
amnesty international

1999 UN COMMISSION ON HUMAN RIGHTS

Making human rights work:
time to strengthen the special procedures

Appeal case: UNITED STATES OF AMERICA

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Amnesty International is a worldwide movement that works to prevent some of the gravest human rights violations wherever they occur. The organization does not grade countries according to their human rights record but concentrates on ending specific violations. The 55th session of the UN Commission on Human Rights (Commission) will meet for six weeks in Geneva from 22 March to 30 April 1999.

Amnesty International is calling on the Commission this year to act on **Algeria, Cambodia, the Great Lakes region of Africa (Burundi, Democratic Republic of Congo, Rwanda), Turkey and the United States of America (USA)**, where human rights violations and abuses are grave, persistent, and/or widespread. This document summarizes Amnesty International's concerns in one of these countries, the USA, and includes one appeal case which illustrates some of Amnesty International's concerns in that country.

Amnesty International urges all governments, whether members or observers, attending the Commission to take up this appeal case as well as Amnesty International's recommendations in their bilateral and multilateral meetings with government representatives of the USA. Where the Commission adopts a resolution, takes a decision or its Chair makes a statement on the human rights situation in the USA, specific action should also be taken to address the violations in the appeal case.

SUMMARY OF AMNESTY INTERNATIONAL'S CONCERNS IN THE UNITED STATES OF AMERICA

Despite its claims to international leadership in the field of human rights and its many institutions to protect individual civil liberties, the USA is failing to deliver the fundamental promise of rights for all. There is a persistent and widespread pattern of human rights violations in the USA. Human rights violations appear to disproportionately affect people of racial or ethnic minority backgrounds. Police brutality is common across the country, as are human rights violations against people in detention.

The increase in crimes punishable with capital punishment, its imposition for crimes committed by people below 18 years of age and the continuous increase in executions contravene international human rights standards. The increase in the practice of detaining asylum-seekers is alarming as is the fact that many continue to be held in jails with criminals, and there is no judicial review of their continued detention.

Those responsible for law enforcement, including police officers, prison guards, immigration and other officials in the USA are regularly breaching their own laws and guidelines as well as international human rights standards. Police officers have beaten and shot unresisting suspects, they have misused batons, chemical sprays and electro-shock weapons, they have injured or killed people by placing them in dangerous restraint holds. Despite this pattern of human rights violations, the authorities have failed to take adequate action to punish and prevent violations.

Sixty per cent of the prisoners incarcerated in the country are from racial and ethnic minorities. Thousands of prisoners are isolated in solitary confinement for long periods, and many prisoners do not receive adequate care for serious physical and mental health problems. Victims of human rights violations in the prison system include many women. Incidents amounting to cruel, inhuman or degrading treatment or even to torture, including physical abuse, the cruel use of mechanical restraints, and the shackling of pregnant women have been reported. Women are reportedly subjected to sexual abuse, including rape, by male staff in jails and prisons across the USA.

Despite the worldwide trend toward the abolition of the death penalty more than 350 prisoners have been executed in the USA since 1990, and a further 3,500 people await execution. Capital punishment is applied in an arbitrary and unfair manner and is prone to bias on grounds of race or economic status. International human rights standards forbid the sentencing to death of those convicted of a crime committed when they were under 18 years old and of mentally impaired persons. These standards also demand the strictest legal safeguards in capital trials. The USA fails to meet these minimum standards on all counts. When the USA ratified the International Covenant on Civil and Political Rights (ICCPR), it reserved the right to impose capital punishment on people convicted of a crime committed when they were below the age of 18. The (UN) Human Rights Committee has stated that this reservation is incompatible with the object and purpose of the ICCPR.

Successive US governments have used international human rights standards as a yardstick against which to judge other countries, but they have inconsistently applied the very same standards at home and have been reluctant to ratify them. The USA has not ratified the International Covenant on Economic, Social and Cultural Rights, or the

Convention on the Elimination of All Forms of Discrimination against Women and is one of only two countries which have failed to ratify the Convention on the Rights of the Child.

The USA has often ratified human rights treaties only half-heartedly with major reservations limiting their object and purpose. The USA has not ratified the (first) Optional Protocol to the ICCPR allowing individuals to petition the Human Rights Committee about violations of the Covenant, nor has it permitted individuals to communicate to the Committee against Torture alleged violations of the Convention against Torture. Furthermore, human rights experts appointed by the Commission who have conducted fact-finding missions to the USA have not received the full cooperation of the US authorities. The Special Rapporteur on violence against women was denied access to a number of prisons in the state of Michigan and the Special Rapporteur on extrajudicial, summary and arbitrary executions faced obstacles in meeting senior federal officials.

Amnesty International's recommendations to the Commission are featured in the main document: *"1999 UN Commission on Human Rights - Making human rights work: time to strengthen the special procedures"* (AI Index: IOR 41/01/99), pages 23, 24 & 25.

Appeal case: KEVIN HUGHES - Death penalty¹

Kevin Hughes was sentenced to death on 24 March 1981 in Pennsylvania for a crime committed when he was a 16-year-old boy. This sentence violates international human rights standards which prohibit imposing the death penalty on anyone younger than 18 years when the crime was committed. The last time a juvenile offender was executed in Pennsylvania was in 1916.

Kevin Hughes was sentenced to death in Philadelphia for the murder of Rochelle Graham. The body of the nine-year-old girl was found in a building in Philadelphia on 1 March 1979. She had been raped and strangled. The crime went unresolved until 11 January 1980, when Kevin Hughes was arrested after another young girl identified him to police as the person who had sexually and physically assaulted her a few days before. Noting similarities between the two crimes, the police questioned Kevin Hughes about Rochelle Graham. He eventually confessed to her murder.

At the time of his arrest there were signs that Kevin Hughes was suffering from mental health problems, when he indicated to police that "voices" had made him commit the murder. The severity of these problems was noted a few months later by mental health professionals. However *two doctors found him competent enough to stand trial even though one of the doctors found he showed signs of schizophrenia, which could be controlled by taking the anti-psychotic drug, Thorazine. The judge ruled that the trial could proceed but ordered, at the prosecutor's request, that Kevin Hughes be kept on*

¹ For more information about Amnesty International's position vis-à-vis the question of the death penalty at the 55th session of the UN Commission on Human Rights, please see page 37 of *"1999 UN Commission on Human Rights - Making human rights work: time to strengthen the special procedures"* (AI Index: IOR 41/01/99), issued by Amnesty International in January 1999.

Thorazine throughout the proceedings. According to an affidavit of Kevin Hughes' aunt: "The drugs they gave Kevin for the trial made him quiet and less moody, but he was even less able to understand ... It was like having a trial with a three-year-old child. We could not understand how they could try someone so out of touch."

At the sentencing phase, the jury was not properly instructed to consider Kevin Hughes' youth in mitigation, and the jurors never heard evidence of Kevin Hughes' abusive and neglected childhood, or of his mental illness. Kevin Hughes' mental health problems have continued on death row. He has been diagnosed as suffering from paranoid schizophrenia, brain damage, and a *below average IQ*.

Kevin Hughes remains on death row in Pennsylvania at SCI-Greene, a super-maximum prison. A ruling on his latest appeal will be issued in the immediate future.

Amnesty International calls on:

- the US authorities to immediately commute the death sentence imposed on Kevin Hughes and on all other persons on death row convicted for crimes committed when they were below 18 years of age;
- the US authorities to bring US laws and practices in line with the international consensus which prohibits the imposition and the use of the death penalty on persons below 18 years of age at the time of the crime.

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