

DEATH PENALTY NEWS

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

WORLD DAY: 10 OCTOBER 2003

The annual World Day against the Death Penalty on 10 October was commemorated by leading abolitionists, non-governmental organizations and governments in over 60 countries in Africa, the Americas, Asia, Europe and the Middle East.

The event was organized by the World Coalition against the Death Penalty (WCADP) with the participation of organizations including Penal Reform International, *Ensemble contre la peine de mort*, Community of Sant' Egidio, the International Federation of Action by Christians for the Abolition of Torture, the International Federation for Human Rights and AI.

Official statements welcoming the initiative were made by the European Union, the Council of Europe and the foreign ministries of Canada, France and Mexico.

The World Day featured portraits of well-known abolitionists including Nobel Peace Laureates Nelson Mandela and Desmond Tutu, former French Minister of Justice Robert Badinter, the world champion Finnish rally driver and member of the European Parliament Ari Vatanen, and Sakae Menda from Japan, who spent more than 30 years on death row.

Many AI groups participated in arranging press conferences, seminars, street

exhibitions, viewings of films and videos, public debates and radio and television programs. An on-line petition appealing for an end to executions was launched on the WCADP website www.worldcoalition.org

Amnesty International activists take to the streets on the World Day



Brno, Czech Republic. © AI



Additional photos appear on page 6.

MANDATORY DEATH PENALTY RULED UNCONSTITUTIONAL IN TRINIDAD AND TOBAGO

The Judicial Committee of the Privy Council (JCPC) in England, which serves as the highest court of appeal for countries in the English-speaking Caribbean, ruled on 20 November that the mandatory death penalty for murder in Trinidad and Tobago was unconstitutional and that sentencing discretion should be left to judges. The JCPC concluded by a three-to-two majority that the country's laws intend that a death sentence be regarded as the maximum sentence possible and not a mandatory one because homicide cases are too complex to impose a single mandatory sentence in all such cases and because of the possibility of executing someone who may have been wrongly convicted.

The ruling was handed down in appeals, brought by Balkisson Roodal and Haroon Khan, who had both been sentenced to death for murder, which claimed that Trinidad and Tobago's laws regarding the death penalty were contradictory.

In light of this ruling the cases of at least 80 men and four women currently under sentence of death in Trinidad and Tobago will have to be reviewed. The ruling will also have implications for at least 200 prisoners sentenced to death in the Bahamas, Barbados and Jamaica, where the constitutionality of the mandatory death penalty will also have to be decided.

EXECUTIONS IN CHAD

Eight people were executed in Chad on 6 November, the first known executions in the country since 1991. Seven men were executed in the capital, N'Djamena, and another man in the eastern town of Abeche, by firing squad. Another man, Leon Totoloum, who had escaped execution in N'Djamena on 6

November when fellow prisoners prevented attempts to take him from the prison, was executed there on 9 November.

Four of those executed in N'Djamena, Mahamat Adam Issa, Adouma Ali Ahmat, a Sudanese national, Abderamane Hamid Haroun and Moubarack Bakhit Abderamane had been sentenced to death on 25 October by the Criminal Court in N'Djamena for the murder of a Sudanese member of parliament, Cheik Ibn Oumar Idriass Youssouf. Cheik Ibn Oumar Idriss Youssouf, who was a director of the Chad Petroleum Company and reportedly close to members of Chad's President Idriss Deby's family, was shot dead in N'Djamena on 25 September.

The executions were carried out despite serious procedural and legal flaws, particularly for the four men convicted on 25 October whose convictions are alleged to have been based on statements extracted under torture. At least one person, a woman, remains under sentence of death.

TAIWAN: PLANS TO ABOLISH DEATH PENALTY

On October 27 it was announced that the office and cabinet of Taiwan's President Chen Shui-bian had drafted legislation under which the death penalty would be abolished and other human rights protected as well. The legislation was to be considered by the government and, if approved, submitted to parliament, where previous attempts to pass human rights laws have been blocked by opposition parties.

