

# DEATH PENALTY NEWS

## July 2007

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A BULLETIN ON THE DEATH PENALTY AND MOVES TOWARDS WORLDWIDE ABOLITION

### EXECUTION RATE FALLS IN 2006 AS PRESSURE GROWS FOR A UNIVERSAL MORATORIUM

Recorded executions worldwide fell by more than 25 per cent in 2006. AI figures show a drop in the total number from at least 2,148 in 2005 to at least 1,591 in 25 countries in 2006. At least 3,861 people were sentenced to death in 55 countries.

As in previous years, the vast majority of executions worldwide were carried out in a small handful of countries. Ninety-one per cent of all known executions took place in six countries: China, Iran, Iraq, Sudan, Pakistan and the USA.

Based on public reports available, AI estimated that at least 1,010 people were executed in China during the year although these figures are only the tip of the iceberg. Credible sources suggest that between 7,500 and 8,000 people were actually executed there in 2006. The official statistics remain a state secret.

Iran executed at least 177 people, Pakistan 82 and Iraq and Sudan each at least 65. There were 53 executions in 12 states in the USA.

Speaking in Rome during a press conference in April to release the statistics, AI's Secretary General said that AI is calling for a universal moratorium on executions as a step towards full abolition. "Only six countries were responsible for 91 per cent of all executions carried out in 2006. These hard core executioners are isolated and out of step with global trends," she said.

### RWANDA ABOLISHES THE DEATH PENALTY

On 25 July Rwanda abolished the death penalty for all crimes by promulgating legislation excluding the death penalty for any offence. It is the first country in the Great Lakes region of Africa to abolish the death penalty and becomes the 14<sup>th</sup> country in Africa to do so.

The continued existence of the death penalty in Rwanda constituted one of the main obstacles preventing the transfer of detainees held by the International Criminal Tribunal for Rwanda, or indicted genocide suspects living abroad, to its national jurisdiction. Other obstacles have been the capability of the Rwandan justice system to provide fair trials as well as additional concerns regarding its independence, impartiality and transparency. Abolition of the death penalty took place in this context.

The last executions in Rwanda took place in 1998 when 22 people were executed for genocide-related crimes. The last death sentences were handed down in 2003. All death sentences were commuted with the enactment of the legislation abolishing the death penalty.

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#### Abolitionist and Retentionist Countries as of 1 October 2007

Abolitionist for all crimes	90
Abolitionist for ordinary crimes	11
Abolitionist in practice	32
Total abolitionist countries	133
Retentionist countries	64

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## **KYRGYZSTAN ABOLISHES DEATH PENALTY IN LAW**

On 27 June President Kurmanbek Bakiev signed into law changes to the Criminal Codes abolishing capital punishment and replacing it with life imprisonment with possibility of release after 30 years. A new Constitution had been adopted in 2006 which did not provide for the death penalty. The 174 prisoners under sentence of death in Kyrgyzstan are to have their sentences reviewed by the Supreme Court within six months.

It is not clear whether the new legislation extends to crimes committed in wartime or to the military penal code. There has been a moratorium on executions in the country since 1998.

## **KAZAKHSTAN REDUCES SCOPE OF DEATH PENALTY**

In May the scope of the death penalty permitted by the Constitution was reduced from 10 “exceptionally grave” civil crimes and eight military crimes committed in time of war. President Nursultan Nazarbayev announced in his address to the joint session of the two chambers of Parliament in the capital, Astana, on 16 May that “the death penalty may be applied only for terrorism, leading to loss of life, and for crimes committed in wartime”.

## **NEW LEGISLATIVE MEASURES IN UZBEKISTAN**

A new law adopted by the Uzbekistani Senate on 29 June will amend the Criminal Codes by replacing the death penalty with life or long-term imprisonment with the possibility of parole after 15 years. The law is to enter into force from 1 January 2008.

## **FRANCE BANS DEATH PENALTY IN CONSTITUTION**

On 19 February a joint session of both houses of the French parliament voted by an overwhelming majority (826 to 26) to introduce a ban on the death penalty into the French constitution. As a result, Article 66-1 of Title VIII of the constitution now reads: “No one shall be sentenced to death”.

