

DEATH PENALTY NEWS

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A QUARTERLY BULLETIN ON THE DEATH PENALTY AND MOVES TOWARDS WORLDWIDE ABOLITION

MASS COMMUTATIONS IN KENYA AND ILLINOIS

On 13 January George Ryan, the outgoing Governor of the US state of **Illinois**, commuted the death sentences of 167 prisoners and pardoned four others who he believed had been tortured into confessing to crimes they did not commit. Speaking at Northwestern University in Chicago, whose students and faculty have played a pivotal role in the death penalty debate in the state, Governor Ryan said the capital punishment system in Illinois was “haunted by the demon of error: error in determining guilt and error in determining who among the guilty deserves to die. What effect was race having? What effect was poverty having? Because of all these reasons, today I am commuting the sentences of all death row inmates.”

In **Kenya**, 28 prisoners who had been sentenced to death were freed and 195 others had their sentences commuted to life imprisonment (see separate story on page 2).

The Illinois Governor, a Republican, had gone from being an advocate of the death penalty to one of its outspoken critics. One of the reasons for this change was the case of Anthony Porter who spent almost 17 years on death row before a group of Northwestern University students in the course of their studies found evidence establishing his innocence. As a result of their efforts, Anthony Porter was exonerated and released. He had come within 50 hours of being executed in 1998.

On 31 January 2000 Governor Ryan announced that he was suspending executions pending an investigation into the state's system of capital punishment stating “Until I

can be sure...that no innocent man or woman is facing a lethal injection, no one will meet that fate” (see **DP News** March 2000) At that time, 13 cases of wrongful conviction in capital cases had emerged since Illinois reinstated the death penalty in 1977. Governor Ryan appointed a Commission on Capital Punishment, which in April 2002 recommended over 80 specific reforms to the system. Its report, however, acknowledged that the Commission's 14 members were unanimous “in the belief that no system, given human nature and frailties, could ever be devised or constructed that would work perfectly and guarantee absolutely that no innocent person is ever again sentenced to death”.

In October 2002 the Governor ordered the Illinois Prisoner Review Board to hold clemency hearings for death row inmates and hear the views of relatives and friends of murder victims as well as prosecutors. In the end, Governor Ryan decided that the system under which the prisoners had been sentenced was so flawed that a blanket commutation was the fairest option. Among those who had appealed to the Governor for a blanket commutation were former South African President Nelson Mandela and the Vatican.

Governor Ryan in his speech at Northwestern University described capital punishment as “one of the great civil rights struggles of our time”.

To our readers: The next issue of Death Penalty News, dated July 2003, will be published in August.

COMMUTATIONS AND RELEASES IN KENYA

The Minister for Home Affairs and National Heritage announced on 25 February that 28 prisoners who had each spent between 15 and 20 years under sentence of death had been released by order of the newly-elected President, Mwai Kibaki. The sentences of 195 others were commuted to life imprisonment.

The announcement came soon after the Minister for Home Affairs and National Heritage, Moody Awori, had visited various prisons and made public his concern at the conditions in which prisoners were housed. In Kamiti Maximum Security Prison, where those waiting to be hanged following the rejection of their court appeals were incarcerated, the prisoners had been kept in perpetual darkness in grossly overcrowded cells.

Moody Awori said the freed prisoners had all shown "reformist behaviour" and were released "in the spirit of reforms". Mr Awori also stated that he wanted the death penalty in Kenya abolished and that he planned to introduce a bill in Parliament to that effect.

The Commissioner of Prisons, Abraham Kamakil, praised this unprecedented and "historic event", saying that the death penalty should be abolished because it claims innocent lives. He was quoted in *The Daily Nation* newspaper on 26 February saying: "We are longing for the day Parliament will remove the death penalty from our Constitution."

The Minister for Justice, Kiraitu Murungi, also supports abolition and had lobbied for it as a member of parliament in two previous attempts to abolish the death penalty in 1994 and 2000 which had been rejected by the former government.

Convictions for murder and armed robbery carry a mandatory death sentence in Kenya. The last executions were in 1987.