Also on 27 October, Liu Bing-lang, Su Chien-ho and Chuan Lin-hsun, commonly known as the "Hsichih Trio", returned to court for their tenth trial in the same murder case (see **DP News** July 2003). The three men were acquitted by the Taiwanese High Court in January, but the Supreme Court overturned the verdict in August and ordered the case to be returned to the High Court yet again. The three men have spent more than seven years under sentence of death.

ETHNIC EXECUTION IN CHINA

AI said in October that Shaheer Ali, a member of the Uighur ethnic group from the Xinjiang Autonomous Region (XUAR) in northwest China, had reportedly been recently executed after being forcibly returned in January 2002 to China from Nepal, where he had sought asylum. He was sentenced to death at a secret trial in March 2003 after being convicted of offences including "separatism and organizing and leading a terrorist organization". It is not known what evidence was presented in court to substantiate the accusations against him.

Shaheer Ali was among several Uighurs who had been recognized as refugees by the United Nations High Commissioner for Refugees. In radio interviews while in Nepal, he claimed to belong to a non-militant organization called the East Turkistan Islamic Reform Party and to have been tortured while imprisoned in Guma (Pishan) in the XUAR in 1994.

THAILAND TO EXECUTE BY LETHAL INJECTION

Execution by machine gun fire was formally replaced by lethal injection in Thailand in October following an amendment to Article 19 of the Criminal Code. The Director-General of the Corrections Department, Siva Saengmanee, has said that relatives of the condemned prisoners, justice officials, police, prosecutors and reporters may be invited to witness executions by lethal injection.

The number of people on death row in Thailand has reportedly nearly tripled in the last two years to almost 1000 men and women, with the majority of those recently sentenced having been convicted of drug offences. They are said to include citizens of Ghana, Laos, Myanmar and Singapore as well as members of Thailand's hill tribes, the Hmong and Yao.

The authorities have repeatedly announced their intention to speed executions of drug offenders as a "deterrent" against drugs production and trafficking, which are on the increase.

Over 60 men and women condemned to death in Thailand have exhausted all legal appeals and may be in imminent danger of execution.

EXECUTIONS ESCALATE IN VIET NAM

At least 28 people were executed in Viet Nam during November 2003. They included five people, one of them a woman, who were publicly executed by firing squad at Thu Duc execution ground outside Ho Chi Minh City on 5 November. Three of these, Nguyen Ngu Dung, Nguyen Thi Loan and Nguyen Anh Tuan, were sentenced to death in July 2001 for possession of 10.8 kilos of heroin. The other two were convicted of murder in 2002.

Ten people were publicly executed by firing squad on 11 November at Le Xa execution ground in Nam Dinh Province in front of almost 1000 people. They had been sentenced to death in June 2000 for their involvement in a drug trafficking ring. On 15 November, a woman, Cao Thi Lien, and a man, Tran Vanh Sinh, were also publicly executed by firing squad at the execution ground in Tap Hom Hamlet in Tay Ninh Province. According to the authorities "nearly a thousand people gathered to witness the execution." Both had been sentenced to death for drug trafficking.

Another five people were executed at Long Binh execution ground in Ho Chi Minh City on 18 November. Bui Huu Tai had been sentenced to death for drug trafficking; the other four men had been sentenced to death for murder.

Since the beginning of the year at least 57 people have been executed, many of them publicly. According to official reports 86 people have been sentenced to death so far this year, more than half for drug trafficking offences. Vice Minister for Public Security Le The Tien was quoted as saying in September that the death penalty is "a very effective measure" for preventing drug production and

trafficking. However, the UN Economic and Social Commission for Asia and the Pacific issued a press release on 21 November 2003 which stated that "Despite having some of the toughest laws against drug trafficking and drug use Asia is losing the war on drugs, especially among its youth population."

COUNCIL OF EUROPE WARNING TO JAPAN AND USA

The Parliamentary Assembly of the Council of Europe has again warned Japan and the United States that they are violating their obligations as observer states by continuing to employ the death penalty.

The Parliamentary Assembly comprises members of parliament from the 45 countries that make up the Council of Europe, the main European inter-governmental organization concerned with human rights. Japan and the USA were granted observer status in 1996.

