

DEATH PENALTY NEWS

INTERNATIONAL

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

MOVES TOWARD ABOLITION

SOUTH AFRICA - COURT RULING

In an historic decision the Constitutional Court ruled on 6 June 1995 that capital punishment as provided for under the Criminal Procedure Act is inconsistent with the country's new constitution which came into force in April 1994. The ruling did not apply, however, to the crime of treason in wartime. The Court ordered that, with immediate effect, "the State and all its organs are forbidden to execute any person already sentenced to death under any provisions thus declared to be invalid".

The ruling follows the Constitutional Court's hearing on the death penalty which took place in February 1995 (see Death Penalty News December 1994 and March 1995).

Until the use of the death penalty was suspended in February 1990, South Africa had one of the highest rates of judicial executions in the world. The previous government achieved international notoriety by executing some 1,217 people between 1980 and 1989, including political prisoners. At present, the 453 prisoners under sentence of death in South Africa are awaiting a review of their sentences.

A recent poll by Research Surveys Group, South Africa's largest consumer research company, interviewed thousands of people from metropolitan areas. Some results:

80% of whites interviewed felt the death penalty should be retained, 12% wanted it abolished and 8% abstained;

49% of blacks interviewed felt the death penalty should be retained, 34%

wanted it abolished and 17% abstained.

SPAIN - CONGRESSIONAL VOTE

On 25 April the Spanish Congress of Deputies approved nearly unanimously three bills which would totally abolish the death penalty from the Spanish Military Penal Code. This move followed the unanimous action of the Spanish Senate in November 1994 in favour of abolishing the death penalty. The bills will now be amalgamated into one by the Justice and Interior Commission of the Congress of Deputies and this bill will then go to the Senate for possible amendment. It will then return to the Congress of Deputies for final approval. If it receives parliamentary approval, it will become law 20 days after its publication in the official state bulletin.

The Spanish Section of Amnesty International has intensively lobbied the autonomous parliaments of the various Spanish regions and political parties in the Spanish National Parliament to help bring about this result. Several regional parliaments have adopted statements expressing support for the abolition of the death penalty.

The death penalty was abolished under the 1978 constitution except as an optional penalty in time of war for certain crimes defined under the Military Penal Code of June 1986. The last executions took place in September 1975.

PAPAL ENCYCLICAL

Amnesty International welcomed references in the Pope's encyclical letter, *Evangelium Vitae*, -the Gospel of Life - issued on 30 March 1995, that substantially limit the use of the death penalty. The encyclical was in line with current Vatican practice where the Pope frequently interceded with state authorities in an effort to prevent imminent executions. While not excluding its use entirely, the Pope notes that in society there exists "a growing tendency to demand that [the death penalty] be applied in a very limited way or even that it be abolished completely". It should not be used "except in cases of absolute necessity: in other words, when it would not be possible otherwise to defend society. Today...such cases are very rare, if practically non-existent." The Pope went on to state: "Modern society in fact has the means of effectively suppressing crime by rendering criminals harmless without definitively denying them the chance to reform."

The Pope's statement on the death penalty has been welcomed as a significant advance on the position taken in the new Catechism of the Catholic Church. At a press conference presenting the encyclical at the Vatican, Cardinal Josef Ratzinger, prefect of the Vatican's Congregation for the Doctrine of the Faith, said that the Catechism would be revised in relation to the death penalty in light of the encyclical.

IRAN'S Parliament rejected a draft law proposed by the National Expediency Council which would have imposed the death penalty on profiteers, who have been blamed for spiralling inflation and the collapse of the *rial*, the Iranian currency. In a debate broadcast on Tehran radio, the bill was opposed by the government and members of parliament because, they said, it threatened the security of the business community. Another argument made was that no new laws were needed since the death penalty for economic crimes was already possible under existing laws.

EXPANSION OF SCOPE OF DEATH PENALTY

Amnesty International has opposed moves in several countries recently to reinstate or expand the death penalty.

