

DEATH PENALTY NEWS

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A SUMMARY OF EVENTS ON THE DEATH PENALTY AND MOVES TOWARDS WORLDWIDE ABOLITION

AZERBAIJAN AND ESTONIA ABOLISH THE DEATH PENALTY

Early into the new year, two more countries have abolished the death penalty, bringing to 63 the worldwide total of countries which are abolitionist for all crimes.

On 22 January President Haydar Aliev of **Azerbaijan** announced his intention of abolishing the death penalty. "I believe that strengthening the struggle against crime in itself will reduce the number of criminal actions. At the same time humanization of our policy of punishment will also create among the people a healthy attitude toward violations and crimes", he said.

On 10 February the country's parliament agreed by 104 votes to three to adopt the President's proposal to abolish the death penalty for all crimes. The relevant law came into force with its publication in the presidential gazette on 21 February.

A moratorium on capital punishment had been in force since June 1993. In 1996 the number of articles in the Criminal Code punishable by death was reduced from 33 to 12 and the death penalty was abolished for women and for men over the age of 65. In August 1997 the Chairman of the Supreme Court publicly expressed his support for abolition of the death penalty.

In January the President stated that death sentences had been carried out on five people in 1988, six in 1989 and three in 1990. No further death sentences had been carried out until 1993, he stated, when eight people were executed.

Since 1993 **AI** has recorded 144 death sentences including one in 1998.

It is expected that the 128 people currently under sentence of death will have their sentences commuted to 15 to 20 years' imprisonment. In future, penalties of life imprisonment or imprisonment for 20 to 25 years will be applied for those 11 offences which carried a possible death sentence at the time of abolition. These include treason, premeditated, aggravated murder and aggravated rape.

Azerbaijan currently has observer status at the Council of Europe. It has applied to become a full member.

On 18 March the **Estonian** Parliament (*Riigikogu*) voted to ratify Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights). This protocol provides for the abolition of the death penalty except in time of war or imminent threat of war. Estonia had signed Protocol No. 6 in 1993 upon its accession to the Council of Europe.

The decision to ratify the protocol was adopted by a vote of 39 in favour and 30 against. The effect of the vote was to abolish the death penalty for all crimes. Following the vote, Foreign Minister Toomas Hendrik Ilves said: "Estonia has made another important step towards recognising common European values".

In December 1996 the parliament had introduced life imprisonment as an alternative to capital punishment under the criminal code (see **DP News** June 1997), although a proposal to abolish the death penalty at that time was

GUATEMALA'S FIRST LETHAL INJECTION EXECUTION "BOTCHED"

Manuel Martínez Coronado, an impoverished peasant farmer of indigenous descent, was executed by lethal injection on 10 February after a series of last-minute legal appeals were rejected by the Guatemalan judiciary. The government had also failed to respond to a request from the Inter-American Commission on Human Rights for the execution to be suspended until it could consider whether the proceedings which convicted Martínez Coronado met the standards set forth in the American Convention on Human Rights, to which Guatemala is a party.

Martínez Coronado, who was the first person to be executed in Guatemala by lethal injection, had been found guilty of multiple homicide carried out in 1995 in the context of a family land dispute.

The execution was broadcast live; radio and television audiences could hear the condemned man's three children and their mother sobbing in the lethal injection chamber's observation room as the execution took place. Although the authorities had claimed that execution would be painless and "over in 30 seconds", Martínez Coronado took 18 minutes to die. Witnesses present in the observation room reported that the executioners had trouble finding a vein into which to insert the injection. Human Rights Procurator Julio Arango said: "I think we all have the obligation to tell what happened: his arms were bleeding heavily. I think everyone who was there was suffering."

Between 1983 and 1996 a *de facto* moratorium on executions was in place. However, in response to a rising crime rate Guatemala extended the range of crimes for which the death penalty could be applied. Guatemala's first execution in 13 years, carried out by firing squad in September 1996, was televised live (see **DP News** September 1996). The revulsion engendered in viewers moved the

defeated by 39 votes to seven. According to the Estonian Ministry of Foreign Affairs, death sentences continued to be imposed throughout 1997. The last execution was in 1991.

government to send a delegation to the United States to study the more "modern" method of execution by lethal injection.