In June 2001 the Parliamentary Assembly had called for an immediate moratorium on executions in both countries and resolved to establish a dialogue on the issue with their parliamentary counterparts in the two countries (see **DP News** June 2001).

In resolution 1349 (2003), adopted on 1 October 2003, the Parliamentary Assembly noted that it had succeeded in initiating a dialogue with Japanese members of parliament but had "largely failed in its efforts to promote transatlantic parliamentary dialogue". It resolved "to intensify its dialogue" with Japanese members of parliament and to continue its efforts to enter into a dialogue with US state legislators and members of Congress.

In an accompanying recommendation (recommendation 1627 (2003)), the Assembly asked the Council of Europe's Committee of Ministers to make it a "minimum requirement" for retentionist states wishing to have their observer rights extended to "show their willingness to engage in a fruitful dialogue at parliamentary and governmental level" with the Council of Europe on the death penalty.

In a report published in September, the Parliamentary Assembly's Committee on Legal Affairs and Human Rights had noted

that on the part of the USA "there is little willingness to engage in parliamentary dialogue with us ... on this important issue". It stated that Committee was "certainly not made to feel welcome" at a conference on abolition in an official US Senate building in Washington in April when not a single member of Congress attended the event.

NEWS IN BRIEF

Botswana - Lehlohonolo Bernard Kobedi was executed on 18 July in Gaborone for a murder he allegedly committed in 1993, despite concerns that his trial did not meet international standards for a fair trial. His lawyers were not advised of the impending execution nor allowed to visit him in the days preceding it. The Court of Appeal had rejected his appeal in March but urged the country's Committee on the Prerogative of Mercy to consider clemency.

Three more prisoners, Joseph Mokhobo, Douglas Simon and Gouwane Tsae, were executed on 19 September.

Ditshwanelo, the local human rights organization, condemned the secrecy surrounding the execution and expressed concern that there is no definite record of clemency ever having been granted in Botswana. Some 38 people have reportedly been executed since the country became independent in 1966.

Ethiopia – The Federal High Court in the capital, Addis Ababa, sentenced four people to death in August for the killing of the former Patriarch of the Ethiopian Orthodox Church and 13 others who "disappeared" in 1978. Another man, a former revolutionary committee leader, was sentenced to death in November for the murder of 12 prisoners during the former government's "terror campaign" against its opponents between 1977 and 1979.

The sentences are part of the ongoing "Dergue trials" of over 2000 officials of the former Mengistu Haile-Mariam government who are accused of genocide and other crimes.

The five condemned prisoners have the right of appeal.

Iran - Following national and international pressure, the head of the judiciary, Ayatollah Hasemi Shahroudi, has reportedly ordered that the execution of Afsaneh Noroozi should not be carried out “for the moment”. However, AI is not aware of any judicial initiative to review her case.

Afsaneh Nouroozi, who is imprisoned in Bandar Abbas prison in southern Iran, was reportedly arrested in 1997 after killing the head of police intelligence on the Gulf island of Kish. She claims to have acted in self-defence to defend herself from being raped. The death sentence was upheld by the Supreme Court in August. Since then a group of female parliamentarians and non-governmental organizations in Iran have taken up Afsaneh Nouroozi’s case and sought the assistance of the Speaker of Parliament, Hojjatoleaslam Mehdi Karroubi, to halt the execution.

Mexico - President Vicente Fox commuted one death sentence and committed himself to commuting another. Sargent Angel Velázquez Pérez was sentenced to death by a military court in 1997 for the murder of a superior officer. The President commuted his sentence after his final appeal failed. On 14 November Lieutenant Herón Varela Flores was convicted and sentenced to death by a military court, also for the murder of a superior officer, in Ciudad Juarez on 14 February. President Fox stated he would commute Herón Varela Flores' sentence if his sentence is confirmed.

Morocco – On 28 May a new law on “combating terrorism” was promulgated, amending both the Penal Code and Criminal Procedure Code by adding new provisions and amending others. The new law, which employs a broad and unspecific definition of terrorism, widens the scope of crimes subject to the death penalty. Sixteen death sentences have been handed down since the new legislation came into force.

