

OPEN LETTER FROM AMNESTY INTERNATIONAL TO GOVERNOR GEORGE W BUSH OF TEXAS CONCERNING THE IMMINENT 100th EXECUTION UNDER HIS ADMINISTRATION

“Intravenous tubes attached to his arms will carry the instrument of death, a toxic fluid designed specifically for the purpose of killing human beings. The witnesses, standing a few feet away, will behold Callins, no longer a defendant, an appellant, or a petitioner, but a man, strapped to a gurney, and seconds away from extinction.” Justice Blackmun, US Supreme Court, 1994.

Dear Governor

Amnesty International deeply regrets that the dehumanizing process described by Justice Blackmun continues at an increasing pace in Texas, and has now been repeated 99 times under your administration. The organization respectfully urges you to consider the appalling human reality behind that stark statistic and prevent it from increasing yet further, due to occur within days.

It was apt that Justice Blackmun should have chosen the case of a Texas death row inmate -- Bruce Edwin Callins -- in which to announce that he would “no longer tinker with the machinery of death”. For then, as now, Texas led the nation in the practice of judicial killing, a practice which Justice Blackmun, after more than 20 years of experience, had concluded could not be administered consistently, fairly or reliably.

At the end of the same year, 1994, in which Justice Blackmun wrote his now famous dissent, you, Mr Governor, were elected to the highest executive office in Texas. Amnesty International deeply regrets that in the intervening years, the rate of judicial killing has increased to a point where one human being is being put to death approximately every 10 days in the Texas lethal injection chamber. On 10 September 1999, Willis Jay Barnes is set to become the 100th prisoner executed since you took office in January 1995.

In making this appeal against the death penalty, Amnesty International in no way wishes to excuse the crimes of which those sentenced to death and executed in Texas have been convicted. Nor do we seek to belittle the terrible suffering of the relatives of the murder victims, for whom the organization has the greatest sympathy.

However, for politicians to offer leadership away from state killing is in keeping with the trend towards abolition in a world where over half of countries have turned their backs on this most cruel, inhuman and degrading of punishments. Far from giving in to, condoning or excusing violent crime, many countries are demonstrating that there are humane alternatives to the death penalty and confirming that a society need not respond to killing with yet more killing. The latter response surely deepens a culture of violence, allows the murderer to set the moral tone, diverts resources and energies away from constructive efforts to assist relatives of murder victims in their personal tragedies, and

creates more victims; in Willis Barnes' case these would include his children and 18 young grandchildren.

As Amnesty International has repeatedly stated in appeals to you and your administration, international standards agreed to by governments seek to ensure that strict minimum safeguards are adhered to in jurisdictions which continue to resort to capital punishment. The organization remains deeply concerned that the executions carried out under your governorship and the death sentences currently outstanding include many that have breached these fundamental safeguards.

In 1998 Texas executed Joseph John Cannon and Robert Anthony Carter for crimes committed when they were aged 17. Their executions violated international law banning the use of the death penalty against those who commit crimes when under 18 years old. This is a principle so widely recognized and adhered to that it has become a principle of international customary law, binding on all countries regardless of which international agreements they have or have not ratified. There are more than 25 others on Texas death row for crimes committed when they were 17, more than a third of the national total. Each of their sentences is a violation of international law.

Both Joseph Cannon and Robert Carter, as well as being subjected to appalling neglect and physical abuse throughout their childhoods, suffered from borderline mental retardation. Texas continues to allow the sentencing to death and execution of individuals who suffer from mental retardation, in breach of international standards which see the death penalty as inappropriate in such cases. On 5 August 1999, Charles Anthony Boyd was executed despite psychiatric testing placing his IQ as low as 64. Earlier, on 6 May 1997, Earl Washington, whose IQ had been put as low as 58, was put to death. As well as contravening international standards, their executions contradict an emerging US consensus, with 12 states now banning such use of the death penalty.

Other mentally impaired prisoners have been executed under your administration. For example, Kenneth Granviel, who had a long history of mental illness and was a diagnosed paranoid schizophrenic, was put to death in 1996. With such cases in mind, Amnesty International welcomed the last-minute stay of execution granted to Larry Robison on 17 August 1999 by the Texas Court of Criminal Appeals. A diagnosed paranoid schizophrenic who was repeatedly denied the necessary treatment before he committed the crime for which he was sentenced to die, Larry Robison's predicament raised profound questions about social and criminal justice in Texas. Amnesty International hopes that his reprieve will mark a turning point in the treatment of the mentally ill who come into contact with the Texas capital justice system.

On 18 June 1997, Texas executed Irineo Tristán Montoya, a Mexican national. Following his arrest, he had undergone a lengthy police interrogation without an attorney or the assistance of the Mexican Consulate. He signed a four-page confession in English, a language he did not read, speak or understand. Although only 18 years old and despite his secondary involvement in the crime (he was charged as an accessory to it), Montoya was condemned to death. The actual killer received a prison sentence. The authorities were aware of Irineo Montoya's nationality but failed to inform him of his right to consular access, as guaranteed under the Vienna Convention on Consular Relations, a treaty to which the USA is a state party. The execution on 17 June 1999 of Joseph Stanley Faulder, a Canadian national, repeated this violation in the face of many appeals to your office to stop his killing, including from Secretary of State Albright.

Amnesty International has long been concerned that capital defendants in Texas do not receive the quality of defence representation demanded by international standards. The executions of Jeffrey Motley and Carl Johnson, for example, were allowed to proceed in 1995 despite allegations that their defence lawyers had slept during some of their trial proceedings. The same occurred during the trial of Calvine Burdine, who remains on death row.

