLIC EXECUTIONS**

Forty-three prisoners were executed by firing squad in the capital Lagos on 22 July. The executions were carried out in batches over a two-and-a-half hour period before a crowd of a thousand people at Kirikiri Maximum Security Prison execution ground. Three doctors reportedly certified that all the prisoners were dead following the executions. The 43 prisoners had been convicted of armed robbery by Robbery and Firearms Tribunals, special courts outside the normal judicial system which cannot guarantee fair trials and allow no right of appeal to a higher, independent jurisdiction. On 25 July a government official announced that six prisoners, reportedly reprieved, had actually been executed earlier; the date of their execution is unknown. In Adamawa State in eastern Nigeria, five prisoners were executed on 26 July, also convicted by a Robbery and Firearms Tribunal. Three others

are awaiting the outcome of their appeals to the Lagos State Military Administrator.

Since the restoration of civilian government was halted in November 1993 by a military coup, mass public executions have been resumed in the authorities' response to an upsurge in violent crime. The recent executions took place at a time of serious concern in Nigeria and internationally that hasty executions could follow a secret treason trial. Over 40 prisoners including former head of state retired General Olusegun Obasanjo

were convicted in secret treason trials before a military tribunal in June and July. Unofficial sources say some 14 of them were sentenced to death. Amnesty International believes many of the convicted prisoners are prisoners of conscience, convicted because of their pro-democracy activities.

### **SAUDI ARABIA - EXECUTIONS PROVOKE PROTESTS IN TURKEY**

In Saudi Arabia, four Turkish men convicted of smuggling amphetamines into the country were beheaded on 11 and 14 August. On 14 August the Turkish foreign ministry issued a statement saying that the Saudi ambassador to Turkey had been summoned to give an explanation of the executions, which had been carried out despite high-level attempts by Turkey to have the lives of the four men spared. Turkish newspapers published photographs of angry friends and relatives of the four beheaded prisoners burning Saudi flags and shouting offensive slogans.

AI has called on the Saudi authorities to cease executions, which have been carried out at an alarming rate under judicial procedures in which internationally agreed safeguards for prisoners facing the death penalty are ignored. As of mid-September AI had learned of 171 executions since the beginning of the year, a figure several times higher than the 53 known executions in 1994.

**GAMBIA REINTRODUCES DEATH PENALTY** - The ruling Armed Forces Provisional Ruling Council (AFPRC) issued a decree on 12 August reinstating the death penalty, abolished in April 1993. AI urged the authorities, who came to power in a military coup in July 1994, to reconsider their decision.

Cartoon from the Gambian Daily Observer 23 August 1995

## BACKLASH FOLLOWS SOUTH AFRICAN RULING

The Constitutional Court Ruling of 6 June that capital punishment under the Criminal Procedure Act is unconstitutional (see Death Penalty News June 1995) has provoked a backlash in the form of newspaper articles, editorials and letters to South African newspapers. Public concern over violent crime has been translated into calls for the retention of the death penalty for reasons of both deterrence and retribution. Some writers have questioned the "right" of the Constitutional Court judges to order an end to the death penalty in the face of public support for it. The National Party, supported by some other parties, has called for a referendum on the death penalty, but this demand was rejected by the National Assembly. The Constitution is in the process of being revised by the Constitutional Assembly, which must adopt the final version by May 1996.

## UKRAINE - STATISTICS RELEASED

Figures released by the Ministry of Justice in May show that 60 people were executed in 1994, giving Ukraine one of the highest rates of judicial execution in the world. One hundred forty-three people were sentenced to death in 1994; only two commutations were granted. Since then Ukrainian authorities have informed the Parliamentary Assembly of the Council of Europe that 74 death sentences were passed in the first six months of 1995; no figures for executions were given.

Reviewing Ukraine's fourth periodic report submitted under the International Covenant on Civil and Political Rights, the Human Rights Committee set up under the Covenant issued a comment on 26 July expressing "its deep concern about the current trend in Ukraine to impose and carry out an increasing number of death sentences, and about inhuman circumstances in which those sentences are carried out". The Committee recommended "that Ukraine study measures to limit the categories of crimes punishable by death to the most serious offences, in conformity with article 6 of the Covenant, with a view to its prospective abolition and to make when appropriate more extensive use of the rights of commutation or pardon." Ukraine has since increased by two the number of separate military offences that carry a possible death sentence.

## NEWS FROM THE USA

### Pennsylvania - Stay of Execution Granted

Wesley Cook, better known as Mumia Abu-Jamal, was granted an indefinite stay of execution on 7 August by the same judge who sentenced him to death for the killing of a police officer in 1981. A former member of the Black Panther political group, Mumia Abu-Jamal was due to be executed in Pennsylvania on 17 August. The award-winning journalist and author of a current best-selling book entitled Live from Death Row maintains his trial in 1982 was unfair. Over the past years, Amnesty International has written to the authorities in Pennsylvania expressing concern over the case of Abu-Jamal. His claim has also attracted support from foreign political leaders and activists. Appeals for clemency have been sent by President Jacques Chirac of France, the German Minister of Foreign Affairs Klaus Kinkel and Italian members of parliament. British writer Salman Rushdie and French philosopher Jacques Derrida are among the many prominent figures who have also appealed to Governor Tom Ridge on Mumia Abu-Jamal's behalf.

