

DEATH PENALTY NEWS

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A QUARTERLY BULLETIN ON THE DEATH PENALTY AND MOVES TOWARDS WORLDWIDE ABOLITION

USA DEATH PENALTY BAR TO EXTRADITION OF CRIMINAL SUSPECTS

Following the atrocities of 11 September 2001 in New York and Washington DC, the government of the United States of America has sought an international alliance in responding to these and other crimes. Many nations around the world have pledged their support and cooperation in this “war on terrorism”. However, the USA’s continuing resort to judicial execution in an increasingly abolitionist world has created obstacles to international cooperation on law enforcement.

In recent years governments in unprecedented numbers have refused to extradite criminal suspects to retentionist countries, at least not without first obtaining guarantees that the death penalty will not be sought or imposed.

The internationally-recognized principle of *non-refoulement* prohibits sending individuals to another country when there is a serious risk they would face grave violations of their fundamental human rights.

The International Criminal Court, the International Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda, each established to prosecute the most serious crimes such as genocide and war crimes, do not allow the death penalty.

In contrast to this the USA continues to refuse to countenance either a moratorium on executions or abolition. In fact, on 13

November President Bush signed a Military Order which allows for non-US citizens suspected of involvement in international terrorism to be tried by special military commissions which could operate in secret and which would have the power to pass death sentences with a two-thirds majority. The sentences could not be appealed to any other court.

The 43 member states of the Council of Europe, where abolition of the death penalty is now a prerequisite for membership, have among them detained dozens of suspects in connection with the 11 September attacks. In Spain, eight men suspected of links to the al-Qaeda terrorist organisation were detained in November on charges of involvement in the attacks on the USA. But US officials were reportedly informed by Spanish justice officials that extradition to the USA was not possible as long as the men might face the death penalty or trial by the special military commissions.

In France, Justice Minister Marylise Lebranchu stated on French radio on 13 December that “no person benefiting from French consular protection should be executed”. French national Zacarias Moussaoui, who has been imprisoned in the state of Virginia since August, is the first

person to be indicted in connection with the 11 September attacks.

High-ranking government ministers in Germany and Italy and the United Kingdom, who also hold suspects in this connection, advised US Attorney General John Ashcroft

**JUVENILE DEATH SENTENCES
COMMUTED IN PAKISTAN**

President Pervez Musharraf of Pakistan announced on 10 December that all juvenile death sentences would be commuted to life imprisonment. The decision, which affects approximately 100 child offenders, was made during the President's meeting with the new Secretary General of Amnesty International (AI), Irene Khan, in Islamabad. The decree was notified in the official gazette and acquired the force of law on 13 December.

In July 2000, President Musharraf had promulgated the Juvenile Justice System Ordinance which banned the death penalty for juveniles in law but the Ordinance did not have retroactive force to spare the lives of child offenders sentenced before that date. The new decree has now commuted their death sentences.

For one young man the presidential decree came too late. Ali Sher was executed on 3 November for a murder committed in 1993 when he was only 13 years old. Defence arguments relating to his young age and that the death penalty could not at the time be applied in the Provincially Administered Tribal Area where Ali Sher lived were rejected both by the Peshawar High Court and the Supreme Court of Pakistan. A mercy petition had also been rejected by the President. According to reports, there were moving scenes in the jail as fellow prisoners present at the hanging tried to console Ali Sher who had been abandoned by his family during his years of incarceration.

**MOVES TO ABOLISH THE
DEATH PENALTY IN RUSSIA**

during his visit to Europe in December in an attempt to obtain cooperation from European countries in extraditing suspects to stand trial in the USA, that they would not extradite anyone who might be subjected to the death penalty.

A group of Russian parliamentarians from the Union of Right Forces (SPS) party in the State Duma are seeking to abolish the death penalty from the Criminal Code and replace it with life imprisonment.

Abolitionists from the USA together with AI were invited by the parliamentary legislation committee, led by Pavel Krashennnikov, an SPS member, to attend a conference held on 10 December to initiate the process of abolishing the death penalty.

Russia has observed a moratorium on the death penalty since 1997 but this has largely been due to a ruling of the Constitutional Court which states that courts may not hand down death sentences until the jury system is made available throughout the entire country (see **DP News** March 1999). A draft Criminal Procedural Code states that the introduction of the jury system in all the country's territories must be complete by the end of 2002 at which time the moratorium could be lifted.

Supporters of abolition include Russia's human rights ombudsman Oleg Mironov who said during an interview with *Ekho Moskvy* radio on 10 December that "a death for a death - this is what we have been seeing in Chechnya for already seven years...has not led to any positive results". He also said that the possible execution of an innocent person amounted to state-sponsored murder.

Russian President Vladimir Putin has also been quoted to be against the

reinstatement of the death penalty in the country (see **DP News** September 2001).

The abolitionists from the USA were also invited to a highly successful screening in Moscow of the internationally acclaimed film *Dead Man Walking* during the Moscow International Human Rights Film Festival held in December. Sister Helen Prejean, who wrote the book on which the film is based, Denise Le Boeuf, a death penalty lawyer from the state of Louisiana, and Bud Welch, a father. A draft bill to abolish the death penalty was submitted by 155 members of the Korean National Assembly on 30 October. The bill will need to be approved by the Judiciary Committee and a majority of the 273 members in the Assembly before it can become law.

The first attempt to abolish the death penalty was in 1999 when 98 legislators signed a bill calling for its abolition. However, the National Assembly failed to consider it before the end of its term.

President Kim Dae-jung, one of the sponsors of the 1999 bill, is an opponent of the death penalty as is Roman Catholic Cardinal Stephen Kim Sou-hwan who has publicly spoken out against the death penalty. Although 51 people have been sentenced to death in South Korea there have been no executions since Kim Dae-jung became president in 1998.

