

22 October 1999

**Further information on UA 150/99 (AMR 51/102/99, 29 June 1999) - Death penalty / Legal concern****USAMichael Domingues****More than 70 other prisoners on death row for crimes committed when they were under 18 years old**

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The US Solicitor General has filed an *amicus curiae* (friend of the court) brief with the US Supreme Court presenting the government's position on the USA's use of the death penalty against child offenders - people who commit crimes when under 18 years old.

The Supreme Court had requested the brief in June (see original UA), prompted by the appeal of Michael Domingues. Domingues is on death row in Nevada for a crime committed when he was 16. His lawyers are challenging the legality of his sentence on the grounds that it is a violation of customary international law and the USA's obligations under the International Covenant on Civil and Political Rights (ICCPR).

Amnesty International deeply regrets that the Solicitor General's brief maintains the position that the USA has the right to execute child offenders, and argues that the US reservation to the ICCPR is valid (see below). The brief concludes by urging the Supreme Court not to examine Michael Domingues's claim. The Court has not yet announced whether it will consider the Domingues appeal. It last looked at the issue of the minimum age for the death penalty in 1989, when it ruled that US "standards of decency" allowed the execution of 16- and 17-year-old offenders.

**BACKGROUND INFORMATION**

Article 6(5) of the ICCPR and Article 37(a) of the Convention on the Rights of the Child (CRC) ban the use of the death penalty against those under 18 at the time of the crime. This principle is so widely accepted, and adhered to, that it has become a principle of customary international law, binding on all countries regardless of which international instruments they have or have not ratified.

The USA attempts to justify its use of the death penalty against child offenders by arguing that it reserved the right to continue this practice when it ratified the ICCPR in 1992. The UN Human Rights Committee, the expert body set up to monitor countries' compliance with the ICCPR, has stated that the US reservation should be withdrawn as it contravenes the object and purpose of the treaty.

International standards ban the death penalty against children, not to excuse their crimes, but in recognition of their immaturity and potential for change. The global consensus on this issue has been confirmed by the fact that 191 countries have ratified the CRC, all but the USA and the collapsed state of Somalia. In 1997 China abolished the death penalty for child offenders, so that its law would comply with the CRC.

Since 1990, 19 people are known to have been executed worldwide for crimes committed when they were under 18. Ten were executed in the USA, while the other nine were put to death in Iran, Nigeria, Pakistan, Saudi Arabia and Yemen (Yemen has since abolished the death penalty for child offenders). The only

four executions of child offenders known in the world in the past two years were carried out in the USA.

**FURTHER RECOMMENDED ACTION: In your own words, using the following guidelines, please send faxes/express/airmail letters in English or your own language:**

- expressing deep regret at the position adopted in the Solicitor General's brief in *Domingues v. Nevada*;
- arguing that the US government cannot expect the international community to give credibility to US claims to be a progressive force for human rights while it insists on its right to execute child offenders in the face of a global consensus that such executions are wrong;
- expressing concern that a "pick-and-choose" approach to international human rights standards undermines the framework of standards as a whole;
- urging the US Government to reconsider and to ask the US Supreme Court to examine Michael Domingues's appeal.

**APPEALS (in equal numbers, if possible) TO:**

President Clinton  
The White House  
Office of the President  
1600 Pennsylvania Avenue  
Washington, DC 20500, USA

**Faxes:+ 1 202 456 2461**

**Salutation:Dear Mr President**

The Honorable Madeleine Albright  
Office of the Secretary of State  
2201 C Street, N.W.  
Washington, DC 20520, USA

**Faxes:+ 1 202 647 1533**

**Salutation:Dear Secretary of State**

The Honorable Harold Koh  
Assistant Secretary for Democracy, Human Rights, and Labor  
Department of State  
2201 C Street, N.W.  
Washington, DC 20520, USA

**Faxes:+ 1 202 647 5283**

**Salutation:Dear Assistant Secretary**

The Honorable Janet Reno  
Attorney General  
Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530, USA

**Faxes:+ 1 202 514 4371**

**Salutation:Dear Attorney General**

The Honorable Seth Waxman  
Solicitor General  
Department of Justice  
950 Pennsylvania Avenue  
Washington, DC 20530, USA.

**Faxes:+ 1 202 514 9769**

**Salutation:Dear Solicitor General**

**COPIES TO:** diplomatic representatives of the USA accredited to your country.

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat, or your section office, if sending appeals after 30 November 1999.