Some 15 prisoners are currently under sentence of death.

SOUTH KOREA EXECUTES 23

On 30 December 1997, 23 people were hanged in prisons in the capital, Seoul, and the cities of Taegu, Pusan, Taejon and Kwangju. The 18 men and five women were executed without advance warning and the families of the prisoners were not informed prior to the executions. These were the first executions since November 1995 when 19 persons were executed in one day.

In November 1996 South Korea's Constitutional Court ruled that the death penalty was constitutional and a "necessary evil" but that it should only be used in exceptional cases. However, the court also said that the death penalty retains an aspect of institutional murder and for this reason debate surrounding its use should continue. The court said that the death penalty should be abolished in the future, when it is no longer needed as a criminal deterrent.

DEVELOPMENTS IN THE USA

Iowa

The legislature of the state of Iowa will not debate or vote upon reinstatement of the death penalty during its 1998 session. Proponents of the death penalty decided in February to drop their plans for a full debate because of lack of support. Governor Terry Branstad described the opposition to the death penalty as "strong and organised" but said he believed that reintroduction was "a matter of time".

Texas Executes First Woman since 1860s

Karla Faye Tucker, who was convicted in 1984 of killing two people with a pickaxe, was executed by lethal injection on 3 February. She is the second woman to be executed in the United States since the US Supreme Court ruled in 1976 that the death penalty was constitutional and the first woman to be executed in Texas since 1863. Karla Faye Tucker gained worldwide publicity because of her apparent rehabilitation and conversion to Christianity; she also earned support from a brother and sister of the victims as well as a juror from her trial. Despite appeals for commutation from Pope John Paul II, the European Parliament and others, the Texas Board of Pardons and Parole did not recommend commutation of her death sentence, nor did Governor George W. Bush order a stay of execution.

Following the execution of Karla Faye Tucker, Mary Robinson, the United Nations (UN) High Commissioner for Human Rights, issued a statement on 4 February in which she said that "The increasing use of the death penalty in the United States and in a number of other states is a matter of serious concern and runs counter to the international community's expressed desire for the abolition of the death penalty." She added: "I have full sympathy for the families of the victims of murder and other crimes but I do not accept that one death justifies another."

UNITED KINGDOM - MURDER CONVICTION OF HANGED MAN QUASHED

Nearly 46 years after Mahmood Hussein Mattan was hanged for murder in Cardiff, Wales, his conviction was quashed on 24 February by the Court of Appeal in London. Although two previous appeals to clear Mahmood Mattan's name posthumously had failed, the latest appeal, which had been referred by the newly formed Criminal Cases Review Commission in April 1997, presented new evidence which threw doubt on the testimony of the chief prosecution witness. Lord Justice G H Rose, who ruled that the conviction was unsafe and that a pardon was now due, said the case had shown that capital

punishment was not a "prudent culmination for a criminal justice system which is human and therefore fallible".

BOSNIAN COURT RULING ABOLISHES DEATH PENALTY IN PEACETIME

Meeting on 5 September 1997, the Human Rights Chamber of the Human Rights Commission for Bosnia and Herzegovina decided in the case of Damjanovic vs. Bosnia and Herzegovina that provision for the death penalty in peacetime is incompatible with the Constitution of Bosnia and Herzegovina (Article II, paragraph 4 of which provides for the enjoyment of the rights and freedoms in a series of international agreements, including the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty). The ruling also makes clear that the imposition of a death sentence or the carrying out of an execution for a crime committed in peacetime would violate the General Framework Agreement for Peace in Bosnia and Herzegovina, Article 1 of which provides that Bosnia and Herzegovina will secure the rights provided in a series of international agreements including Protocol No. 6 to the European Convention on Human Rights concerning the abolition of the death penalty.

The appellant, Sretko Damjanovic, had been sentenced to death by a military court in 1993 for genocide and war crimes against the civilian population. The Human Rights Chamber ruled that the Criminal Law did not define these crimes with sufficient precision to satisfy the restriction of the death penalty under Protocol No. 6 to "acts committed in time of war or of imminent threat of war". The effect of the ruling was to abolish the death penalty in peacetime.

