

# DEATH PENALTY NEWS

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

## HONG KONG'S LEGISLATIVE COUNCIL BACKS PROPOSAL TO ABOLISH THE DEATH PENALTY

The Legislative Council, Hong Kong's non-elected legislative body, on 26 June adopted a motion by 24 votes to 12 to abolish the death penalty. The motion calls on the Hong Kong Government to introduce legislation "which would abolish the death penalty and replace it with life imprisonment". Hong Kong's Secretary for Security, Alistair Asprey, told the Legislative Council immediately after the vote that the government would consider bringing forward legislation providing for abolition.

This positive development followed several days of intense debate within the Legislative Council and in the news media. Legislative Council member Martin Lee Chu-ming, who originated the motion for abolition, said it would be dangerous to allow capital punishment after Hong Kong reverts to Beijing sovereignty in 1997. "The situation in China represents a frightening picture of the slippery slope of the death penalty", he said. "Once the state starts executing criminals, then there is a strong pressure to widen the number of crimes for which there is capital punishment, in the mistaken notion that there will be a deterrent effect." Lee Chu-ming dismissed "the narrow and self-denying notion that those questions of human rights are Western and not applicable to a Chinese society." He said that those who hold this view "seem to imply that we Chinese are not as deserving of human rights as persons from other countries".

A motion urging the Hong Kong Government to resume executing prisoners sentenced to death "in view of the increasing concern caused by the present law and order situation" was defeated in the same session.

The death penalty is mandatory for murder in Hong Kong but the Governor has invariably commuted death sentences. The last execution was carried out in 1965.

## USSR: NEW LAWS REDUCE SCOPE OF DEATH PENALTY

The number of crimes punishable by death in the USSR in peacetime has been reduced from 18 to five.

Under new legislation, adopted on 1 July, the death penalty is retained only for the following crimes: treason, premeditated murder with aggravating circumstances, rape of a minor with aggravating circumstances, kidnapping of a minor with especially grave consequences, and grave crimes against the peace and security of mankind.

The legislation also exempts women and those under the age of 18 from the death penalty (although those under 18 at the time of the offence were already exempt under previous legislation). Existing sentences of women, and of men sentenced to death for crimes which no longer carry the death penalty, will be commuted to 15-year prison terms. This does not, however, apply to those convicted of criminal responsibility for state crimes. A draft proposal to exempt men over 60 years old from the death penalty was dropped under the new legislation as adopted.

The new legislation, the Fundamentals of Criminal Legislation of the USSR and Republics, will take effect as a whole on 1 July 1992 although Article 40, which concerns the death penalty, came into force on the date of publication, 19 July 1991. According to the latest information from Gennady Cherenmykh, head of the USSR parliamentary enquiry body, 208 death sentences were carried out in 1990, chiefly in the Russian Republic and the Ukrainian Soviet

Socialist Republic. It has also learned that on 14 September the Russian President, Boris Yeltsin, commuted the death sentences of 21 people awaiting execution in the Russian Republic.

## GRENADA: COMMUTATIONS IN 1983 COUP CASE

Fourteen people sentenced to death for their roles in the 1983 killing of Prime Minister Maurice Bishop and others have been saved from execution after intense international pressure.

Among the 14 are members of the former People's Revolutionary Government (PRG) including the former deputy prime minister, Bernard Coard, and former Minister of Women's Affairs Phyllis Coard. The killings, for which they were sentenced to death in December 1986, took place following an alleged power-sharing dispute between opposing factions within the Central Committee of the New Jewel Movement and led to the invasion of Grenada by US troops.

In a radio broadcast on 14 August, Grenada's Prime Minister, Nicholas Brathwaite, said that there had been "enough bloodshed in Grenada". Referring to demands that the sentences be carried out, he said that "what appears to be a popular cry may not always be the best course for a country." He announced that the Advisory Committee on the Prerogative of Mercy had decided to recommend that the Governor General commute the death sentences of the 14.

In the radio broadcast, Prime Minister Brathwaite referred to appeals that had been received from at home and abroad urging clemency for the 14. He said that the decision to grant clemency was made on the basis of what was considered best for the long term interest of Grenada and that "the statement by the Grenada Conference of Churches and several messages from other religious groups convinced us that the course of action which we were contemplating was the correct one."