### Missouri - Doctors and executions

On 5 July Missouri became the first US state to rescind its statutory requirement that a physician assist in executions. The laws of 27 other states allow or invite doctors to play at least some role in executions, according to the Journal of the American Medical Association (16 August 1995). Such participation may be as a witness, as the person responsible for pronouncing death, or even, as in **Illinois** (see Death Penalty News June 1995), to administer the lethal dose to prisoners awaiting execution. Standards of medical ethical conduct in relation to the death penalty have been established by the American Medical Association (AMA), the American College of Physicians, the World Medical Association, the American Public Health Association and other health professional organisations. All of the above acts could be considered to violate one or another of these standards.

## NEW UN QUINQUENNIAL REPORT ON CAPITAL PUNISHMENT

Every five years the UN Secretary-General is mandated to produce a report on capital punishment. These reports are a unique source of information because they are based on information supplied by governments, as well as non-governmental organizations and expert studies.

The Secretary-General's latest quinquennial report, the fifth in the series, was issued on 8 June 1995, with additions on 29 June and 6 July. Sixty-three governments responded to the Secretary-General's request for information, up from the 55 which supplied information for the previous report in 1990.

### Pace of Abolition Quickens

The report compares recent information with that from previous periods and concludes that "an unprecedented number of countries have abolished or suspended the use of the death penalty." It goes on to state that "the pace of change may be seen to have been quite remarkable. In the years since 1989, 24 countries have abolished the death penalty, 22 of them for all crimes whether in peacetime or in war-time." But four countries have reintroduced the death penalty since 1989, two countries that were formerly considered abolitionist *de facto* have resumed executions, and "several countries have expanded the scope of the death penalty as a reaction to perceived upsurges in crime."

### UN Safeguards

This year's report covers both the question of capital punishment as such and the implementation of the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, adopted by the UN Economic and Social Council (ECOSOC) in 1984. It notes that, contrary to the 1984 Safeguards, the death penalty is used for "offences without intentional lethal consequences, various political offences and offences related to military discipline." Fair trials are not always applied and another problem is that "mandatory death sentences, that provide no leeway for mitigating circumstances exist in a

number of countries". The report suggests providing a clearer definition of mental retardation in line

with the recommendation adopted by ECOSOC in 1989 (in resolution 1989/64) that the death penalty be eliminated for "persons suffering from mental retardation or extremely limited mental competence".

### Alternatives to the Death Penalty

For the first time, the 1995 report inquired about the penalties which have replaced the death penalty after abolition. "Several trends emerged", the report states. "First, it was relatively rare for the length of imprisonment to be fixed mandatorily by law. Second, many countries gave the courts the discretion to pass a sentence of either imprisonment for life or a determinate period in prison that varied among countries but was most often for a period of between 15 and 25 years, although terms for economic crimes formerly subject to the death penalty tended to be shorter. Third, although at least one country had no provision for the remission of sentence, most did allow the shortening of the period in custody through various systems of conditional release, often after about two thirds of the penalty had been served."

### Action by ECOSOC

After considering the report, the Economic and Social Council adopted a resolution on 28 July setting forth the method to be used in compiling the next quinquennial report in the year 2000 and requesting the UN Commission on Crime Prevention and Criminal Justice to examine the report at its fifth session in 1996.

(Capital Punishment; Report of the Secretary-General, UN document number E/1995/78, E/1995/78/Add.1 and E/1995/78/Add.1/Corr.1. For information on the fourth quinquennial report, see Death Penalty News November 1990.)

## NEWS IN BRIEF

Two men due to be executed on 25 August in **Belize** were granted a last-minute stay of execution by the Judicial Committee of the Privy Council (JCPC) in England pending the outcome of their appeal to the JCPC, which serves as the final court of appeal for Belize. No executions have taken place in Belize for 10 years.

In **Iran** a former head of the police anti-drug headquarters in Khorasan province bordering Afghanistan has been executed, reportedly for drug-trafficking. According to the Iranian newspaper Kayhan, Lt Col Kazem Farzank was executed during the week beginning 22 July after being sentenced to death by the Islamic Revolutionary Court of Mashhad, capital of Khorasan. He had been found guilty of distributing illicit drugs, taking bribes to release drug addicts, illegal possession of arms, and adultery, the newspaper reported. More than 2,900 people accused of drug offences have been executed since the creation of the Islamic Republic of Iran in 1979.

In **Botswana** five people were executed by hanging on 26 August at Gaborone Maximum Security Prison in Gaborone. All had appealed for clemency.

The 1994 law reinstating the death penalty in the **Philippines** specifies electrocution as the method of execution until a gas chamber can be built, but according to Bureau of Corrections Director Vicente Vinarao the country lacks the funds either to buy an electric chair, destroyed by a bolt of lightning some years ago, or to build the chamber. At least 60 prisoners have been sentenced to death in the Philippines under the new law, but no one has yet been executed.