This amendment followed a decision by the Constitutional Council on 13 October 2005 (see **DP News** September 2006) advising the government that such an amendment was essential if France was to be able to ratify the protocols concerning the abolition of the death penalty: the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) and Protocol No. 13 to the European Convention on Human Rights.

The death penalty had been removed from the French penal code and code of military justice on 9 October 1981. Since that date, 28 bills aiming to reinstate capital punishment have been tabled, and rejected, in parliament.

## **SAUDIA ARABIA EXECUTES CHILD OFFENDER**

Dhahian Rakan al-Sibai<sup>1</sup> was beheaded in Taif on 21 July for a murder committed when he was 15 or 16 years old. He was held in a juvenile detention facility until he was 18 years old, when he was moved to Taif Prison. In May, he appealed to the family of the victim to pardon him but without success.

Another child offender, Sultan Kohail, who is still only 16 years old, may also be at risk of execution.

In January 1996, Saudi Arabia ratified the Convention on the Rights of the Child (CRC), undertaking not to execute anyone for offences committed when they were under 18 years of age. However, child offenders continue to be sentenced to death, and due to the strict secrecy of the criminal justice system, it is not possible to ascertain how many children, like Dhahian, have been put to death since Saudi Arabia ratified the CRC.

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## **TWO CHILD OFFENDERS EXECUTED IN IRAN**

Sa'id Qanbar Zahi, aged 17, was executed on 27 May in Zahedan prison. According to reports on Iranian state television, he had been tried on 11 March 2006, along with four other prisoners, allegedly for attacks on buses and carjacking in Sistan-Baluchistan in connection with an armed opposition group known as the Iranian Peoples' Resistance Movement. Iran's tiny Baluchi minority, comprising mainly Sunni Muslims, lives mainly in the southeast of the country, and has for many years complained of discrimination by the Iranian authorities.

Mohammad Mousawi, aged 19, was reportedly hanged on 22 April in Shiraz for a murder committed when he was 16 years old. His family are said not to have been notified of his execution.

## **INTERNATIONAL OUTCRY FORCES STAY OF EXECUTION FOR CHILD OFFENDER IN YEMEN**

Hafez Ibrahim was sentenced to death in 2003 for a murder he is alleged to have committed in the town of Ta'z in 2000 when he was under 18 years of age. The Supreme Court upheld the sentence in July. Following worldwide appeals, Hafez was initially granted a three day stay of execution. It was then reported that the family of the murder victim had agreed to extend the stay until after the end of Ramadan in mid-October and that President 'Ali 'Abdullah Saleh had ordered a Committee to ascertain Hafez's age at the time of the crime.

According to the Shariah law rule of 'qisas' (retribution), family members of the murder victim may seek execution of the person responsible or they may pardon them, freely or in exchange for 'diya' (compensation). The family of the victim have previously refused to pardon Hafez, however, and he remains at grave risk of execution.

## **MAN STONED IN IRAN FOR ADULTERY**

On 10 July, judiciary spokesman Alireza Jamshidi confirmed to reporters that Ja'far Kiani had been stoned to death on 5 July in Aghche Kand near Takestan, in Qazvin province, in contravention of a directive issued in 2002 from the head of the country's judiciary, Ayatollah Shahroudi, suspending the practice.

The punishment, which involves the prisoner, buried waist-deep in the ground, being pelted with stones of a particular size so as to inflict drawn-out suffering, was carried out despite a written order from Ayatollah Shahroudi requiring the court in Takestan to stay the execution temporarily. According to reports, the stoning was conducted mostly by local governmental and judiciary officials, and only a few members of the public participated.

Ja'far Kiani and Mokarrameh Ebrahimi were sentenced in 1996 to death by stoning after conviction of adultery. The couple had been imprisoned for the past 11 years in Choubin prison where their two children are believed to have lived with their mother.

The executions, initially scheduled for 17 June, were delayed after activists involved in the 'Stop Stoning Forever' campaign in Iran broke news of the couple's plight and the Iranian government was exposed to widespread domestic and international demands to prevent the stonings.

