

**@THE DEATH PENALTY IN THE UNITED STATES OF AMERICA:
CRUEL, UNFAIR, ARBITRARY AND RACIALLY BIASED**

Statement to the Review Conference of the
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The use of the death penalty in the USA is arbitrary, unfair and racially discriminatory despite the existence of elaborate judicial safeguards. It is cruel and serves no useful social purpose. Certain features of the US use of the death penalty violate internationally agreed human rights standards. Amnesty International has repeatedly urged the US authorities to stop executions and abolish the death penalty in law.

In 1972 the US Supreme Court struck down most US death penalty laws on grounds of unfairness. Since then new death penalty statutes written to conform to the Supreme Court guidelines have been introduced in 39 of the 50 US states and in the federal jurisdiction. But the over 240 executions carried out since 1977 under the new laws are replete with examples of unfairness and possible judicial errors.

Amnesty International's findings include the following:

- Current legal safeguards to prevent and remedy errors in capital cases are inadequate. It is unlikely that any judicial system, however elaborate, could prevent the risk of executing innocent people.

A 1993 report by the Subcommittee on Civil and Constitutional Rights of the US House of Representatives suggested that at least 17 US states had repeatedly sentenced innocent people to death since 1972. The report concluded: "Judging by past experience, a substantial number of death row inmates are indeed innocent, and there is a high risk that some of them will be executed."

- Many poor defendants are inadequately represented by lawyers untrained in capital punishment law. Poorly paid lawyers have often failed to investigate defendants' backgrounds or to raise relevant mitigating evidence at the sentencing hearing. In states such as Texas, which has nearly 400 prisoners on death row, many prisoners have no lawyer to represent them on appeal.

- More than 40 per cent of death row prisoners are black, compared to 12 per cent of the population. However, the most marked disparities are based on the race of the victim: 84 per cent of prisoners executed since 1977 were convicted of murdering white victims - although black and white people are murdered in roughly equal numbers. Studies have shown that racial disparities in death sentencing remain after all legally relevant factors have been taken into account. Furthermore, many black prisoners on death row were sentenced to death by all-white juries after prosecutors had deliberately excluded black people from the jury pool.

- Death sentences must not be imposed on people who were under 18 years old at the time of the offence, according to Article 6 of the International Covenant on Civil and Political Rights (ICCPR). The same provision is contained under safeguards on the death penalty adopted by the UN Economic and Social Council (ECOSOC) in 1984 and endorsed by the General Assembly the same year.

Almost alone among nations, the United States executes people who were under 18 years old at the time of the crime. Nine such people have been executed since 1977. A 1991 Amnesty International study of juveniles sentenced to death in the USA found that the majority came from acutely deprived backgrounds. Many had been seriously physically or sexually abused and were of below average intelligence or suffered from mental illness or brain damage. Many had been inadequately represented at trial.

- The 1984 ECOSOC safeguards state that the death penalty must not be carried out on persons who have become insane, while ECOSOC resolution 1989/64 on the implementation of the 1984 safeguards recommends that UN member states eliminate the death penalty for persons suffering from mental retardation or extremely limited mental competence. Amnesty International has documented the cases of more than 50 prisoners suffering from mental illness or mental retardation who have been executed in the USA in the past decade.

- The Human Rights Committee established under the ICCPR has stated that Article 6 of that treaty "refers generally to abolition [of the death penalty] in terms which strongly suggest ... that abolition is desirable." Many countries have reduced the scope of the death penalty or abolished the penalty altogether. But in August 1994, the United States introduced the death penalty under federal law for more than 60 offences, several of them not resulting in loss of life. This mammoth expansion of the death penalty was presented to the public as an effective anti-crime measure, even though there is no credible scientific evidence from the United States or elsewhere to suggest that the death penalty will deter crime more effectively than other punishments.

Amnesty International has called on the US Government to recognize its constitutional responsibility for ensuring equal protection of the law to all US citizens by establishing a Presidential Commission on the death penalty, with a moratorium on all executions until the Commission reports its findings. In an open letter to President Bill Clinton, Amnesty International said that such a study would serve to remove the issue of capital punishment from the political and emotional climate which presently surrounds it. The Commission's report and recommendations could provide officials, legislators and the public with an objective body of information to guide decisions on the issue.

In retaining the death penalty, with some 2,870 prisoners now under sentence of death, the United States is repeating the mistakes made in other nations in using capital punishment. Recognizing these mistakes, a growing number of countries have rejected the death penalty and abolished it. Amnesty International has appealed to the US authorities to advance international human rights by joining their ranks. As a first step, it urges the United States to withdraw its comprehensive reservations to Article 6 of the ICCPR - reservations which defeat the very object and purpose of the treaty.