

DEATH PENALTY NEWS

JULY 2003

AMNESTY INTERNATIONAL
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AI Index: ACT 53/003/2003

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

UN COMMISSION ON HUMAN RIGHTS

For the first time, the UN Commission on Human Rights has urged states that still maintain the death penalty “not to extend its application to crimes to which it does not at present apply”.

The call came in the Commission on Human Rights’ resolution on “the question of the death penalty”, the seventh such resolution adopted since 1997. Resolution 2003/67 was adopted at the Commission’s annual session in Geneva on 24 April by a vote of 24 in favour and 18 against, with 10 abstentions. Seventy-five countries co-sponsored the resolution, seven more than in 2002. However, the strong disagreement of many states was shown by the fact that 63 countries signed a statement dissociating themselves from the resolution, one more than in 2002.

This year’s resolution has many other new features:

- It calls on states not to carry out executions “in public or in any other degrading manner”, and “to ensure that any application of particularly cruel or inhuman means of execution, such as stoning, be stopped immediately”.
- It calls on states to exclude mothers with dependent infants from capital punishment.
- In an attempt to do away with secret executions, it calls on states “to make available to the public information with regard ... to any scheduled execution”.

The resolution also calls on “all states that still maintain the death penalty” not to impose it for “crimes committed by persons below 18 years of age”. Last year’s resolution had a similar provision but placed it in the context of states complying with their obligations under the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Rights of the Child (CRC), both of which exclude the use of the death penalty against offenders aged under 18. The new language clearly applies to the USA, which could have argued that it was not affected by the language of the previous resolutions because it had not ratified the CRC and had reserved for itself the right to execute child offenders when it ratified the ICCPR in 1992. Similarly, under this year’s resolution language urging states to impose the death penalty only for the “most serious crimes” and to uphold fair trial safeguards in capital cases is no longer linked to states’ obligations under the ICCPR and the CRC.

The resolution also welcomed the yearly supplement to the UN quinquennial report on capital punishment which had been prepared for it by the UN Secretariat (UN document E/CN.4/2003/106). The report stated that “the trend towards abolition continues” and noted “an increase in the number of countries which have ratified international treaties providing for the abolition of the death penalty” (para. 32). The report and the resolution are available on the website of the UN High Commissioner for Human Rights, www.unhchr.ch

SCOPE OF DEATH PENALTY REDUCED IN TAJIKISTAN

The Tajikistan parliament in July approved draft amendments to the criminal code, proposed by President Imomali Rahmonov. Among the amendments were the abolition of the death penalty for women, for boys aged under 18 at the time of the crime and for men over 60, and a reduction of the articles in the criminal code carrying a possible death sentence from 10 to five. Prior to the adoption of a new criminal code in 1998 there had been 44 articles in the criminal code providing for the use of the death penalty. The present amendments will enter into legal force once they have been signed by President Rahmonov.

At least one person was executed in the country this year to date and at least 10 people have been sentenced to death. At least five people were executed in 2002.

NEW PROTOCOL ENTERS INTO FORCE

On 1 July, Protocol No. 13 to the European Convention on Human Rights and Fundamental Freedoms (European Convention on Human Rights, ECHR) – which bans the death penalty in all circumstances – entered into force, thereby bringing the Council of Europe one step closer to becoming a totally death penalty-free zone. It had been ratified by 15 countries.

Protocol No. 13 closes the gap under Protocol No. 6 to the ECHR, which prohibits the death penalty except for acts committed in times of war or imminent threat of war in those countries that have agreed to be bound to it. As such, Protocol No. 13 is an important international instrument which sends a clear political message that the death penalty is completely unacceptable at all times (see **DP News** March 2002, June 2002).

Only four Council of Europe member states have neither signed nor ratified Protocol No. 13: Armenia, Azerbaijan, the Russian Federation and Turkey. Armenia, the Russian Federation and Turkey have also yet to ratify Protocol No. 6 and as such have failed to commit themselves fully to either death

penalty protocol. Serbia and Montenegro, which joined the Council of Europe in April, has signed both Protocol No. 6 and Protocol No. 13, but has yet to ratify either.

NEWS IN BRIEF

Armenia – President Robert Kocharyan in July commuted all outstanding death sentences to life in prison. In May, the parliament had adopted a new criminal code which banned the death penalty in peacetime but contained a loophole that would allow use of the death penalty in a case currently before the Armenian courts. The case concerns an armed attack in the parliamentary chamber in 1999 in which eight men died.

Democratic Republic of Congo – On 24 April the government abolished the country's military tribunals (*Cours d'Ordre Militaire*), which failed to meet international standards for a fair trial. A 14-year-old child soldier was executed within 30 minutes of his trial by a military tribunal in 2000 and earlier this year there were reports of secret executions following death sentences by another of the military tribunals (see **DP News** June 2000 and March 2003).

Uganda – A former veterinarian, Dr Johnson Byabashaija, was approved by the Parliamentary Appointments Committee in July as the country's Deputy Commissioner General of Prisons. On his appointment, he stated that he was opposed to the death penalty because it was dehumanising.

USA – Federal – The government announced in July that three of the six men who have been named by President George W. Bush as the first suspects held in custody at the US naval base in Guantanamo Bay to be tried before the military tribunals, Feroz Ali Abbasi and Moazzam Begg of the United Kingdom and David Hicks of Australia, will not be subject to the death penalty. The other three men, whose names have not been released, could still be sentenced to death with no right of appeal.

USA - Missouri - Joseph Amrine, who was exonerated after 17 years on death row, in July became the 111th person to be freed from death row in the United States since 1973. According to a press release from the US Death Penalty Information Center (www.deathpenaltyinfo.org), Joseph Amrine's case was based primarily on inaccurate witness testimony from jailhouse informants, many of whom later recanted their stories.

USA – Illinois – Governor Rod Blagojevich on 24 July signed into law a bill barring doctors and nurses from participating in executions in the state. The bill states that “The Department of Corrections shall not request, require, or allow a health care practitioner licensed in Illinois, including but not limited to physicians and nurses ... to participate in an execution.”

International Treaties
Protocol No. 13 to the European Convention on Human Rights has been ratified by Belgium, Bosnia and Herzegovina, Georgia and Hungary, bringing the total of ratifications to 17.

To our readers: The next issue of the Death Penalty News will be dated December 2003.

WORLD DAY AGAINST THE DEATH PENALTY

AI and other members of the World Coalition against the Death Penalty (WCADP – see **DP News** June 2002) are preparing for the World Day against the Death Penalty, due to be held on **10 October**. Expected events include public debates, demonstrations and educational events.

For up-to-date information on plans for the World Day, consult the WCADP website at www.worldcoalition.org