UKRAINE - COUNCIL OF EUROPE ASSEMBLY STOPS SHORT OF SUSPENSION

Meeting in January in Strasbourg, France, the Parliamentary Assembly of the Council of Europe adopted a resolution strongly condemning the continuation of executions in Ukraine but falling short of suspending its delegates from the Assembly.

Suspension would have been the second step which could lead ultimately to expulsion of the country from the Council of Europe. The first step was taken in January 1997 when the Parliamentary Assembly formally condemned

A proposal by the Assembly's Committee on Legal Affairs and Human Rights to suspend the delegates failed in a close vote.

In resolution 1145(1998), as adopted on 27 January, the Assembly "strongly condemns" the 13 executions; "demands that no more executions be carried out under any circumstances whatsoever"; "demands that a *de jure* moratorium be introduced in Ukraine"; "demands that the death penalty be abolished by parliament as soon as a new parliament has been elected and that the President pardon all current death-row inmates"; demands that a list of all those under sentence of death since Ukraine joined the Council of Europe in 1995 and their ultimate fate be made public; and "insists that all death-row inmates immediately be allowed one hour's exercise in fresh air per day".

Following the elections in Ukraine held at the end of March, the country will have to send a new set of delegates to the Parliamentary Assembly. As stated in the resolution, the Assembly or its Standing Committee could refuse to admit the new delegates unless the Ukrainian authorities "have lifted the secrecy surrounding executions and have furnished documentary and undeniable proof that a moratorium on executions has been established in Ukraine."

NEW BOOKS AND DOCUMENTS

Question of the Death Penalty: Report of the Secretary-General..., 16 January 1998, UN document No. E/CN.4/1998/82. This 33-page report is the first yearly supplement to the UN quinquennial report on capital punishment, prepared in response to a resolution adopted by the UN Commission on Human Rights in April

the continuation of executions (see **DP News** March 1997).

This year's action at the Parliamentary Assembly was motivated by reports of further executions - at least 13 between January and March 1997 (see **DP News** December 1997). In a letter to the President of the Assembly, **AI** said it was investigating allegations of a further execution later in the year.

1997 (see **DP News** March 1997). It gives information on changes in law and practice in 1996 and 1997 and concludes that "the trend towards abolition continues".

Included in an annex is information received from 13 states in reply to a questionnaire from the UN Secretariat, including information on legal provisions for the death penalty in countries which retain it. The information from Mexico is of particular interest, as it gives extensive details on measures taken to afford consular protection for Mexicans facing the death penalty in the USA.

Divided Passions: Public Opinions on Abortion and the Death Penalty by Kimberly Cook, Northeastern University Press, USA, 1997, price US \$45. A summary of interviews with US citizens exploring the connection between their attitudes to abortion and to the death penalty.

Death at Midnight: The Confession of an Executioner by Donald A Cabana, Northeastern University Press, USA, 1996, price US \$ 23.50.

The author, as warden of Mississippi's largest penitentiary during the 1980s, was administratively involved in the execution of two prisoners. The book describes his conversion from death penalty advocate to abolitionist.

Zur Aktualität der Todesstrafe - Interdisziplinäre Beiträge gegen eine unmenschliche, grausame und erniedrigende Strafe by Christian Boulanger, Vera Heyes, Philip Hanfling, Berlin Verlag Arno Spleitz, Germany, 1997, ISBN 3-87061-671-7. Interdisciplinary contributions analyzing different aspects of the death penalty such as criminal and international law and the

involvement of medical personnel in executions.

Although the focus is on the USA, the book also describes the history of the death penalty in Germany.

NEW MATERIALS FROM AI

Ratifications of International Treaties on the Death Penalty, AI Index: ACT 50/03/98, January 1998. This document shows that as of 1 January the Second Optional Protocol to the ICCPR had been ratified by 31 states and signed by four others, Protocol No. 6 to the European Convention on Human Rights had been ratified by 27 European states and signed by five others and the Protocol to the American Convention on Human Rights had been ratified by four states in the Americas and signed by three others.

Juveniles and the Death Penalty - Executions Worldwide since 1985, AI Index: ACT 50/02/98, January 1998.

Lethal Injection - the Medical Technology of Execution, AI Index: ACT 50/01/98, January 1998.