THREE RELEASED IN TAIWAN

Liu Bing-lang, Su Chien-ho and Chuang Lin-hsun were acquitted of murder on 13 January 2003 by three judges of the Taiwan High Court in the capital, Taipei. The High Court

ruled that the three men, known as the "Hsichih trio" be released immediately because their convictions had been based on insufficient evidence. The ordeal of the three men began when they were arrested on charges of robbery, rape and murder in August 1991. They were 18 years old at that time. The three were sentenced to death in February 1992 on the basis of their own confessions and that of another man who was executed for the same crime in 1992, and the sentences were upheld by the Supreme Court three years later in February 1995.

Su Chien-ho, Liu Bin-lang and Chuang Lin-hsun always maintained that they were innocent, that they had been tortured in custody and forced to sign confessions. Following their trial, the Prosecutor General publicly expressed doubts about the convictions and launched three special appeals on their behalf which were rejected by the Supreme Court. However, thanks to the dedication of their lawyer and appeals from AI, academics, lawyers, human rights activists and government officials, the three were eventually granted a retrial in November 2000.

FOREIGNER PARDONED IN QATAR

The Amir of Qatar, al-Shaikh Hamad bin Khalifa Al-Thani, issued a decree on 17 March pardoning Firas Nassuh Salim Al-Majali, a Jordanian journalist working for the Qatari television network, and ordering his immediate release.

Firas Nassuh Salim Al-Majali had been convicted and sentenced to death by the Grand Criminal Court in the capital, Doha, in October 2002 on charges of spying, although the cause may have been deteriorating relations between Jordan and Qatar. An appeal court upheld the death sentence and the case was then referred to the Amir.

The decree by the Amir, who as head of state has the power to grant pardons, was made during a visit to Qatar by King Abdullah of Jordan, who is believed to have intervened on behalf of Firas Nassuh Salim Al-Majali.

IRAN QUASHES DEATH SENTENCE ON ACADEMIC

On 14 February, the death sentence against Seyyed Hashem Aghajari, a lecturer in history at Modarres University in Tehran, was revoked by the Supreme Court. The Islamic Republic's Supreme Leader, Ayatollah Ali Khamenei, ordered a review of the verdict. Professor Aghajari will face a new trial in the court which originally found him guilty. The date for the trial has not been set.

Professor Aghajari was imprisoned because of a speech he made in June 2002 in the city of Hamedan in western Iran. Entitled "Islamic Protestantism", it called for religious renewal of Shia Islam and questioned the right of unelected clerics to hold ultimate judicial authority in the country. He was sentenced to death in November 2002 on the basis of vaguely worded charges of defaming and insulting religious leaders and religious practice.

The sentence caused outraged student demonstrations across the country and polarized public opinion between supporters of the President, Mohammad Khatami, and those who support the conservative Islamic judiciary headed by Ayatollah Ali Khamenei. President Khatami was said to have appealed to Ayatollah Ali Khamenei to order the judicial review of the verdict against Professor Aghajari which led to the revocation of the death sentence.

MOBILE VANS USE LETHAL INJECTION TO KILL CHINESE PRISONERS

In January a journalist and a group of several dozen court officers from prefectures, cities and counties in Gansu province were taken by officials of the provincial high court to an unnamed detention centre near Lanzhou to attend a lecture and then witness the execution by lethal injection of 11 convicted prisoners.

Execution by lethal injection as an alternative to shooting was introduced in China in the revised Criminal Procedure Law in 1997 and was first used on an experimental basis in Yunnan province.

In an effort to improve cost-efficiency, Chinese provincial authorities are now introducing so-called mobile execution vans. Officials in Yunnan province explained that only four people are required to carry out executions in the mobile vans: the executioner, one member of the court, one official from the procuratorate and one forensic doctor.

Eighteen converted 24-seater buses are being distributed to all intermediate courts and one high court in Yunnan province. The windowless execution chamber at the back contains a metal bed on which the prisoner is strapped down. Once the needle is attached by the doctor, an act which breaches international medical ethics, a police officer presses a button and an automatic syringe inserts the lethal drug

into the prisoner's vein. The execution can be watched on a video monitor next to the driver's seat and can be recorded if required.

