

EXTRA 44/01

Death pen

USA (Texas) 250th Texas execution looms
Richard William Kutzner, white, aged 58

Richard Kutzner is set to become the 250th prisoner executed in Texas since the state resumed judicial killing in 1982. He is scheduled to be put to death on 25 July for the murder of Kathryn Harrison in 1996.

Texas accounts for more than a third of the 724 executions carried out in the USA since 2 July 1976, when the US Supreme Court lifted the moratorium on the death penalty which it had imposed four years earlier. A quarter of a century on, the US capital justice system is one marked by arbitrariness, discrimination and error, as well as the inevitable cruelty and dehumanization that defines this punishment wherever it occurs. On 2 July 2001, US Supreme Court Justice Sandra Day O'Connor gave a speech in which she said: "After 20 years on the high court, I have to acknowledge that serious questions are being raised about whether the death penalty is being fairly administered in this country."

Texas is at the heart of this international human rights scandal. It has regularly violated international standards in its use of the death penalty. It accounts for nine of the 17 executions of child offenders - those under 18 at the time of the crime - carried out in the USA since 1976. Its 10th such execution, that of Napoleon Beazley (see UA 156/01, AMR 51/095/2001, 22 June), is scheduled for next month. A further 30 child offenders await this fate in Texas, over a third of the national total.

Texas has executed numerous mentally impaired prisoners, including Larry Robison, Oliver Cruz, Mario Marquez and Terry Washington. It has executed five of the 15 foreign nationals put to death in the country since 1977 - Carlos Santana, Ramon Montoya, Irineo Montoya, Joseph Faulder and Miguel Flores - all of whom were denied their consular rights upon arrest, in violation of international law.

In contravention of international standards, Texas has executed several inmates despite serious doubts about their guilt, including Odell Barnes, Gary Graham and David Spence. Seven others have been released from death row after evidence of their innocence emerged. They spent an average of 10 years on death row or in jail before being exonerated. In each case, the state had persuaded a jury that the defendant was a future danger to society - a prerequisite for a death sentence in Texas, and one which has led to a particular brand of "junk science": so called psychological "experts" willing to testify with 100 per cent certainty that the defendant will commit future acts of criminal violence inside or outside prison if allowed to live.

One of the condemned later shown to be innocent and released was Clarence Brandley, an African American man sentenced to death by an all-white jury for the murder of a white girl, in a case marked by racism. Despite the fact that blacks and whites are the victims of murder in the USA in almost equal numbers, over 80 per cent of the country's executions have been for crimes involving white victims. This is echoed in Texas, where in 202 of the 249 cases of execution (81 per cent), the original crime involved white victims (Kathryn Harrison was also white). Studies have consistently shown that the murder of a white victim is more likely to result in a death sentence than murders involving minority victims. Since Texas resumed executions, no white defendant has been

executed for killing an African American. Fifty-seven blacks have been executed for crimes involving whites (23 per cent of the total executions).

People have been sentenced to death and executed in Texas who were denied their internationally-recognized right to adequate legal representation at all stages of proceedings. Carl Johnson was executed in 1995 despite the fact that his court-appointed lawyer was seen to sleep during parts of the trial. He was the 12th of 152 prisoners executed under the five-year governorship of Governor George W. Bush (1995-2000). Virginia has the next highest execution total to Texas - it has executed 82 prisoners since it resumed executions in 1982.

As elsewhere in the USA, the death penalty in Texas is marked by huge geographical disparities. Sixty-two of those executed, and 155 of those currently on the state's death row, were prosecuted in Harris County. If Harris County was a state it would lie behind only Virginia and Texas in the number of executions. Richard Kutzner was prosecuted in Harris County.

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language, in your own words:

To Governor Perry:

- expressing sympathy for the victims of violent crime, but arguing that the death penalty is part of the culture of violence and one that diverts resources away from constructive responses to crime;
- expressing deep concern that Texas is set to carry out its 250th execution since resuming judicial killing in 1982;
- pointing out that the use of the death penalty is doing immense damage to the international reputation not only of Texas but of the USA as a whole;
- urging Governor Perry to use his power and influence to stop the executions that come before him through his power of reprieve, to support a moratorium in Texas, and to begin to lead his state away from the death penalty.

To President Bush:

- expressing deep concern that Texas is set to carry out its 250th execution, over half of which were carried out under his governorship;
- noting the damage being inflicted upon the USA's international image by its use of the death penalty, frequently in violation of international standards;
- noting that his administration must ensure that all jurisdictions in the USA, including Texas, adhere to the country's international human rights obligations;
- urging him to offer leadership on this fundamental human rights issue and to begin to lead his country away from the death penalty.

APPEALS TO:

The Honourable Rick Perry
 State Capitol
 PO Box 12428
 Austin, TX 78711, USA
Fax: +1 512 463 1849
Telegrams: Governor Perry, Austin, TX, USA
Salutation: Dear Governor

George W. Bush
 The President
 The White House
 Office of the President

1600 Pennsylvania Avenue
Washington, DC 20500, USA

Fax: +1 202 456 2461

Telegrams: President Bush, Washington DC, USA

Salutation: Dear Mr President

COPIES TO: diplomatic representatives of the USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY.