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The Death Penalty Worldwide: Developments in 2001

“The forfeiture of life is too absolute, too irreversible, for one human being to inflict it on another, even when backed by legal process. And I believe that future generations throughout the world will come to agree.”

UN Secretary General, Kofi Annan

*when presented with the “Moratorium 2000” petition
for a moratorium on executions
bearing 3 million signatures
at the United Nations, December 2000*

THE DEATH PENALTY WORLDWIDE

Developments in 2001

ABOLITION

(a) Moves towards total abolition

Chile

In August 2000 Senator Juan Hamilton introduced a bill to abolish the death penalty for ordinary crimes. It was passed by the Senate in December 2000 and by the Chamber of Deputies in April 2001. On 28 May 2001 the President of Chile, Ricardo Lagos, signed the bill abolishing the death penalty for ordinary crimes and replacing it with life imprisonment, with a requirement that people sentenced to life imprisonment should serve at least 40 years. The bill became law after publication in the Official Gazette on 5 June. However, the death penalty still remains in the Code of Military Justice for crimes committed in time of war.

No one has been executed in Chile since 1985 when two men were executed after being convicted of multiple rapes and murder. There was one prisoner under sentence of death when the bill became law.

Federal Republic of Yugoslavia

The Federal Republic of Yugoslavia is composed of the Republic of Serbia and the Republic of Montenegro, together with the province of Kosovo which is currently under the administration of the UN.

In September the Federal Republic ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) with no reservation under Article 2 of the Protocol which would limit abolition to peacetime.

The Republic of Serbia abolished the death penalty for all crimes on 5 November 2001 when a new penal code was adopted in which the death penalty was replaced by a sentence of 40 years in prison. In Kosovo, it was abolished in 1999 under the UN administration. However, Montenegro is still retentionist. In November the Montenegro Minister of Justice announced that the penal code would soon be amended to annul the death penalty.

(b) Constitutional amendments

Greece

Greece passed a law in 1993 which abolished the death penalty as a punishment applicable to offences defined in the Greek Penal Code. However, the death penalty continued to be

provided for a number of offences under the Greek Military Penal Code. In 1997 a new Military Penal Code was introduced which restricted the death penalty to the most serious crimes in time of war. The same year, when ratifying the Second Optional Protocol to the ICCPR, Greece made a reservation allowing for "application of the death penalty in time of war pursuant to a conviction for a most serious crime of a military nature committed during wartime". In January 2001 Parliament approved a constitutional amendment prohibiting the death penalty in peacetime, and in April 2001 a revised Constitution was adopted, including this amendment, which states: "The death penalty may not be imposed, except in cases which are prescribed by law for felonies which are committed in time of war and are connected with it".

Ireland

In the month of June Ireland held a referendum to amend the constitution to prohibit capital punishment, which had been abolished and removed from the penal code in 1990. Amendment No. 21 will prevent the government from enacting "any law providing for the imposition of the death penalty". The result was 62 per cent in favour of removing the death penalty from the constitution and 37 per cent opposed.

Turkey

In a reaction to requirements of the European Union (EU), which granted Turkey candidate status in December 1999, the Turkish government approved a series of amendments to the constitution on 3 October. The law entered into force on 17 October. Amended Article 38 stipulates that "*the death penalty cannot be imposed except in times of war, imminent threat of war and for terrorist crimes*".

In the Turkish Criminal Code (TPC) only one of the 13 articles which carry the death penalty refers to common criminal offences; the other 12 refer to "crimes against the state". Of these, six are related to war situations. The other six articles in the TPC which carry the death penalty are considered as "terror crimes". Of these, the two most frequently used are Article 125 on separatist acts and Article 146 on attempts to forcibly overthrow or alter the Constitution or the Parliament as well as incitement to such a crime, even if it does not go beyond an attempt.

