

CUBA

A worrying increase in the use of the death penalty

Amnesty International is concerned about reports of a recent increase in the use of the death penalty in Cuba. According to reports, during the past three months at least ten people have been executed and at least five more sentenced to death. A total of approximately a dozen people reportedly remain on death row.

These figures appear to be a marked increase since last year when at least five people were reported to have been executed. In 1998 only two names were confirmed: Emilio Betancourt Bonne and Jorge Luis Sánchez Guilarte, both of whom were executed in May 1998. Since the reporting of human rights issues in the country is severely restricted and the authorities do not compile statistics on such matters, this number may have been higher.

The increase in the use of the death penalty appears to have begun just after the introduction in March 1999 of new legislation imposing the death penalty for serious cases of drug-trafficking, corruption of minors and armed robbery. According to the Cuban Commission for Human Rights and National Reconciliation, *Comisión Cubana de Derechos Humanos y Reconciliación Nacional*, the death penalty is now possible for 112 crimes, 79 of which involve state security violations and 33 involve common crimes.

Amnesty International opposes the death penalty in all cases as a violation of the right to life and of the right not to be subjected to cruel, inhuman and degrading treatment or punishment, as proclaimed in the Universal Declaration of Human Rights. Concern about the death penalty in Cuba is exacerbated by the authorities' failure to uphold their own guarantees of fair trial, particularly the right to defence.

CUBAN LEGISLATION ON THE DEATH PENALTY

The Cuban Constitution retains the death penalty. In 1940 the new constitution limited its use to cases of treason or espionage in times of war, but that limitation was removed after the 1959 revolution that brought Fidel Castro to power.

On 1 November 1979 the Cuban Penal Code, *Código Penal*, (Law 21) became effective which replaced the 1936 Code of Social Defence, *Código de Seguridad Social* and the Code of Military Justice, *Ley de Delitos Militares*. According to Article 29 of the Penal Code:

1. Sentence of death is of an exceptional nature and is only to be applied by the courts in the case of offences of a serious nature for which it is an established penalty.

2. Sentence of death cannot be imposed on those who are under 20 years of age or on women who committed the offence while pregnant or who are pregnant at the time the sentence is passed.

3. The death sentence is carried out by firing squad.

1. La sanción de muerte es de carácter excepcional, y sólo se aplica por el Tribunal en los casos más graves de comisión de los delitos para los que se halla establecida.

2. La sanción de muerte no puede imponerse a los menores de 20 años de edad ni a las mujeres que cometieron el delito estando encinta o que lo estén al momento de dictarse la sentencia.

3. La sanción de muerte se ejecuta por fusilamiento.

A new Penal Code came into force in April 1988 (Law 62) , which reduced the number of capital offences. Article 29 remained unchanged but the death penalty was abolished for crimes against “collective security”, robbery with violence and intimidations, and certain crimes against peace and international law. In addition, the situations in which it could be applied for rape and pederasty with violence were narrowly restricted. The death penalty continued to be provided as a possible punishment in 23 articles, 19 relating to crimes against internal or external state security or against peace and international law, two for crimes against life and corporal integrity and two for crimes against the normal development of sexual relations and against the family, infancy and youth.

On 25 August 1997 a new Penal Code was introduced under Decree 175, making stricter rules for crimes, such as corruption, prostitution and drug trafficking. No change was made to the death penalty which was maintained for “exceptional cases”, “*casos excepcionales*”.

However, on 15 February 1999 Cuba’s National Assembly, *Asamblea Nacional del Poder Popular*, passed new legislation (Law 87), imposing the death penalty for serious cases of drug-trafficking, corruption of minors and armed robbery. These modifications to the Penal Code became effective on 15 March 1999. They followed a speech by President Fidel Castro in January 1999, when he expressed the hope that judges would not hesitate to use the death penalty since stronger measures were needed to combat crime

Death sentences in Cuba are sometimes carried out within weeks of trial judgment. Trials for such cases take place at the *Tribunales Provinciales Populares*, People’s Provincial Courts. Condemned prisoners then appeal automatically against their death sentences at the People's Supreme Court, *Tribunal Supremo Popular*. If that court upholds the sentence, it must then go to Cuba's ruling Council of State, *Consejo de Estado*, which can either ratify the death sentence or grant clemency. Clemency consists of commutation to imprisonment for a maximum of 30 years. Execution is by firing squad. The death penalty cannot be passed on people under 20 years of age or on women who were pregnant at the time when the offence took place or at the time of sentencing.

CASES

Most of the death penalty cases mentioned are believed to have been convicted for murder with extreme or brutal violence and at least one case of rape. However, detailed information, such as the charges and dates of execution, is difficult to obtain since the government does not normally publish this kind of information and there are severe restrictions on human rights monitoring and freedom of speech.

Those reportedly executed during 1999 were:

CHÁVEZ PALACIO, Francisco Javier

Sentenced to death on 4 April 1997 for the murder of a communist party official during a fight in Bayamo, Granma province. Date of execution not known.

GARCÍA BERMÚDEZ, Carlos

GARCÍA GONZÁLEZ, Félix

Both executed on 10 March 1999 for murdering a 61-year-old peasant in his home during a 1997 robbery attempt in Sancti Spiritus, Sancti Spiritus province.