Mokarrameh Ebrahimi continues to be held in Qazvin prison with one of her children.

## **MORE EXECUTIONS IN JAPAN**

Three men, Nata Kosaku, Oda Yoshikatsu and Tanaka Masahiro, were hanged on 27 April in detention centres in Osaka, Fukuoka and Tokyo respectively. The triple execution occurred on the same day that the Japanese Diet (parliament) voted for Japan's accession to the International Criminal Court (ICC) and during Prime Minister Abe Shinzo's first state visit to the USA.

A total of seven people have been executed by the Japanese government since executions were resumed on 25 December 2006. Minister of Justice Jinen Nagase's predecessor,

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Sugiura Seiken, did not sign a single death penalty warrant due to his personal beliefs. On assuming office, Jinen Nagase stated that death sentences ordered by the courts must be “solemnly executed”.

## **LIBYA RELEASES FOREIGN MEDICAL WORKERS**

On 24 July, five Bulgarian nurses and a Palestinian doctor, who had been convicted of knowingly infecting hundreds of children with HIV in al-Fateh Children’s Hospital in the Libyan city of Benghazi, were released under a prisoner exchange agreement between Libya and Bulgaria. They had been in detention since 1999 and had twice been sentenced to death: first in May 2004 and, when that sentence was overturned on appeal by the Supreme Court, again in December 2006 (see **DP News** December 2006). The release followed a decision by the Supreme Council of Judicial Bodies to commute the death sentences.

Negotiations, involving the Gaddafi Development Foundation and the European Union, resulted in an agreement that the families of the infected children should benefit financially from an international fund in return for the death sentences against the medical workers being commuted.

## **USA - 124<sup>th</sup> WRONGFUL CAPITAL CONVICTION**

Curtis Edward McCarty, who spent 21 years on Oklahoma's death row, was released on 11 May after a federal judge ordered that the charges against him be dismissed. The judge ruled that the case against Edward McCarty was tainted by the questionable testimony of a former police chemist. He became the 124th prisoner to be released from death row in the USA since 1973 on the grounds of innocence.

## **SUPREME COURT TIGHTENS STANDARD ON 'COMPETENCE' FOR EXECUTION IN USA**

In a 5-4 decision issued on 28 June, the United States Supreme Court blocked the execution of Scott Panetti, a Texas death row inmate who suffers from severe delusions as a result of his serious mental illness. The central question asked of the Supreme Court by the Scott Panetti case was, in effect, to clarify a ruling it made 21 years earlier. In *Ford v. Wainwright* in 1986, the Supreme Court had affirmed that the execution of the insane violates the US Constitution’s Eighth Amendment ban on “cruel and unusual punishments”. However, the *Ford* ruling neither defined competence for execution, nor did a majority mandate specific procedures that must be followed by the individual states to determine whether an inmate is legally insane.

The result over the ensuing two decades has been the adoption of different standards in different states, judicial uncertainty, and minimal protection for seriously mentally ill inmates. The *Panetti* ruling has the potential, at last, to provide additional protection.

## **USA - STAY OF EXECUTION IN GEORGIA**

On 16 July, less than 24 hours before Troy Davis was scheduled to be executed in Georgia, the state Board of Pardons and Paroles issued a stay of execution, to be not longer than 90 days, "for the purpose of evaluating and analyzing" the information submitted to it during the clemency hearing earlier in the day.

Troy Davis has been on death row for more than 15 years for the murder of a police officer which he maintains he did not commit. Many of the witnesses presented by the prosecution at the trial have since recanted or contradicted their testimony. Among the thousands of people who appealed for clemency were Archbishop Desmond Tutu and former FBI Director William Sessions.

In its order staying the execution, the parole board ordered that the execution be suspended until midnight on 14 October 2007 or

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earlier if the board issues another order lifting the stay.

## **USA RECORDS LOWEST NUMBER OF EXECUTIONS IN TEN YEARS**

The 53 executions carried out in 2006 represent the lowest annual total for a decade. Furthermore, the number of people sentenced to death was less than half of what it was in 1996 and the lowest since executions resumed in the USA in 1977.