As of 8 October 2001, reportedly a total of 61 files concerning 117 people sentenced to death were held at the parliament. Of these 73 (62 per cent) had been passed under Articles 125 and 146. In addition, the file with the death sentence on Abdullah Öcalan, leader of the armed opposition group Kurdistan Workers' Party, is being held at the Office of the Prime Minister. It is believed that the death sentence on Abdullah Öcalan, leader of the armed

opposition group Kurdistan Workers' Party, is the main reason for Turkey retaining the death penalty for some crimes in spite of repeated calls on Turkey from international bodies for its abolition. (*See also item under "REDUCTION IN SCOPE"*)

The Vatican

Although the death penalty had been abolished in the city state's penal law by Pope Paul VI in 1969, the Vatican constitution had not been amended to reflect this. In February 2001 a new constitution was published which does not mention the death penalty. The original constitution was drawn up in 1929 under the Lateran Treaty with the government of Benito Mussolini, when the Vatican was declared a sovereign nation within Italy, with its own courts and government. This is the first time it has been amended.

(c) New criminal code

Ukraine

In December 1999 the Ukraine Constitutional Court ruled that the death penalty was unconstitutional, and the Ukrainian parliament abolished it in 2000. This has now been reflected in the introduction of a new criminal code in which the death penalty is not included, the maximum punishment being life imprisonment. In April 2001 the new code was approved by parliament. It came into effect on 1 June.

(d) Initiative to abolish the death penalty

Republic of Korea (South Korea)

On 30 October 155 members of both the ruling and opposition parties of the South Korean Congress sponsored a bill to abolish the death penalty. The draft bill will first go to the Legislative and Judiciary Committee and, if it comes through this process, must then be submitted for approval by a straight majority in the National Assembly. The National Assembly has 273 members. In 1999 the ruling Millennium Democratic Party headed by the President Kim Dae-jung, who himself spent some time as a death row inmate when he opposed the military government in the 1980s, submitted a similar bill. However it did not get tabled as the National Assembly ended its term before it was addressed.

A recent opinion poll taken nationwide established that 59 per cent of the respondents felt the death penalty should be maintained, 36 per cent said it should be abolished and there were 5 per cent who were "don't knows". Support for abolition has come from a coalition of major

religious groups which established the “Panreligious Anti-Death Penalty Campaign” in April 2001.

There are reported to be over 70 prisoners under sentence of death but no execution has been carried out since President Kim Dae-jung took office in February 1998. (*See also item under “OPINION POLLS”*)

REDUCTION IN SCOPE

Lebanon

In July 2001 Lebanon’s parliament repealed Law 302, which made sentence of death mandatory for murder, allowing courts to take extenuating circumstances into account. Law 302 was adopted in 1994 following an incident when a bomb was planted in a church which killed 10 people and injured many others. There have been at least 17 executions since the law came into effect, however none have taken place since 1998. The repeal of the law follows a period when there have been activities and demonstrations by human rights NGOs and individual anti-death penalty campaigners organized under the National Campaign to Abolish the Death Penalty.

Turkey

After a parliamentary debate and several revisions, the Turkish Parliament adopted a law amending 34 articles of the Constitution on 3 October 2001 (Law No. 4709). The law entered into force on 17 October. The death penalty was abolished for all crimes except those committed in time of war, imminent threat of war or for terrorist crimes. Article 38 of the Constitution now reads: “*The death penalty cannot be passed except in the situation of war, imminent threat of war and for terrorist crimes.*” This move is to bring Turkey into line with the requirements of the EU now that it has been accepted as a candidate country.