Among those known to have appealed on behalf of the 14 are the Prime Minister of Australia, Bob Hawke; the Bar Association of Canada; a number of prominent members of the US Congress and British members of parliament; the British Trades Union Congress and the French Confédération Générale du Travail (trade union confederation).

Prime Minister Brathwaite also referred to the negative impact executions would have been likely to have on the tourist industry, on which the country is heavily reliant. "Let us renew our pledge to do whatever we can to give Grenada a positive image - an image of a peaceful and stable country which would help determine the kind of future our young people would enjoy", he said.

He said that a similar recommendation for clemency would be made for the nine other prisoners under sentence of death. There have been no executions in Grenada since 1978.

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## PAPUA NEW GUINEA: Reintroduction of the death penalty for murder

Following a heated debate, Papua New Guinea's Parliament voted by 48 to 19 on 28 August to restore the death penalty for murder, rape and other "crimes of extreme violence". The death penalty will not be mandatory but at the discretion of a trial judge.

Prime Minister Rabbie Namaliu said after the vote that "... we've tried to liberalise forms of punishment including the abolition of the death penalty. But we've brought it back because the parliament believes very strongly that it is one of the best forms of deterrent." The death penalty was also supported by the Foreign Minister, Sir Michael Somare, while the Minister for Justice, Bernard Narokobi, voted against the bill.

The death penalty had been abolished for all crimes except treason and piracy soon after Papua New Guinea's independence in 1975. Several attempts in parliament since then to reintroduce the death penalty had been unsuccessful.

## KUWAIT: DEATH SENTENCES COMMUTED AFTER INTERNATIONAL APPEALS

All the death sentences which had been imposed by martial law courts in connection with the Iraqi occupation of Kuwait have been commuted to life imprisonment, Crown Prince Shaikh Sa'ad al-Abdallah Al-Sabah disclosed on 26 June.

Twenty-six men and three women were sentenced to death between 8 and 20 June for collaboration with the Iraqi authorities during the occupation of Kuwait. There had been widespread international concern over the fairness of their trials and the severity of the sentences. (See Death Penalty News, June 1991)

Several governments are known to have raised their concerns with the Kuwaitis - these include the German, Jordanian, Soviet, UK, and the US. Vitaly Churkin, spokesperson for the Soviet Foreign Ministry, told a news conference on 24 June that the Soviet Union was disturbed by recent reports on the trials and death sentences. "This can only give rise to mounting concern," he said. "One brutality cannot be justified by another. A trial should not be turned into reprisals."

The Jordanian Government said that those condemned to death, which included at least eight Jordanians, did not have "the proper means to defend themselves" and maintained the sentences were out of proportion with the charges.

Various other governments and international organizations appealed for clemency. Mr Muhammad A. Abul Hassan, Kuwait's ambassador to the United Nations (UN), reportedly said that the decision to commute the sentences had been made as a result of an appeal from the UN Secretary-General, Javier Pérez de Cuellar.

## NEWS BRIEFS

### USA: Prisoner executed despite Mandela appeal

Warren McCleskey was executed in the state of Georgia on 25 September despite an appeal from Nelson R. Mandela, President of the African National Congress of South Africa.

In a letter to the Georgia Board of Pardons and Paroles, Mr. Mandela wrote that "we are slowly and painfully emerging from a history of violence and racial oppression in South Africa. We have a long way to go, but we are determined to continue to strive for a society free from discrimination - a society with respect for human life. Many of my countrymen and women have died during this conflict, and of those who have died many have done so at the hands of the executioner. Despite all this, I firmly oppose the death penalty and believe that such a punishment will have no place in a democratic South Africa."

Mr Mandela wrote: "As a person who practised as a lawyer before my imprisonment, I appreciate fully the concept of 'beyond reasonable doubt'. To my mind, there is far more than reasonable doubt in the case of Warren McCleskey and I believe that his execution would represent a tragic miscarriage of justice."