Although jurors in the USA who are opposed to the death penalty are excluded from jury service in capital cases, the growing reluctance of even pro-death penalty jurors to hand down death sentences appears to reflect a downturn in the public's support for the death penalty. Factors contributing to this downturn appear to include an erosion of the public's confidence in the deterrence value of the death penalty, an increased awareness about the frequency of wrongful convictions in capital cases, and a greater belief that public safety can be guaranteed by life prison terms rather than death sentences.

As a result of concerns about the inhumanity of lethal injection, at least temporary suspensions of executions have occurred in a number of states including Arkansas, California, Delaware, Florida, Maryland, Missouri, New Jersey, Ohio, Tennessee and South Dakota. In 2006, the New Jersey legislature imposed a moratorium in that state, and established a commission to study all aspects of the death penalty in New Jersey. In its final report in January 2007, the commission recommended abolition of the death penalty, citing "increasing evidence that the death penalty is inconsistent with evolving standards of decency".

## **INNOCENTS POSTHUMOUSLY ACQUITTED IN SOUTH KOREA**

In January eight pro-democracy activists in South Korea were posthumously acquitted of treason charges, more than 30 years after they were hanged in April 1975. The Seoul Central District Court found they were not guilty of forming an underground pro-Communist party aiming to overthrow the authoritarian government of then President Park Chung-hee.

The eight had been executed less than a day after they were found guilty by the Supreme Court for trying to rebuild a pro-Communist party. Relatives of the victims had been demanding a retrial for years, claiming that the case was fabricated by the state intelligence agency to crack down on pro-democracy activity.

## **SOME PROGRESS ON REDUCING DEATH PENALTY IN CHINA**

On 8 June, the official *China Daily* newspaper reported there had been a reduction in the number of people sentenced to death and executed over the first five months of the year, compared to previous years. Citing death penalty statistics from Beijing No.1 and No.2 Intermediate People's Courts, Ni Shouming, a spokesman for the Supreme People's Court (SPC) suggested that the number of death sentences had dropped 10% year on year.

In apparent recognition of the need for greater transparency at lower levels, the SPC issued a legal notice on 14 June stressing that first-instance death penalty cases must be held in open court and that courts should move towards ensuring public trials for appeal hearings in criminal cases more generally.

Death sentences and executions continue to be imposed for non-violent crimes in China, including economic and drug-related offences. A recent case which received widespread publicity was the execution on 10 July of Zheng Xiaoyu, the former director of the State Food and Drug Administration, after he was convicted of accepting bribes.

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Soon after, Ni Shouming and SPC vice-president Zhang Jun announced that the SPC would be introducing 'unified guidelines' to tackle 'judicial injustice' resulting from the different criteria being used across the country for sentencing people to death, particularly for economic and drug-related offences.

## **RESOLUTION ON DEATH PENALTY TO BE INTRODUCED AT UN GENERAL ASSEMBLY**

A resolution calling for a global moratorium on executions will be introduced at the United Nations General Assembly (UNGA) 62<sup>nd</sup> session which begins on 18 September 2007. The resolution, which is being supported by many governments from all regions of the world, as well as by NGOs, including the World Coalition against the Death Penalty, the Community of Sant'Egidio, Hands Off Cain and AI, will be voted on by all 192 member states of the UN at the end of November. The adoption of such a resolution by the UN's principal organ would be an important milestone towards the abolition of the death penalty.

## **UN URGES IRAN TO STOP EXECUTING CHILDREN**

The UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Philip Alston, presented a report on Iran to the UN Human Rights Council and issued a statement on 28 March saying: "The execution of juveniles in Iran is completely unacceptable. The Iranian government cannot continue to ignore its obligations under international law. In particular, in 1994 Iran ratified the Convention on the Rights of the Child and made a clear and unambiguous legal commitment not to impose the death penalty for offences committed by persons less than 18 years old."

The Special Rapporteur called on the government of Iran to "immediately

commute all death sentences imposed for crimes individuals committed before the age of 18."