DEATH PENALTY NEWS INDEX 1997

| COUNTRY | DATE | SUBJECT |
|--------------------|---------------|--|
| Bosnia-Herzegovina | 3/97 | Serb soldier sentenced to death files request for retrial |
| Burundi | 9/97 | First executions in 16 years |
| Chile | 6/97 | Bill calling for abolition defeated |
| El Salvador | 6/97 | Plans to extend death penalty for certain common crimes abandoned |
| Estonia | 6/97 | State Court pronounces first life sentence |
| Georgia | 9/97 12/97 | Georgia: mass commutations Georgia becomes 100th abolitionist country |
| Iran | 6/97 | Two death sentences for apostasy confirmed |
| Jamaica | 12/97 | Executions feared after withdrawal from human rights protocol |
| Japan | 9/97 | Secret executions |
| Libya | 3/97 | Eight men executed |
| Malawi | 9/97 | Commutations |
| Nigeria | 9/97 | Juvenile executed |
| North Korea | 3/97 | At least 23 executions between 1970-92 |
| Pakistan | 12/97 | Juvenile offender executed |
| Philippines | 12/97 | Threat to resume executions in 1998 |
| Poland | 9/97 | Poland abolishes the death penalty |
| Portugal | 9/97 | Extradition law |

| COUNTRY | DATE | SUBJECT |
|---------------------|--|---|
| Saudi Arabia | 9/97 | Nurses' case |
| Trinidad and Tobago | 12/97 | Possible expansion of death penalty |
| Turkey | 12/97 | Move towards abolition, but death sentences continue |
| Turkmenistan | 9/97 | Mass commutations |
| Ukraine | 6/97 12/97 | President commutes two death sentences Council of Europe sends mission after disclosure of further executions |
| USA | 3/97 9/97 12/97 | Arkansas carries out second triple execution Puerto Rico: a potential constitutional crisis is brewing Kentucky - first execution in 35 years Virginia - Mexican national executed Visit by AI Secretary General |
| Zaire | 3/97 | Soldiers sentenced to death |
| Zambia | 6/97 | First executions since 1989 |
| Book Reviews | 3/97 6/97 | <u>The Death Penalty as Cruel Treatment and Torture</u> by William Schabas <u>Against Capital Punishment: The Anti-Death Penalty Movement in America, 1972-94</u> by Herbert Haines <u>La pena de muerte y su abolición en España</u> by AI Spanish Section <u>Christianity and the Death Penalty: Is the Current Death Penalty System Good?</u> by the Korean Presbyterian Church Committee <u>The Death Penalty in America: Current Controversies</u> , edited by Hugo Adam Bedau |

| COUNTRY | DATE | SUBJECT |
|---|--------------|--|
| | 12/97 | <p><u>Serious Crime and the Requirement of Respect for Human Rights in European Democracies</u>, proceedings of the seminar organised by the Secretariat General of the Council of Europe</p> <p><u>“War Crimes, Crimes against Humanity and the Death Penalty”</u> by William A Schabas</p> <p><u>The Abolition of the Death Penalty in International Law</u> by William Schabas</p> <p><u>The International Source Book on Capital Punishment</u>, edited by William Schabas</p> <p><u>The Death Penalty: An Historical and Theological Survey</u> by James J Megivern</p> <p><u>“Deterrence and the Death Penalty: The Views of Experts”</u> by Michael Radelet</p> |
| International Treaties on Death Penalty | 6/97 | Russia and Ukraine sign Protocol No. 6 to the European Convention on Human Rights |
| Caribbean Court | 9/97 | Caribbean states take step towards creation of a Caribbean Supreme Court |
| Council of Europe | 3/97 | Condemns Russia and Ukraine for continuing executions |
| UN | 3/97 6/97 | UN calls for halt to executions Special Rapporteur says “No right to capital punishment” |
| American Bar Association | 3/97 | Demands US moratorium on executions |
| AI Calls for Abolition in Africa | 6/97 | AI releases report calling on all governments in Africa to abolish death penalty |
| AI Calls on Southeast Asian Countries to Halt | 6/97 | AI publishes disturbing report |

| <i>COUNTRY</i> | <i>DATE</i> | <i>SUBJECT</i> |
|-------------------|-------------|----------------|
| <i>Executions</i> | | |