In the Turkish Criminal Code only one of the 13 articles which carry the death penalty refers to common criminal offences. The other 12 refer to “crimes against the state”. Of these, six are related to war situations. The other six articles in the code which carry the death penalty are considered as “terror crimes”. Of these, the two most frequently used are Article 125 on separatist acts and Article 146 on attempts to forcibly overthrow or alter the Constitution or the Parliament as well as incitement to such a crime even if it does not go beyond an attempt. Under Article 4 of the Anti-Terror Law, specified acts committed with the intention of terror

as defined very broadly in the Article 1 of this law are also considered terror crimes. (*See also item under "ABOLITION, Constitutional Amendments"*)

MORATORIA ON EXECUTIONS

Kyrgyzstan

In December 1998 President Askar Akayev signed a decree for a two-year moratorium on executions. When this time limit was due to expire Presidential decree No. 332, issued 2 December 2000, stipulated that the moratorium be extended for another year - until 31 December 2001. At the same time the President announced that the Kyrgyz parliament was going to discuss the issue of the death penalty and vote on the question of abolition. The moratorium had not been officially extended by the end of the year. However President Akayev announced on 4 January that capital punishment was to be "gradually" abolished in Kyrgyzstan by the year 2010. [**Later: On 11 January 2002, the President issued a decree extending the moratorium until the end of 2002.**]

USA

Illinois

The moratorium on executions in Illinois announced by Governor George Ryan on 31 January 2000 remained in force throughout 2001. By the end of the year, the recommendations of the 14-member Commission on Capital Punishment, appointed by the Governor to examine the state's capital justice system, had not been announced and were expected in 2002.

Local governments

By the end of the year 2001, 62 local governments in the USA had passed resolutions supporting a moratorium on executions in their state.

COMMUTATIONS

Algeria

In October the President of Algeria marked the 47th anniversary of the beginning of the armed uprising against the former colonial power, France, by commuting the death sentences of 115 people. Fifteen people had their sentences commuted to 20 years' imprisonment and 100 others had theirs commuted to life imprisonment. The commutations covered people

sentenced to death for crimes other than those considered to be "acts of terrorism or subversion".

Thailand

The King normally takes the opportunity of commuting a certain number of death sentences on the occasion of his birthday each year. However in June the Prime Minister announced that in future there would be no more royal pardons in drug cases. The Thai government is also considering a move to speed up the execution of drug offenders by eliminating the process for petitioning for Royal clemency altogether, however, it is not clear if this will be implemented. If adopted the change would apply only to convicted producers and traffickers of drugs, with abusers being put into rehabilitation rather than being treated as criminal offenders.

INTERGOVERNMENTAL ORGANIZATIONS

(a) United Nations (UN)

Commission on Human Rights

Every year since 1997, first under the leadership of Italy and then of the European Union, the UN Commission on Human Rights at its annual session in Geneva has adopted a resolution on the death penalty which calls on all retentionist States to, among other things, establish a moratorium on executions with a view to eventual abolition. At its 57th session, on 25 April, a similar resolution (resolution 2001/68) was again adopted. Special reference was made to the death penalty in relation to offenders under 18 years of age at the time of the crime, pregnant women and those suffering from any form of mental disorder.

Of the 53 States with voting rights at the Commission, 27 voted for the resolution and 18 against, with seven abstentions. One State was absent. Co-sponsoring States numbered 66, a drop from the year 2000 when the figure was 68 and 1999 when the number was 72. Following the passing of this resolution 60 States (including the USA and a number of African, Middle Eastern and Asian States) issued a joint statement disassociating themselves from it, maintaining that nothing in the UN Charter authorizes the UN to intervene in matters which are essentially within the domestic jurisdiction of any member State.

(b) **Council of Europe (CoE)**

Japan and the USA - Observer States to the Parliamentary Assembly of the Council of Europe

It is now a precondition for accession to the CoE that States institute an immediate moratorium on executions with a view to abolition of the death penalty in the long term. As a result the 43 member states of the CoE are either abolitionist or have instituted moratoria on executions.

Consideration is now being given to the attachment of similar conditions for States with observer status at the CoE. These are Canada, Mexico, the Holy See, Japan and the USA, the only two which are retentionist being Japan and the USA. As a preliminary step towards this, two fact-finding missions were undertaken by delegations from the Council of Europe in 2001. In February a delegation visited Japan and in March/April a similar visit was made to the USA. This was followed by the presentation of a report to the Parliamentary Assembly by Renate Wohlwend, member from Liechtenstein, which cited areas of particular concern in both countries. These included, in Japan the secrecy surrounding executions, harsh conditions of detention and allegations of torture and forced confessions; and in the USA the execution of child offenders and people suffering from mental illness or retardation, the racially and economically discriminatory application of the death penalty and the harshness of prison conditions on death rows.