The newspaper *Beijing Today* reported that use of the vans was approved by the legal authorities in Yunnan province on 6 March. Later that same day two farmers, Liu Huaifu, aged 21, and Zhou Chaojie, aged 25, who had been convicted of drug trafficking, were executed by lethal injection in a mobile execution van. Zhao Shijie, president of the Yunnan Provincial High Court, was quoted as praising the new system: "The use of lethal injection shows that China's death penalty system is becoming more civilized and humane." Members of China's legal community, however, fear that it will only lead to an increase in the use of the death penalty.

NEWS IN BRIEF

Czech Republic - A regional court in Brno decided in March that it would not extradite Wen-min Zhang, a Chinese citizen, because it did not consider the guarantees given by China that he would not be executed to be sufficient.

Wen-min Zhang was accused of committing a robbery in China, but the extradition request was inconsistent about where the robbery was supposed to have been committed. Seven alleged accomplices of Wen-min Zhang have already been executed.

Democratic Republic of Congo - Fifteen people are reported to have been secretly executed by firing squad during the night of 6-7 January. They had been held at the main prison at the capital, Kinshasa, and were taken from there to a military camp on the outskirts of the city. It is believed that some of those executed had been sentenced to death by the *Cour d'ordre militaire* (COM), Military Order Court, which fails to meet fair trial standards under international law and has been responsible for death sentences leading to the execution of some 200 people. There is no right of appeal against sentences by the COM, and President Joseph Kabila did not exercise his prerogative to commute their sentences.

These were the first executions since President Kabila committed himself to a moratorium on executions in March 2001. They follow the lifting of the moratorium in September 2002.

Viet Nam - According to official reports, 10 people have been executed since the start of the year, six for murder and four for drug-related crimes. Twenty-six people have been sentenced to death: 18 for drug trafficking, five for murder, two for fraud and one for rape.

These figures suggest a substantial increase in the use of the death penalty over 2002, when there was a total of at least 34 executions and at least 48 death sentences.

Thailand - On 13 March the Senate approved the first reading of a bill to amend the Criminal Code. The bill would abolish the death penalty, and life sentences, for child offenders aged under 18. The Senate also voted to introduce lethal injection as the method of execution rather than a firing squad. The bill will now be reviewed by a special Senate committee before receiving further readings.

USA - In an Order unanimously adopted in February, the International Court of Justice (ICJ) in the Hague warned the USA to take "all measures necessary" to prevent the execution of three Mexican nationals, pending the Court's judgment on a case brought by Mexico against the United States. The

Government of Mexico had requested such "precautionary measures" in January when it initiated proceedings against the USA for violations of the consular rights of more than 50 Mexican nationals on death row in the USA. The three named in the ICJ Order - César Roberto Fierro Reyna, Roberto Moreno Ramos and Osvaldo Torres Aguilera - are those closest to receiving execution dates.

There are more than 100 foreign nationals on death row in the USA. In the majority of cases, they were not informed of their right, promptly upon arrest, to contact their consulate for assistance, as provided by the Vienna Convention on Consular Relations.

USA - Oklahoma - Scott Hain, aged 32 years, was executed on 3 April for a double murder committed when he was 17 years old. The USA accounts for 13 of the 18 known executions of child offenders worldwide since 1998. International law prohibits the execution of people under 18 years at the time of the crime.

USA - Maryland - On 18 March the Maryland Senate voted by 24 votes to 23 to reject a bill to impose a moratorium on executions in the state pending further study of racial and geographic bias in the capital justice system. If enacted, the moratorium would have lasted until 2005.

Death sentences and executions in 2002

During 2002, at least 1,526 people were executed in 31 countries. At least 3,248 people were sentenced to death in 67 countries. These figures include only cases known to AI, the true figures are higher. In 2002, 81 per cent of all known executions took place in China, Iran and the USA. (See AI's website at www.amnesty.org)

International Treaties

Protocol No. 13 to the European Convention on Human Rights has been ratified by Andorra, Bulgaria, Croatia, Cyprus, Romania, San Marino, Sweden and

Ukraine bringing the total of ratifications to 13. Serbia and Montenegro has signed

Protocol No. 13 bringing the total of signatories to 27.