HERNÁNDEZ INDA, Irovelio

RAMOS RAMÍREZ, Reinaldo Daniel

Both were executed on 26 March 1999, charged with murder and the possession of illegal weapons. Irovelio Hernández Inda was from Camagüey province and Reinaldo Daniel Ramos Ramírez was from Ciego de Avila province. They were charged with a series of murders and the possession of illegal weapons.

MARTÍNEZ DÍAZ, Carlos Mario

Executed in March 1999 for murdering a 56-year-old acquaintance in 1997 in Santiago de Cuba province.

OSORIO ZAMORA, José Luis

Sentenced to death for murdering a child in Manzanillo, Granma province. Date of execution not known.

RODRÍGUEZ GALANO, Roberto

Executed in March 1999 for murdering a 56-year-old acquaintance in 1997 in Santiago de Cuba province.

SÁNCHEZ RAMOS, Félix Joaquín

Executed on 5 March 1999. He was tried in 1998 and found guilty of raping a 13-year-old girl in Las Tunas province in May 1997.

VELÁZQUEZ CABRERA, Luis Carlos

Executed on 5 March 1999. He was tried in 1998 and found guilty of murder, attempted rape and the abduction of a child in Las Tunas province in May 1997.

There are believed to be at least a dozen people currently under sentence of death. The following people are believed to be under sentence of death, although there may be others:

CASTRO PÉREZ, Hermes

He was found guilty of murdering the guard of a nursery school on 18 September 1997 in Las Tunas province. In February 1999 his death sentence was ratified by the People's Supreme Court.

CRUZ LEÓN, Ernesto Raúl

Salvadorean national Raúl Ernesto Cruz León was detained in September 1997 and subsequently sentenced to death on 23 March 1999. At the trial, which took place on 8 March 1999, he pleaded guilty to the charges. He was charged with "sustained terrorism", "*terrorismo con carácter continuado*", for carrying out bomb attacks against five hotels and one restaurant in Havana between July and September 1997. An Italian tourist was killed and eleven people were injured as a result of the explosions. He is still awaiting appeal.

DUARTE SCULL, Sergio Antonio

PELÁEZ PRIETO, Carlos Rafael

Sergio Antonio Duarte Scull and Carlos Rafael Peláez Prieto, who were sentenced to death on 22 January 1999, were convicted of killing four foreigners in Cuba. The two men reportedly confessed to murdering two Italian citizens in September 1998, a German citizen in November 1997 and a Canadian citizen in August 1998. They were the first to receive the death sentence following Fidel Castro's speech on 7 January 1999, in which he stated that drug traffickers should face the death penalty.

Their appeal reportedly took place in late January/early February 1999 before the People's Supreme Court. It is believed that the death sentences were ratified.

ESPINOSA, Rámiro G.

On 2 October 1996 Rámiro G. Espinosa was sentenced to death following a trial at the *Tribunal Provincial Popular*, People's Provincial Court, in Havana. He was accused of assault, robbery and murder. According to reports, on two occasions he entered private homes and robbed and killed the residents. His accomplice, Raúl Calvet Díaz, who was

also sentenced to death, had his death sentence commuted to 30 years' imprisonment. It is believed that Rámiro Espinosa remains under sentence of death but this information is not confirmed.

PORTUONDO MEDINA, Francisco

Francisco Portuondo Medina was convicted of murder for killing a policeman on 31 May 1998 in Santiago de Cuba. He was sentenced to death on 3 March 1999 and is awaiting appeal.

PROENZA TORNES, Jorge L

Sentenced to death in 1998. No further information is available.

REAL SUÁREZ, Humberto Eladio

Humberto Eladio Real Suárez was arrested in October 1994. He was tried and sentenced to death in April 1996, charged with "other acts against state security", "*otros actos contra la seguridad del estado*", "firing an arm", "*disparo de arma de fuego*", and "murder", "*asesinato*". The charges were brought against him for infiltrating the country and the killing of a guard, Arcelio Rodríguez García. Six others involved in the incident were sentenced to 30 years' imprisonment. Humberto Real has still not had his appeal heard by the People's Supreme Court.

RODRÍGUEZ HERNÁNDEZ, Jorge

Currently held in the Cienfuegos Provincial Prison, *Prisión Provincial de Cienfuegos*, Ariza, Cienfuegos province. His death sentence was reportedly ratified by the People's Supreme Court.

RODRÍGUEZ LLERENA, Otto René

Salvadorean national Otto René Rodríguez Llerena was sentenced to death on 30 March 1999, following a trial on 15-16 March 1999. He had been detained in July 1998 and charged with terrorism, after trying to bring explosives into the country. He pleaded guilty to the charge of terrorism for that act and for planting a bomb in a Cuban hotel in August 1997. He is still awaiting appeal.

SARRIA RICHE, Alberto Gregorio

Currently held in the Cienfuegos Provincial Prison, *Prisión Provincial de Cienfuegos*, Ariza, Cienfuegos province. His death sentence was reportedly ratified by the People's Supreme Court.

SERRANO CAÑIZAREZ, Boris

He was found guilty of murdering four people, including a five-year-old child in Las Tunas province in February 1998. His death sentence was ratified by the People's Supreme Court in February 1999.

Name not known

A resident of Holguín province was reportedly sentenced to death in March 1999. No further information is available.

KEYWORDS: DEATH PENALTY1 / LEGISLATION /