On 25 June the Parliamentary Assembly adopted resolution 1253 (2001) calling for an immediate moratorium on executions in Japan and the USA and for improvements in death row conditions in the two countries. The continuing observer status of the two States will be considered should no significant progress in the implementation of the resolution be made by 1 January 2003.

Following this the Parliamentary Assembly issued Order No. 574 (2001) instructing two of its Committees - on Legal Affairs and Human Rights and on Political Affairs - to enter into a dialogue with parliamentarians from Japan and the USA with the aim of supporting legislators in their endeavours to institute moratoria on executions and to abolish the death penalty and also in their efforts to engage the opponents of abolition in informed debate.

New Protocol to the European Convention on Human Rights (ECHR)

In 1994 the Parliamentary Assembly of the Council of Europe adopted a recommendation calling for the elaboration of a new optional protocol to the ECHR to provide for the total

abolition of the death penalty (the existing Protocol No. 6 to the ECHR does not exclude the death penalty in time of war or of imminent threat of war). A draft of Protocol No. 13 which would implement this recommendation was considered at a meeting of the Committee of Experts for the Development of Human Rights held on 10-12 October 2001. The text of the draft protocol was agreed and, together with the DH-DEV's explanatory report went forward for consideration by the Steering Committee on Human Rights at a meeting in November. The draft text agreed at this meeting, together with the explanatory report, was sent to the Committee of Ministers with the request that the Protocol be adopted as soon as possible and opened for signature. **[Later: The Committee of Ministers adopted Protocol 13 on 21 February 2002. It will open for signature and accession or ratification on 3 May 2002 and will enter into force 3 months after the date on which ten member states agree to be bound by it.]**

(c) **European Union (EU)**

Action in international and regional fora

The EU uses all relevant international and regional fora to advocate the universal abolition of the death penalty. In countries where neither a *de jure* nor *de facto* moratorium on the death penalty is in place, the EU calls for the progressive restriction of its use and insists that it be carried out according to the minimum standards set out in the *Guidelines to EU Policy towards Third Countries on the Death Penalty*, which were adopted by the European Council in June 1998.

Every year since 1997, first under the leadership of Italy and then of the European Union, the UN Commission on Human Rights has adopted a resolution on the death penalty. At its 57th session, in April, a resolution on the death penalty (resolution 2001/68) was again adopted. (*See also item under "Commission on Human Rights"*)

The EU decided for the first time to become "Amicus Curiae" in proceedings before the Federal Supreme Court of the USA in order to test before that country's highest court the question of the legality under international law of condemning someone to death who was a minor at the time of the offence. At the end of the year the case was still pending. **[Later: Alexander Williams' sentence was commuted in February 2002.]**

The EU also submitted an amicus curiae brief to the US Supreme Court in the case of Ernest McCarver to consider the issue of whether the execution of prisoners with mental retardation

violates the US Constitution's Eighth Amendment prohibition on cruel and unusual punishment. However the Court dismissed the case in September as moot as in the meantime North Carolina had passed a law prohibiting the use of the death penalty against people with mental retardation. (*See also item under "MEDICAL PERSPECTIVE, The Death Penalty and those suffering from Mental Retardation"*)

The EU carried out démarches and actions on the issue of the death penalty in various individual cases in the USA and other countries and territories including Lebanon, the Palestinian Authority, Saudi Arabia, Malaysia, Japan, Sri Lanka, Indonesia, Bangladesh, China, India, Botswana and Guinea.