## **NEWS IN BRIEF**

**Albania** ratified Protocol No. 13 to the European Convention on Human Rights abolishing the death penalty in all circumstances in February 2007.

**Canada** – Statistics released for 2006 reveal that the homicide rate was 1.85 per 100,000 population, 40 per cent lower than in 1975 and the second lowest rate in three decades.

**France** – On 20 March, France became the third European country, after Spain and Portugal, to sign an extradition agreement with China. Before it can come into force, the agreement will need to be ratified by the French parliament.

At the signing ceremony attended by the Chinese Vice-Minister of Foreign Affairs, the French Minister of Justice, Pascal Clément, made clear that "extradition could not be granted by France while the death penalty remains in force in your country unless your government gives guarantees considered to be sufficient by France, that capital punishment will neither be pronounced nor carried out".

**Ghana** - According to media reports, the Minister of the Interior, Albert Kan Dapaah, announced in March the commutation of 36 death sentences to life imprisonment.

**Malawi** - In April, the High Court declared the mandatory death penalty unconstitutional.

**Morocco** – At least 11 people under sentence of death in Morocco were granted clemency by King Mohamed VI on 28 February on the occasion of the birth of his daughter. They were in a group of 33,054 prisoners benefiting from the King's clemency, some of whom were reportedly freed while the majority of others had their prison sentences reduced.

**Nigeria** - In February, the Presidential Commission on the Reform of the Administration of Justice recommended the

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release of several categories of prisoners including those who had spent more than 10 years on death row. In May, the authorities announced that they had granted amnesty to all prisoners over 70 years old and to those over 60 years old who had spent 10 years or more under sentence of death. None had yet been released by the end of July.

**Peru** – A draft bill to put into effect the death penalty for terrorist offences was voted down by Congress by a majority of 49 to 26 on 10 January. It was the fourth such bill submitted to Congress since President Alan Garcia came to office in July 2006.

Three other bills, two of which were introduced by the government, that would widen the scope of the death penalty to sexual offences are still before Congress (see **DP News** September 2006).

**Saudi Arabia** – A number of prisoners facing the death penalty have been pardoned by relatives of the murder victims and saved from execution. They include a woman who had been sentenced to death for murder in 1999, who was pardoned in April following intervention by King Abdullah bin 'Abdul 'Aziz and Crown Prince Sultan Bin 'Abdul 'Aziz. So far this year, 117 people have been beheaded for crimes ranging from drug smuggling to armed robbery and murder.

**USA – Montana** In February, the Montana Senate voted to abolish the death penalty.

**USA – South Dakota** Elijah Page was executed in South Dakota on 11 July, in the state's first execution in 60 years. He had been sentenced to death in 2001 for murder. Elijah Page, who was 18 at the time of the crime and emerging from a childhood of deprivation and abuse, had given up his appeals.

**USA – Tennessee** On 9 May, Philip Workman was executed in Tennessee, after 25 years on death row, despite evidence that a key state witness lied at his trial. On 4 May, a three-judge panel of the US Court of

Appeals for the Sixth Circuit rejected his appeal for a stay of execution to pursue his claim of innocence. Two of the judges ruled that Philip Workman had “not met his burden of showing a likelihood of success” on the merits of his appeal.

The third judge dissented from the refusal to stay the execution, pointing out that another three-judge panel of the Sixth Circuit had recently granted a stay of execution to a death row prisoner in similar circumstances. He said: “I simply cannot conclude that this inconsistency in the administration of the death penalty is permissible.”

**USA – Texas** On 11 June, the Texas Court of Criminal Appeals issued an indefinite stay of execution for Cathy Henderson two days before she was due to be put to death. It remanded the case to the trial court for consideration of newly available evidence that she is innocent of capital murder.

**USA – Texas** James Clark was executed in Texas on 11 April for a murder committed in 1993. His lawyers had sought clemency on the grounds that his execution would violate the 2002 US Supreme Court ruling, *Atkins v Virginia*, outlawing the execution of people with retardation. However, the Supreme Court had left it up to individual states to develop “appropriate ways” to comply with the ruling. This opened the door to further inconsistency in the application of the death penalty in the USA.