COUNCIL OF EUROPE DRAFTS NEW PROTOCOL

In 1994 the Parliamentary Assembly of the Council of Europe adopted Recommendation 1246 (1994) calling for an additional protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

This additional protocol would provide for the total abolition of the death penalty in all circumstances. At present it is still possible for member states to apply the death penalty in time of war or of imminent threat of war.

A draft of Protocol No. 13, which implements this recommendation, was

who lost his daughter during the Oklahoma bombings and who now actively campaigns against the death penalty were filmed by national television, gave interviews and spoke to members of the Presidential Clemency Commission.

BILL TO END DEATH PENALTY IN SOUTH KOREA

agreed by the Committee of Experts for the Development of Human Rights in Strasbourg in October and by the Steering Committee on Human Rights in Strasbourg in November. An Assembly debate on the topic is scheduled to take place early in 2002.

POLITICAL EXECUTIONS CONTINUE IN CHINA

Metrozi Mettohti, a member of the Uighur ethnic minority, was reportedly executed in October in Hotan, Xinjiang Uighur Autonomous Region (XUAR) in western China immediately after being sentenced to death at a public sentencing rally. He was found guilty of "storing weapons" and "trying to split the country". The XUAR is the only region in China where people have been sentenced to death and executed for political reasons in the past few years.

A new wave of executions of people labelled as "separatists" or "terrorists" by the authorities took place after the 11 September attacks in the USA. The Chinese government's call for international support in its crackdown on domestic "terrorism", and the swift introduction in December 2001 of amendments to the criminal law that makes "terrorism" an offence which carries the death penalty, raise fears that repression of Muslim ethnic groups in the XUAR will increase.

The Chinese authorities do not distinguish between "terrorism" and "separatism" (see **DP News** March 1999). Separatism appears to cover a broad range of

activities most of which amount to no more than peaceful opposition or dissent. Preaching or teaching Islam outside government controls is also considered subversive.

NEWS IN BRIEF

China - Chen Luorong, the former head of the tobacco-producing monopoly in Hainan Province, was sentenced to death for embezzlement and taking bribes, it was reported in the Chinese news agency *Xinhua* on 31 December.

Tajikistan - A two-day conference on the death penalty was held in the capital city Dushanbe on 20-21 December. Representatives from neighbouring countries such as Russia, Ukraine and Iran among others attended the conference which was sponsored by the Soros Foundation and the Organization for Security and Cooperation in Europe (OSCE) to discuss the "pros and cons" of the death penalty.

It was announced at the conference that around 100 people were executed in Tajikistan in 2001.

USA - National - Executions in the USA have decreased for the second year in a row. Records show a 22% drop in 2001 when 66 people were executed and a 13% drop in 2000 when 85 executions were carried out. There were 98 executions in 1999.

Explanations for the downward trend have included the easing of rules which allow DNA test results to be used in court, the increasing reluctance of courts to sentence to death the mentally impaired and recognition of the serious questions that surround the fairness of the application of the death penalty.

Since 1976 when the US Supreme Court allowed the resumption of executions, 98 innocent people have been freed from death row, including five people this year.

Iraq - In November the Revolutionary Command Council, the highest executive body in Iraq, issued a decree providing the death penalty for the offences of prostitution, homosexuality, incest and rape. The decree also stated that those convicted of providing accommodation for the purpose of prostitution would be executed by the sword.

Iran - Ramin Chaharlang, from Azna in southwest Iran, escaped death after four minutes hanging on the gallows when the family of his victim, Said Hatami aged 77, granted a pardon, according to a report on 17 November in the daily newspaper *Kayhan*.

A recent poll by ABC television indicated that 51% of American citizens favour a moratorium on the death penalty.

New Mexico - The first execution since 1960 took place on 6 November in a prison near Santa Fe. Terry Clark, who had been convicted of murder in 1986, was executed at his own request by lethal injection.

USA - Pennsylvania - Mumia Abu-Jamal's death sentence was overturned on 18 December by Philadelphia District Judge William Yohn who cited errors in the sentencing phase of the original 1982 trial. The judge, who upheld the conviction itself and granted leave to appeal his ruling, gave the authorities 180 days to conduct a new sentencing hearing.

Mumia Abu-Jamal, a journalist, author and former member of the Black Panther political group was convicted in 1981 of the murder of a police officer. Two death warrants, in 1995 and 1999, were stayed by the courts.

Mumia Abu-Jamal has consistently maintained his innocence and that his trial in 1982 was unfair. His claim has attracted support from political leaders and activists around the world (See **DP News** June 1995).

Texas - Gerald Mitchell was executed on 22 October for a murder committed in 1985 when he was aged 17. In his final statement before being killed, he expressed remorse for the murder saying "I am sorry for the life I took...I ask God for forgiveness...".

Gerald Mitchell is the 18th child offender to be executed since 1977 in the USA which has executed more juveniles than the rest of the world combined.

Zimbabwe - Three men convicted of murder were hanged in Harare on 9 October. They were the first executions to take place in the country since April 1998.

Death Penalty Statistics
Abolitionist and retentionist countries
(December 2001)

Abolitionist for all crimes

75

Abolitionist for ordinary crimes only 14

Abolitionist in practice

20

Retentionist

86

INTERNATIONAL TREATIES

Yugoslavia ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights on 6 September bringing the total number of countries which have ratified the Protocol to 46.

Chile signed the Second Optional Protocol on 15 November bringing the number of countries which have signed but not ratified the Protocol to seven.

Chile signed the Protocol to the American Convention on Human Rights on 9 October, the only country which has signed but not ratified the Protocol.