Nigeria –Amina Lawal's sentence to death by stoning for *zina* (see **DP News** March 2002) was overturned by the Sharia appeal court at Katsina on 25 September. Katsina is among the dozen northern Nigerian states which have enacted Islamic Sharia law. *Zina* is defined as “anybody who has sexual intercourse through the genital of a person over whom he has no sexual rights and in circumstances in which no doubt exists as to the illegality of the act”.

According to reports by the British Broadcasting Corporation, four out of the five judges overturned her conviction because of procedural errors at her original trial and the fact that her adultery had not been proved beyond doubt. Amina Lawal did not have a defence lawyer during her first trial.

On 14 September, 46-year-old Jibrin Babaji was sentenced to death by stoning by the Sharia court in Bauchi, northwestern Nigeria, for alleged acts of sodomy on three minors. Jibrin Babaji was not represented by a lawyer and only one lower Sharia court judge heard his case, contrary to the minimum of three judges required in cases involving the death penalty. The trial was summary and the confession upon which the conviction was based was not legally tested and examined.

USA – Georgia - James Willie Brown was executed on 4 November. He had a long history of mental illness, including repeated diagnoses of schizophrenia. The state parole board denied clemency despite evidence from a renowned expert on schizophrenia who testified that Brown had this serious mental illness. A former inmate also stated that she had lied at the trial when she told the jury that Brown had indicated to her that he was faking his mental illness.

North Carolina - Edward Hartman was executed on 3 October. The governor refused to stop the execution despite evidence that the prosecution had used Edward Hartman’s homosexuality against him at the trial as part of its successful bid to obtain a death sentence.

Also in **North Carolina**, John Daniels was executed on 14 November. A

psychiatrist who served as a key witness at the trial recanted her testimony on the grounds that prosecutors had withheld important information from her. She said that her testimony had been "erroneous with gross errors". A recent investigative series published by a local newspaper, the *News and Observer*, highlighted the problem of prosecutorial conduct in capital cases in the state.

Texas - On 20 October, the US Supreme Court refused to take the appeal of Nanon Williams, who was appealing against his death sentence on the grounds that it violates international law because he was under 18 years old at the time of the crime. Several Nobel Peace Laureates had signed an *amicus curiae* (friend of the court) brief urging the Court to take the case.

Larry Hayes was executed on 10 September. Despite being the 310th person to be put to death in **Texas** since judicial killing resumed there in 1982, he became the first white to be executed in the state for the murder of a black victim. Since 1977, 80% of those executed in the USA have been put to death for crimes involving white victims, despite the fact that blacks and whites are murdered in approximately equal numbers in the USA. Studies have consistently shown that the race of the victim is a factor in death sentencing in the USA. (see *USA: Death by discrimination: the continuing role of race in capital cases*, AMR 51/046/2003, April 2003).

Washington (state) - In November, the plea arrangement allowing Gary Ridgway to plead guilty to 48 murders in order to avoid the death penalty caused questions to be raised about the arbitrariness of the death penalty. Superior Court Judge David A. Nichols wrote in the *Seattle Times*: "Simply put, if the greatest mass murderer in United States history has been able to avoid the death penalty because he has 'something to sell' [information about the murders], then executing a lesser perpetrator because he has nothing to sell makes a mockery of all reasonable notions of justice." Judge Nichols concluded that "There is simply no way the

International Treaties

Protocol No. 6 to the European Convention on Human Rights has been ratified by Armenia and Turkey, bringing the total of ratifications to 43.

Protocol No. 13 to the European Convention has been ratified by Portugal and the United Kingdom, bringing the total of ratifications to 19.

death penalty statute can be administered fairly. There are too many variables and inconsistencies to allow any person interested in justice to support it. With its repeal, we would stop its inequitable application, the unconscionable costs associated with its administration, and the endless appeals."

To our readers: We regret to inform you that publication of the Death Penalty News will be suspended from the beginning of 2004. We hope to resume publication later in the year. The index for the current year will be issued in January 2004.

Photos of additional AI activities on the World Day against the Death Penalty (see page 1)



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Kuala Lumpur, Malaysia. © AI