In **CÔTE D'IVOIRE** a law extending the death penalty to robbery with violence was accepted by the National Assembly, the country's parliament,

on 24 June. Execution, by firing squad, can be carried out publicly under the new law. Amnesty International's Secretary General had sent an open letter to President Henri Konan Bedie on 3 April opposing the proposed extension. The United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions, Baeré Walé Ndiaye, also wrote to the government expressing his concern at the proposed extension of the death penalty.

Although the Côte d'Ivoire has retained the death penalty from French colonial times for a number of offenses including murder and treason, from 1960 until his death in December 1993 founding President Félix Houphouët-Boigny always commuted death sentences to jail terms.

In **EL SALVADOR**, where the death penalty was abolished in 1983 for all but exceptional crimes, the ruling party plans to submit a proposal to the Legislative Assembly to reinstate the death penalty for various crimes including murder, kidnapping and rape.

The **GUATEMALAN** congress in March approved extending the death penalty to anyone found guilty of kidnapping and for any accomplices who threaten to kill kidnap victims. The legislation has apparently gone into effect by virtue of the President, Ramiro de Leon Carpio, not having rejected it in the specified time. The President, formerly Guatemala's human rights ombudsman, has spoken in favour of the death penalty for kidnappers as a perceived means of clamping down on one of the country's fastest growing crimes. Such extension by Guatemala of the death penalty places it in violation of its international commitment as party to the American Convention on Human Rights which states in Article 4 (2): "The application of [the death penalty] shall not be extended to crimes to which it does not presently apply". The same would hold true of El Salvador should the proposed extension of the death penalty be approved there as well.

In the **USA**, the Federal Government announced in March it had scheduled its first execution since 1963. David Ronald Chandler from Alabama, described as the head of a marijuana growing and distributing organization, who was convicted of hiring another man to murder a police informer, was sentenced to death under the Anti-Drug Abuse Act of 1988 which extended the scope of the

death penalty under federal law to include killings associated with a continuing criminal enterprise. His execution, to take place at the Federal Penitentiary in Indiana by lethal injection, has been stayed by the filing of a new appeal. Five other people have also been sentenced to death under the act and are awaiting execution.

Federal (and state) executions were halted by a Supreme Court decision in 1972 that held the death penalty to be unconstitutionally "arbitrary and capricious" as then administered. Laws were required to have stricter standards for determining which crimes were covered before executions could resume. Most states set up separate trials for determining guilt and punishment. The new Federal death penalty statutes were not passed until 1988.

OTHER NEWS

CHINA - WIDE RANGE OF CRIMES PUNISHED BY DEATH

AI has released figures showing that in 1994 China passed 2,496 death sentences and executed 1,791 people although these figures are almost certainly far below the actual number of executions and death sentences carried out during the year. Statistics about the death penalty are not publicised by the authorities who regard them as a state secret.

In line with the increased application of the death penalty since the early 1980s to non-violent and economic crimes, it is known that so far this year people have been executed for such crimes as killing a tiger cub in a zoo (January 1995), robbing ancient graves (February 1995) and producing and selling pornographic books (February 1995).

KUWAIT - DEATH PENALTY FOR DRUG OFFENSES

On 25 April the parliament of Kuwait passed a measure introducing the death penalty as a mandatory punishment for certain drug-related crimes. It amends legislation passed in 1985 which made life imprisonment the maximum punishment for such crimes. Under the new

measure the death penalty must be imposed on people using children to trade in narcotics, those repeatedly convicted of trading in drugs, and on officials assigned to fight the narcotics trade who themselves trade in drugs. The measure needs to be ratified by the Amir of Kuwait before it becomes law.

SAUDI ARABIA - AI APPEALS

Amnesty International appealed in April 1995 on behalf of seven Somalis sentenced to death in 1994 for the murder of three people of which they claim to be innocent. One of them, Abd al-'Aziz Muhammad Issa, claimed he had not yet arrived in Saudi Arabia when the crime took place. Although this information is obtainable from the airport of his arrival in the country it was apparently not taken into account during his trial. Despite Amnesty International's appeals, two of the seven were executed on 31 May 1995. The remaining five are believed to be at imminent risk of execution.