#### **International Treaties**

The *Second Optional Protocol to the International Covenant on Civil and Political Rights* was ratified by Ukraine on 25 July 2007.

Argentina signed the Protocol on 20 December 2006.

*Protocol No. 13 to the European Convention on Human Rights* was ratified by Albania on 6 February 2007.

Updated lists of signatures and ratifications are available on:

[www.amnesty.org/pages/deathpenalty-treaties-eng](http://www.amnesty.org/pages/deathpenalty-treaties-eng)

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# WORLD CONGRESS MEETS IN PARIS

Abolitionists from around the world met in Paris from 1 to 3 February at the Third World Congress against the Death Penalty.

The Congress was organised by *Ensemble contre la peine de mort* (Together against the Death Penalty) with the support of the World Coalition against the Death Penalty. It followed the Second World Congress against the Death Penalty in Montreal in 2004.

The Congress, which brought together more than 500 abolitionists and decision-makers from all over the world, heard eloquent testimonies from relatives of murder victims and former death row prisoners. There were statements by UN officials, members of various professions and celebrities.

The German Chancellor, Angela Merkel, sent a message of support. The French Minister of Justice, Pascal Clément, reiterated France's commitment to a constitutional change banning the death penalty. Morocco's Justice Minister, Mohamed Bouzoubaa, expressed his personal conviction that the death penalty should be abolished in Morocco, and the newly appointed Minister of Justice of Benin, Nestor Dako, said that his government "is in favour of measures towards abolition of the death penalty".

Major debates were held on ways to abolish the death penalty in North Africa and the Middle East and the role of Islam in this process. Another debate was held on China particularly in view of the Olympics to be held in Beijing in 2008. Among the speakers were two Chinese lawyers, the first known to AI, to attend an international meeting on the death penalty.

On the final day, a march through the streets of Paris led by Sakae Menda, an innocent man who was on death row in Japan for 34 years, attracted crowds of onlookers.<sup>1</sup>



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Sakae Menda in Paris on 3 February 2007, leading the march against the death penalty



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Marching against the death penalty in Paris on 3 February 2007 at the end of the Third World Congress.

## **Extracts from the Recommendations in the Final Declaration of the World Congress against the Death Penalty, Paris, France, February 2007**

We call on all countries to abolish the death penalty and to ratify international and regional abolitionist treaties, especially the Second Optional Protocol to the UN International Covenant on Civil and Political Rights.



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Following on from the statement at the UN General Assembly in December 2006, that was supported by an unprecedented number of countries from around the world, we solemnly appeal to all states of the world to stop all executions immediately.

Recognizing the great value that a successful resolution adopted by the UN General Assembly would have for the abolition of the death penalty worldwide, we invite the member states of the United Nations to take all necessary steps to ensure the adoption by the General Assembly of a resolution

- calling for an immediate and universal moratorium on death sentences and executions and the commutation of existing death sentences, with a view to the universal abolition of the death penalty;
- recalling that the death penalty violates human rights and fundamental freedoms; and
- encouraging the UN, its member states, and other relevant international, regional and sub-

regional organisations to support the implementation of this moratorium, including through mobilizing resources and expertise.

We welcome the presence in Paris of many abolitionists from North Africa and the Middle East and their efforts to create national, sub-regional and regional coalitions. We hail the initiatives taken in Morocco, Lebanon and Jordan towards abolition and call on the countries of the region to abolish the death penalty.

Welcoming the presence in Paris of Chinese abolitionists, we call on the Chinese government, in the prospect of the Beijing Olympic Games in 2008 and the Shanghai Universal Exposition in 2010, to establish an immediate moratorium on executions with the objective of progressively abolishing the death penalty, and in particular to remove non-violent offences, including economic and drug offences, from the scope of capital punishment.

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<sup>i</sup> For more information about the Third World Congress and its Final Declaration please visit the **World Coalition against the Death Penalty's** website [www.worldcoalition.org/bcoalintro.html](http://www.worldcoalition.org/bcoalintro.html)