When defendants find no remedy through the courts, their final chance for reprieve is executive clemency. In June, Amnesty International sent you a copy of a report setting out our concern that the executive clemency procedure in Texas -- a process supposed to offer a genuine lifeline to prisoners whose predicament the courts have been unable or unwilling to remedy -- has become little more than an empty gesture.¹ Cases involving breaches of international standards aside, a prisoner's remorse or efforts towards personal development and rehabilitation have apparently counted for nothing in the eyes of those with the power to grant mercy in Texas. Names that will spring to some minds are Karla Faye Tucker and Jonathan Nobles, put to death in 1998.

So too Dorsie Lee Johnson, sentenced to death for a crime committed at the age of 19. He was executed in 1997 despite strong evidence of his genuine remorse, his efforts towards rehabilitation during his 11 years on death row, and despite the fact that the jury who sentenced him to death had not been allowed to give full effect to his strongest mitigating evidence, his youth. The powerful dissenting opinion in his case by four US Supreme Court Justices was regrettably not a strong enough signal to generate an act of executive mercy. The execution in 1998 of child offenders Joseph Cannon and Robert Carter was the final denial of their efforts towards rehabilitation on death row, where they had spent their entire adult lives. It is the potential for change in a young offender which lies behind the global ban on the execution of people for crimes committed as children. It is a ban that is grounded in a profoundly optimistic view of humanity. We regret that Texas continues to choose a pessimistic, brutal, brutalizing alternative.

Thirty-day reprieves or commutations have not been forthcoming, even in cases where serious doubts existed over a condemned prisoner's guilt. While the death sentence of Henry Lee Lucas was commuted in 1998 just before his execution and after well-publicized official disquiet over his sentence, no reprieve was forthcoming for Troy Farris who was executed on 13 January 1999, leaving worrying questions around his conviction for capital murder unanswered.

At the end of his dissenting opinion in 1994, Supreme Court Justice Blackmun expressed his hope that abolition of the death penalty would come to the USA: "I may not live to see that day, but I have faith that eventually it will arrive." Justice Blackmun died in March 1999, but with his words in mind, and noting your current campaign slogan focussing attention on "compassion" in politics, Amnesty International urges you to grant Willis Jay Barnes a 30-day reprieve and to immediately call on the Board of Pardons and Paroles to give serious consideration to clemency in his case. From that starting point, we urge that you do everything in your power and influence to prevent any further executions and begin to lead your state away from the death penalty.

Yours sincerely

Susan Lee
Program Director, Americas Program

(attachment)

Attachment

Executions in Texas since 18 January 1995

¹ Killing without Mercy: Clemency Procedures in Texas, AMR 51/85/99, June 1999

1995

1. Clifton C. Russell
2. Willie Ray Williams
3. Jeffrey D. Motley
4. Billy Conn Gardner
5. Samuel Hawkins
6. Noble D. Mays
7. Fletcher Thomas Mann
8. Ronald K. Allridge
9. John Fearance Jr.
10. Karl Hammond
11. Vernon Sattiewhite
12. Carl Johnson Jr.
13. Harold Joe Lane
14. Bernard Amos
15. Hai Hai Vuong
16. Esequel Banda
17. James M. Briddle

1996

18. Leo Jenkins
19. Kenneth Granviel
20. Joe Gonzales

1997

21. Richard Brimage Jr.
22. John K. Barefield
23. David Lee Herman
24. David Spence
25. Billy Woods
26. Kenneth Gentry
27. Benjamin Boyle
28. Ernest Orville Baldree
29. Terry Washington
30. Anthony Ray Westley
31. Clifton Belyeu
32. Richard Drinkard
33. Clarence Lackey
34. Bruce Callins
35. Larry Wayne White
36. Robert Madden
37. Patrick Rogers
38. Kenneth Harris
39. Davis Losada
40. Dorsie Johnson
41. Earl Behringer
42. David Stoker
43. Eddie James Johnson
44. Irineo Montoya

45. Robert W. West Jr.
46. James Carl Lee Davis
47. Jessel Turner
48. Benjamin Stone
49. John W. Cockrum
50. Dwight D. Adanandus
51. Ricky Lee Green
52. Kenneth Ray Ransom
53. Aua Lauti
54. Aaron Lee Fuller
55. Michael Eugene Sharp
56. Charlie Lee Livingston
57. Michael L. Lockhart

1998

58. Karla Faye Tucker
59. Steven Renfro
60. Jerry Lee Hogue
61. Joseph Cannon
62. Lesley Lee Gosch
63. Frank Basil McFarland
64. Robert A. Carter
65. Pedro Cruz Muniz
66. Clifford Holt Boggess
67. Johnny Pyles
68. Leopoldo Narvaiz
69. Genaro Ruiz Camacho
70. Delbert Teague
71. David Castillo
72. Javier Cruz
73. Jonathan Nobles
74. Kenneth McDuff
75. Daniel Lee Corwin
76. Jeff Emery
77. James Ronald Meanes

1999

78. John Glenn Moody
79. Troy D. Farris
80. Martin Vega
81. Jorge Cordova
82. Danny Lee Barber
83. Andrew Cantu
84. Norman E. Green
85. Charles Rector
86. Robert Excell White
87. Aaron C. Foust
88. Jose De La Cruz
89. Clydell Coleman
90. William H. Little
91. Joseph Stanley Faulder

92. Charles Daniel Tuttle
93. Tyrone Fuller
94. Ricky Blackmon
95. Charles Anthony Boyd
96. Kenneth Dwayne Dunn
97. James Otto Earhart
98. Joe Mario Trevino
99. Raymond James Jones