Amnesty International also expressed concern at the high number of executions reported to have taken place this year, at least 102 between 20 January and 31 May 1995. Internationally-agreed safeguards for prisoners facing the death sentence are completely disregarded: confessions allegedly obtained under torture are apparently accepted by the courts as evidence on which a conviction may be based without conducting any investigation, and prisoners facing the death penalty may be denied the right to be defended by a lawyer.

The Saudi Arabian Ambassador to the United Kingdom, Dr Ghazi A. al-Gosaibi, was quoted by Reuters news agency as responding to Amnesty International's appeal by saying that the sharp increase in executions was due to an increase in drug trafficking offenses. The same explanation was given by the government in 1987 when it introduced the death penalty for drug trafficking for the first time.

Saudi Arabia retains the death penalty for a range of offenses including murder, sexual offenses, apostasy, drug trafficking and sabotage.

USA - NEW SURVEYS; STUDY ON JURORS' ROLE

Two recent surveys of police officers and municipal officials across the USA revealed a lack of confidence in the death penalty as a public safety measure. The National League of Cities polled 382 elected officials in various cities and asked them what governments could do to reduce urban crime. 'More death penalties' ranked last on a list of 20 categories of public safety measures. In a survey by the Death Penalty Information Centre, an expanded death penalty came last on a list of measures which law enforcement officials ranked according to their impact on violent crime. Over 80% of those surveyed agreed that most offenders were not deterred by the possibility of a death sentence while 85% agreed that politicians placed too much emphasis on the value of the death penalty as a crime control measure.

A more disturbing result came from one of the most comprehensive studies ever undertaken on the subject of attitudes of jurors in capital trials. Initial results of the survey, presented at the National Conference on Juries and the Death Penalty held at Indiana University in February, revealed that many jurors often misunderstand the judge's instructions and may be biased in favour of executions even before deliberating sentencing. Of more than 500 jurors surveyed in 14 states, forty-two per cent thought the death sentence was required if the crime was "heinous, vile or depraved" and 52 per cent thought they had to impose it if the defendant would be dangerous in the future. "These numbers are quite troubling because the law in fact never requires a death sentence based on these factors alone", said Joseph Hoffmann, a law professor at Indiana University.

Illinois - Doctors and Executions

Legislation signed into law in April provides for exemption from the Medical Practice Act of doctors assisting in executions. In effect, this allows doctors to assist in executions in Illinois without being subject to the legal and medical ethical requirements which regulate the conduct of medical practitioners. Amnesty International believes this legislation represents a grave departure from acceptable practice. Legislation which had been proposed to the legislature which

would remove doctors from the execution process has been stalled though lack of support.

BOOK REVIEW

The Chamber by John Grisham, published by Random House, 20 Vauxhall Bridge Road, London SW1V 2SA, ISBN 0 09 917951 2. price £5.99. John Grisham, author of bestselling novels The Firm and Pelican Brief, was formerly a lawyer. In this suspenseful story, with strong racial elements, about the use of the death penalty in the USA's deep south, he shows how logically and inexorably the wrong man is put to death for the wrong crime. **The Chamber**, soon to be filmed, should reach many people who would otherwise not know about death row and executions, and by leaving readers free to draw their own conclusions it may well have a strong anti-death penalty impact.

INTERNATIONAL TREATIES

MACEDONIA became a party to the Second Optional Protocol to the International Covenant on Civil and Political Rights on 26 January 1995 followed by **ITALY** on 14 February 1995, bringing the number of states parties to 28.

CORRECTION

In the chart of signatories and states parties to international treaties on the death penalty which appeared in the Death Penalty News of March 1995, Belarus should be deleted from the list of states parties to the Second Optional Protocol.