

UA 203/99

Death pen**USA (Nevada) Kenshawn Maxey, aged 18**

At a trial due to begin in Clark County, Nevada, on 7 September 1999, the prosecution will seek a death sentence against Kenshawn Maxey for a murder he is accused of committing when he was 17 years old. International law forbids the use of the death penalty for crimes committed by under 18-year-olds.

Kenshawn Maxey is charged with shooting bartender Salvatore Zendano Jr. during a robbery of O'Aces Bar and Grill in Las Vegas in May 1998.

BACKGROUND INFORMATION

Article 6(5) of the International Covenant on Civil and Political Rights (ICCPR) and Article 37(a) of the Convention on the Rights of the Child (CRC) ban the use of the death penalty against those under 18 at the time of the crime. This article is so widely accepted, and adhered to, that it has become a principle of customary international law, binding on countries no matter which international instruments they have or have not ratified.

The USA attempts to justify its use of the death penalty against child offenders by arguing that it reserved the right to continue this practice when it ratified the ICCPR in 1992. Article 4 of the ICCPR states that there can be no derogation from Article 6, even in times of public emergency. The UN Human Rights Committee, the expert body set up to monitor countries' compliance with the ICCPR, has stated that the US reservation should be withdrawn as it contravenes the object and purpose of the treaty.

International standards ban the death penalty against children, not to excuse their crimes, but in recognition of their immaturity and potential for change. The global consensus on this issue has been confirmed by ratifications of the CRC. The USA is one of only two countries not to have ratified the CRC (the other being Somalia, a collapsed state with no recognized government). All of the 191 countries which have ratified this treaty have done so without making a specific reservation to Article 37(a). In 1997 China abolished the death penalty for offenders under 18 at the time of the crime, in order that its law be in compliance with its CRC obligations.

Since 1990, 19 people are known to have been executed worldwide for crimes committed when they were under 18. Ten were executed in the USA, while the other nine were put to death in Iran, Nigeria, Pakistan, Saudi Arabia and Yemen (Yemen has since abolished the death penalty for child offenders). Two-thirds (13) of these 19 executions occurred before August 1993. In the six years since then, there have been six known judicial executions of child offenders in three countries, one in Nigeria (1997), one in Pakistan (1997) and four in the USA. These four - three in 1998 and one in 1999 - are the only such executions known in the world in the past 22 months.

Some 70 people are on US death rows for crimes committed when they were 16 or 17 years old (see *On the Wrong Side of History: Children and the Death Penalty in the USA*, AMR 51/58/98, October 1998). The US federal government is the authority ultimately responsible for ensuring nationwide adherence to the country's international obligations.

RECOMMENDED ACTION: Please send faxes/express/airmail letters in English or your own language:

- expressing deep concern that Clark County, Nevada, is seeking the death penalty against Kenshawn Maxey, in violation of the global ban on the death penalty against those who were under 18 at the time of the crime (you may add that you are not writing to express an opinion on the guilt or innocence of Mr Maxey, or to condone the crime of which he is accused);
- explaining that this ban is now so widely recognized and adhered to worldwide that it has become a principle of customary international law, binding on all countries regardless of which international instruments they have or have not ratified;
- pointing out that neither individual US states, nor the US federal government, has the legal right under international law to allow such use of the death penalty;
- + **to Deputy District Attorney (prosecutor):** urging that the prosecution drop its pursuit of the death penalty against Kenshawn Maxey.
- + **to federal addressees:** urging the federal authorities to intervene to stop this imminent violation of the USA's international obligations.

APPEALS TO:

The Honourable David Schwartz
Deputy District Attorney
200 South Third Street
Las Vegas, NV 89101, USA

Fax: +1 702 383 8465

Tel: +1 702 455 3156

Salutation: Dear Deputy District Attorney

The Honorable Harold Koh
Assistant Secretary for Democracy, Human Rights, and Labor
Department of State
2201 C Street, N.W.
Washington, DC 20520, USA

Fax: + 1 202 647 5283

Salutation: Dear Assistant Secretary

The Honorable Janet Reno
Attorney General
Department of Justice
950 Pennsylvania Ave, N.W., Room 440
Washington, DC 20530, USA

Faxes: +1 202 514 4371

Salutation: Dear Attorney General

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

You may also write your concerns (in no more than 250 words) to:

The Editor, *Las Vegas Review-Journal*, 1111 West Bonanza, Las Vegas, NV 89106, USA. **Fax: +1 702 383 4676**

The Editor, *Las Vegas Sun*, 800 South Valley View, Las Vegas, NV 89107, USA

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 21 September 1999.