On 24 September, the Georgia Board of Pardons and Paroles denied clemency for Warren McCleskey, a black man who had been convicted of killing a white police officer in 1978. His conviction was based partly on the testimony of a fellow prisoner who said that McCleskey admitted committing the murder. Two of the jurors at the trial told the Board of Pardons and Paroles that they would not have voted for the sentence had they known that the prisoner who testified against McCleskey was a police informer, whose charges were dropped in return for his testimony - a fact that only emerged in 1987.

**"I firmly oppose the death penalty and believe that such a punishment will have no place in a democratic**

### **USA: Double dose of electricity needed to carry out execution**

A second dose of high-voltage electricity was needed to execute Derek Peterson in Virginia on 23 August. Peterson, who was sentenced to death for a murder committed in 1982, was given the standard dose of 1,725 volts for ten seconds, followed by 240 volts for 90 seconds at Greensville Correctional Center. However, after a doctor detected a pulse, the entire process was repeated and Peterson was then pronounced dead.

### **BELGIUM: Progress towards abolition**

The Belgian Council of Ministers on 13 September approved a bill to abolish the death penalty in peacetime. The bill is now awaiting parliamentary approval.

### **SAUDI ARABIA: Executions resume**

On 24 May a Sudanese national, found guilty of murder, was executed in Saudi Arabia. This was followed by the execution of eight more people in May, seven in June and five in July and August. All those executed, among them Saudi Arabian and foreign nationals, had been found guilty on criminal charges, including rape, murder, robbery and drug-related offenses.

It had not recorded any executions in Saudi Arabia since July 1990 and had welcomed this as a positive development. Before that, it had recorded 111 executions in Saudi Arabia in 1989, and 13 between January and July 1990.

### **USA: Judge rules against video cameras at executions**

A US federal judge has denied a TV company permission to videotape an execution in California. Public television station KQED had requested permission to videotape the execution of Robert Harris at California's San Quentin Prison for use in a documentary on capital punishment. Judge Robert H Schnacke said on 7 June that no prison has ever allowed photographs or the filming of an execution and that bringing cameras into the execution chamber could threaten prison security. However, he said that print journalists should be permitted to witness executions. (The execution of Robert Harris was scheduled to take place in April 1991 and would have been the first in California since 1967. Harris was granted a stay and his case is on appeal.)

KQED's request to videotape the execution stirred up debate on the issue among both supporters and opponents of the death penalty. Some supporters welcomed televising executions as a deterrent to murder; others feared that sympathy might be created for the criminal. Some opponents thought the sight of capital punishment in action would stir revulsion against it; others believed the pictures would make the taking of a life seem routine.

### **IRAN: United Nations human rights body criticises executions**

In a resolution on human rights violations in Iran, adopted on 23 August, the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities expressed "its grave concern at the reports of a continuing wave of arrests and executions within the Islamic Republic of Iran and of political assassinations abroad".

As of late September, it had recorded 561 executions this year in Iran.

## BOOK REVIEW

Peter Lingbaugh, *The London Hanged: Crime and Civil Society in the Eighteenth Century* (Allen Lane, The Penguin Press, London 1991: £25)

This book is a study of the use of the death penalty as an instrument of repression in 18th century England. "The hangings were permitted and ordered by men of a ruling class who had studied the applications of death throughout human history and had power to apply that knowledge," the author writes. "The hanging was one of the few occasions ... that united the several parts of government (monarch, courts, Parliament, City and Church) ... Most of those hanged had offended against the laws of property, and at the heart of the 'social contract' was respect for private property. It could therefore be argued that, just as each hanging renewed the power of sovereignty, so each hanging repeated the lesson: 'Respect Private Property'." (page xx) The book is based on Lingbaugh's study of the life histories of more than 1,200 executed prisoners.

### INTERNATIONAL TREATIES

**Norway** ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights on 5 September 1991. This protocol, which aims at the universal abolition of the death penalty, came into force on 11 July 1991. Norway's ratification brings the total number of countries who have ratified the protocol to 11. Eleven other countries have signed the protocol.

**Malta** ratified the Sixth Protocol to the European Convention on Human Rights on 26 March 1991, and the **Czech and Slovak Republic** signed the protocol on 21 February. Seventeen countries have now ratified the protocol; four other countries have signed it.

**Panamá** on 28 August became the first country to ratify the Protocol to the American Convention on Human Rights to Abolish the Death Penalty. Four other countries have signed the protocol.