

DEATH PENALTY

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

ACTION AT THE UNITED NATIONS

A United Nations (UN) subcommission in August made the strongest yet UN call for a moratorium on executions. In a separate development the European Union (EU) announced in September that it would seek a resolution on the death penalty at this year's session of the UN General Assembly.

Meeting in Geneva, the UN Sub-Commission on the Promotion and Protection of Human Rights adopted resolution 1999/4 on "The death penalty, particularly in relation to juvenile offenders". The resolution was adopted on 24 August by a vote of 14 to five with five abstentions.

In the resolution, the Sub-Commission "calls upon all states which retain the death penalty and do not apply a moratorium on executions, in order to mark the millennium, to commute the sentences of those under sentence of death on 31 December 1999 at least to sentences of life imprisonment and to commit themselves to a moratorium on the imposition of the death penalty throughout the year 2000".

Much of the resolution concerns the use of the death penalty against child offenders. Drawing on Amnesty International's (AI's) information it notes that "since 1990, 19 executions of juvenile offenders have taken place worldwide in six countries: the Islamic Republic of Iran, Nigeria, Pakistan, Saudi Arabia, the United

States of America and Yemen, of which 10 occurred in the United States, and that, in 1998, only the United States of America is known to have executed juvenile offenders". It "condemns unequivocally the imposition and execution of the death penalty on those aged under 18 at the time of the commission of the offence" and "calls upon all states that retain the death penalty for juvenile offenders to commit themselves to abolishing the death penalty for those aged under 18 at the time of the commission of the offence".

Another important issue raised by the Sub-Commission was the use of the death penalty against deserters and conscientious objectors to military service. For the first time in a UN resolution or other international standard, the UN Sub-Commission resolution "calls upon all states that retain the death penalty for refusal to undertake military service or for desertion not to apply the death penalty where the refusal to undertake military service or the desertion is the result of conscientious objection to such service".

In late September the EU disclosed in a statement to the UN General Assembly that they would seek passage of a resolution on the death penalty at this year's General Assembly session. The decision was in line with developments elsewhere favouring the advent of a death penalty-free millennium from the year 2000, including the resolution adopted at this year's session of the UN Commission on

Human Rights and the Sub-Commission's August resolution (see **DP News June 1999**). Details of the proposed resolution were not

"I am not God. I am just a human being and I can

EXECUTIONS SUSPENDED IN THE PHILIPPINES

President Joseph Estrada of the Philippines in

On 18 August President Joseph Estrada suspended all executions pending review of each death penalty case by a special "conscience" committee set up on the advice of the President's spiritual adviser Brother Mike Velarde, leader of the charismatic Roman Catholic group El Shaddai, and Manila Auxiliary Bishop Teodoro Bacani Jr. The suspension of executions was welcomed by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Astma Jahangir, who stated that the reintroduction of the death penalty had caused "extreme concern from a human rights perspective".

The "conscience" committee, formed in September, is reported to be headed by the Presidential Chief of Staff Ronaldo Zamora and to have four other members: a Roman Catholic bishop, the chairwoman of the pro-death penalty citizens' group Crusade against Violence and two psychology professors. It is reported that the committee will not re-examine the judicial findings in each case but will assess unspecified mitigating factors which may result in a recommendation for presidential clemency or commutation.

According to press reports the committee is due to consider the cases of Josefina Esparas, the first woman in the country to face lethal injection for drug-trafficking, and three men who were sentenced to death for rape and murder.

On 5 February Leo Echegaray, a convicted child rapist, was the first person to be executed in the Philippines in 23 years (see **DP News March 1999**). Since then four other people have been executed by lethal injection. One execution went ahead despite a last-minute decision by the President

available when the present issue of the **DP News** went to press.

to grant clemency. The call to the prison authorities to halt the execution of Eduardo Agbayani on 25 June came just minutes too late to save his life.

The Philippines abolished the death penalty in 1987 but reintroduced it in late 1993. It now has well over 1000 prisoners under sentence of death. The death sentence is applicable for 46 offences and mandatory for 21.

BOLIVIA: CALLS FOR DEATH PENALTY

The rape and murder of 10-year-old Patricia Flores at the end of August in the Bolivian capital, La Paz, sparked calls for reinstatement of the death penalty.

Interior Minister Walter Guiteras said he agreed with the murdered child's parents that the death penalty should be used for crimes against children, but stated that the reintroduction of the death penalty would require a congressional amendment to the Bolivian constitution.

In a Congressional debate held at the beginning of September, a bill to reinstate the death penalty was rejected by a majority of parliamentarians.

The last execution in Bolivia took place in 1974.

SAUDI ARABIA: EXECUTIONS ON THE INCREASE

The rate of executions in Saudi Arabia continues to accelerate (see **DP News June 1999**). Eighty-nine people had been executed by mid-September, 51 of whom were foreigners, among them three women. Most were for drug-related offences.

