

**OPEN LETTER FROM AMNESTY INTERNATIONAL TO ALL
AMBASSADORS TO THE ORGANIZATION FOR SECURITY
AND CO-OPERATION IN EUROPE, CONCERNING THE
IMMINENT EXECUTION OF SEAN SELLERS IN THE USA**

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29 January 1999

Dear Ambassador,

On 26 October 1998 Amnesty International addressed the plenary session of the Human Dimension Implementation Meeting in Warsaw on its concerns regarding the death penalty in the OSCE region. A large part of that address focussed on the use of the death penalty within one participating state of the OSCE, namely the United States of America. Amnesty International expressed its deep disquiet at the continuing violation of international standards in that country's application of the death penalty. The organization highlighted the USA's continuing use of the death penalty against those under 18 at the time of the crime, a practice forbidden under international law, and on in which no other OSCE participating state engages.

It is therefore with a very great sense of urgency that the organization is writing to draw your attention to the imminent execution, on 4 February 1999, of Sean Sellers in Oklahoma, USA, for crimes committed when he was 16 years old. Sean Sellers would be the first prisoner put to death in the USA for a crime committed when under 17, since judicial executions were resumed in 1977. As such, his killing would represent a further appalling development in the USA's use of the death penalty and would send a disturbing message to the international community from a country which repeatedly claims to be the most progressive force for human rights in the world.

Amnesty International appeals to you to urge the US authorities to abide by international law and to stop this execution. This has been made all the more urgent by the fact that on 27 January 1999 the Oklahoma Pardon and Parole Board voted to deny Sean Sellers clemency.

The prohibition of the use of the death penalty for crimes committed by those under 18 is now a principle of customary international law from which no country is exempt, irrespective of whether or not it has ratified the relevant international human rights instruments.

As early as 1949, Article 68 of the Fourth Geneva Convention established that the death penalty could not be pronounced on persons who were under 18 at the time of the offence. The unacceptability of this punishment against juvenile offenders, even in times of war, was thereby recognized. In the 50 years since then, the International Covenant on Civil and Political Rights and the UN Convention on the Rights of the Child, together with various other international and regional

human rights instruments, have come into force and confirmed 18 as the minimum age for death penalty eligibility.

One hundred and ninety-one states -- all except the USA and Somalia -- have ratified the UN Convention on the Rights of the Child. No state has made a specific reservation to Article 37(a) which prohibits the use of the death penalty against those under 18 at the time of the crime. This overwhelming consensus confirms the exemption of juvenile offenders from the death penalty as a principle of customary international law.

Only three executions of juvenile offenders were recorded worldwide in 1998. All three were carried out in the USA. Eighteen executions of juvenile offenders are known to have been carried out since 1990, nine in the USA. Only five other countries are known to have carried out such executions in the same period. At least one of them - Yemen - has since legislated to abolish the death penalty against those under 18 at the time of the crime. Also of note is the fact that China, which accounts for most of the world's judicial executions, changed its Criminal Code in 1997 to exempt juvenile offenders from the death penalty.

The USA claims to have exempted itself from the international consensus by lodging a reservation to Article 6(5) of the International Covenant on Civil and Political Rights. However, the UN Human Rights Committee has stated that the reservation is contrary to the object and purpose of the treaty and should be withdrawn. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions reiterated this in his report on the USA in 1998, and concluded that the US practice of imposing the death penalty on child offenders violates international law.

In April 1998 the UN Commission on Human Rights adopted a resolution calling on all member states which still use the death penalty to establish a moratorium on executions, with a view to abolishing the death penalty altogether. The resolution specifically urged all States that still maintain the death penalty to "comply fully with their obligations under the International Covenant on Civil and Political Rights and the UN Convention on the Rights of the Child, notably not... to impose it for crimes committed by persons below eighteen years of age..."

The US federal authorities have consistently maintained that the issue of juveniles and the death penalty is a matter for individual US states to determine, within the constraints set by the US Supreme Court. However, as Amnesty International and UN experts have repeatedly pointed out to the authorities, the federal system cannot be used to justify a breach of the USA's international human rights obligations.

I appeal to you to urge the US authorities to intervene to stop the execution of Sean Sellers, and for them to ratify without reservation the UN Convention on the Rights of the Child and to withdraw their reservation to Article 6(5) of the International Covenant on Civil and Political Rights.

If you should wish for further information on the case of Sean Sellers, there is an Amnesty International document available from this office by fax or e-mail: *Killing Hope - The Imminent Execution of Sean Sellers* (AMR 51/108/98, December 1998). It gives details of Sean Sellers' childhood, his crimes, his trial and appeals, his mental illness and his self-development in prison.

Yours sincerely

Derek Evans
Deputy Secretary General