Executions take place after trials which fall far short of international standards for fair trial. Defendants do not have the right to formal representation by defence lawyers, foreign nationals reportedly are not always provided with adequate interpretation facilities and access to consular assistance, and confessions can be used as the sole basis for convictions. AI is aware of 59 people detained on charges which carry the death penalty although the true figure may be much higher.

TAJIKISTAN: POLITICAL EXECUTIONS

Diplomatic sources have disclosed that the unofficial de facto moratorium which has been in place in Tajikistan since June 1995 ended in November 1998 with the execution of Abdulkhafiz Abdullayev, brother of a former prime minister and leader of an opposition political party. Another man, Bakhrom Sodirov, was executed in January.

At least six death sentences are known to have been passed this year. On 26 March the Supreme Court sentenced three members of the United Tajik Opposition (UTO) to death for the murder of three members of the UN Mission of Observers to Tajikistan (UNMOT) in July 1998. The UN Secretary-General appealed for the death sentences to be commuted.

On 22 June the Supreme Court sentenced to death two former politicians accused of having participated in a coup attempt in August 1997. It was feared that former parliamentary deputy Sherali Mirzoyev and former deputy governor of Khatlon province, Kosym Babayev, had been sentenced to death without right of appeal and that their only hope of avoiding execution was a petition for clemency lodged with the President.

USA: APPEAL AGAINST EXECUTION OF CHILD OFFENDERS

Michael Domingues, a prisoner in Nevada who was sentenced to death for a crime committed when he was 16 years old, has appealed to the US Supreme Court on the grounds that his sentence violates the USA's obligations under the International Covenant on Civil and Political Rights and is illegal under international law. Were it to be upheld by the US Supreme Court, which issued an order on 7 June asking the US Solicitor General to provide it with the US government's view of its international obligations as they relate to the use of the death penalty against children, it could result in the reversal of the death sentences of more than 70 child offenders currently on death row in 16 US states.

Since 1990, 10 people have been executed in the USA for crimes committed when they were under 18 years of age. The latest execution of a child offender was carried out in Oklahoma in February when Sean Sellers was put to death for crimes committed when he was 16 years old.

On 17 September Gregory Wynn was sentenced to death in Alabama for a crime committed when he was 17 years old.

At least four cases involving defendants accused of committing murder when they were under 18 years old are currently pending before the courts in Nevada, North Carolina and South Carolina.

NEWS IN BRIEF

Bangladesh - The government has reportedly proposed an amendment to the Woman and Child Repression (Special Provision) Act which would provide for the death penalty for acid attacks and rape. The draft legislation was to be brought before parliament during its current session which began at the end of August.

Japan - Three prisoners, all convicted of double murders, were executed on 10 September. The executions of Sato Masashi aged 62, Takada Katsutoshi, 61, and Morikawa Tesuyuki, 69, took place in secret

and without the families being informed. The executions, the first this year, occurred while parliament was in recess.

BOOK REVIEWS

The Death Penalty - Abolition in Europe, with an introduction by Roger Hood and a conclusion by Sergei Kovalev, Council of Europe Publishing, May 1999, ISBN 92-871-3874-5. This book contains articles by different authors on the abolition of the death penalty in France and the Slovak Republic, on the effort to abolish it in the Russian Federation and Ukraine, and on abolitionist initiatives in the Council of Europe and the UN. Topics include human rights concerns, criminological considerations and the role of public opinion.

In an important essay, Peter Hodgkinson, Director of the Centre for Capital Punishment Studies at the University of Westminster, London, examines the impact of the victims' movement on the abolitionist effort and argues that abolitionist organizations should do more to acknowledge the needs and rights of victims of crime.

In the concluding essay, Sergei Kovalev, Russian member of parliament and recipient of the 1995 Council of Europe Human Rights Prize, questions the standard abolitionist arguments and suggests that the abolitionist cause is primarily a reflection of liberal political values.

Death as a Punishment: an Offence Against Life, Commissie Justitia et Pax, Netherlands, 1999, translated from the Dutch original of 1997 by the Justitia et Pax Death Penalty Task Force. Sub-titled *Reflections on fear, revenge and reconciliation*, this 81-page booklet comprises the working documents of a seminar on the death penalty held in 1996 to review the historical and changing Roman Catholic viewpoint on the death penalty.

INTERNATIONAL TREATIES

The **Slovak Republic** ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights on 22 June, **Bulgaria** ratified it on 10 August and **Cyprus** ratified it on 10 September bringing the total of countries which have ratified the Protocol to 40.

Lithuania ratified Protocol No. 6 to the European Convention on Human Rights on 1 August bringing the total of countries which have ratified the Protocol to 33.

Death Penalty Statistics
Abolitionist and retentionist
countries
(September 1999)