China

The EU began a dialogue with China on human rights in 1997 and has since held eleven working sessions with Chinese officials. In May 2001 a two-day seminar on human rights, focusing on the death penalty and the right to education was held in Beijing. Attending the seminar were Chinese scholars, researchers and judges and from the EU, human rights experts and officials. In December it was announced that the EU would invest over 800,000 Euros to develop small-scale human rights projects in China, one of which is support for the reduced use of the death penalty. The activities which this fund will support include conferences, seminars, training, translation, publishing, exhibitions, expert missions, research, and investigation and study.

European Parliament

During the extraordinary session held on 5 July the European Parliament passed Resolution No. B5-0484,0486, 0497,0504,0512 and 0527/2001 on the death penalty in the world. This resolution among other things proposed that a European Day against the Death Penalty be introduced and committed the Belgian Presidency to introducing, and bringing to a vote a resolution on the abolition of the death penalty at the UN General Assembly in 2001, and to taking all steps necessary to obtain its adoption. In its resolution the Parliament also deplored the return to executions in the USA under federal law, after a de facto moratorium of 38 years, and called on the United States to suspend any further executions and to respect the ban on capital punishment, as appears in several international documents, for minors and mentally handicapped persons. The Russian Federation, Turkey and Armenia were invited to fulfil their obligations as members of the Council of Europe. The Parliament voiced its deep concern about the large-scale return in the People's Republic of China, to executions for common law crimes and in cases of ideological and religious dissidence; also about the trade of human organs transplanted from executed people. It also expressed concern about the

inhuman and secret nature of hangings in Japan. The Parliament also asked that the abolition of the death penalty and a universal moratorium on executions become an essential part of EU relations with third countries and to take account of this issue when reaching agreements with these countries.

On 17 December the European Parliament adopted a resolution on judicial cooperation between the EU and the USA in the framework of fighting terrorism calling for any international agreement signed to fully respect the principles of the ECHR. It again demanded that the death penalty be abolished in the USA and reminded member States that they have obligations in this connection. This means that extradition to the USA is only possible if the USA guarantees that it will not apply the death penalty. Moreover, extradition or refusal of entry must not be used as “disguised” extradition procedures.

(d) **CARICOM states**

In February at their 12th Inter-sessional meeting the Caribbean states which make up the Caribbean Community (CARICOM) organization decided to establish a Caribbean Court of Justice as the region’s final court of appeal. This new court will take the place of the Judicial Committee of the Privy Council (JCPC) in England which has been the final court of appeal for the region, and follows years of attacks on JCPC rulings designed to safeguard the legal rights of prisoners sentenced to death. The Prime Minister of St Vincent abstained from voting, giving as his reason that elections in his country were less than six weeks away and he did not feel it appropriate to commit a new government to a course of action. (*See also item under “COURTS”*)

TABLE 1: SIGNATURES AND RATIFICATIONS OF INTERNATIONAL TREATIES ON THE DEATH PENALTY AT 31 DECEMBER 2001

Treaty	Signatures	Ratifications
Second Optional Protocol to the International Covenant on Civil and Political Rights	Chile, Guinea-Bissau, Honduras, Lithuania, Nicaragua, Poland, San Tomé and Príncipe	Australia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Cape Verde, Colombia, Costa Rica, Croatia, Cyprus, Denmark, Ecuador, Finland, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Macedonia, Malta, Monaco, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Norway, Panama, Portugal, Romania, Seychelles, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkmenistan, United Kingdom, Uruguay, Venezuela, Yugoslavia
Protocol No. 6 to the European Convention on Human Rights	Armenia, Azerbaijan, Russian Federation	Albania, Andorra, Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Macedonia, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, San Marino, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Ukraine, United Kingdom
Protocol to the American Convention on Human Rights		Brazil, Costa Rica, Ecuador, Nicaragua, Panama, Paraguay, Uruguay, Venezuela

COURTS

(a) Significant decisions

International Court of Justice (ICJ)

On 27 June the ICJ issued an historic judgement in the case of the LaGrand brothers. German nationals, the brothers were sentenced to death for murder in Arizona in 1982. Although the local authorities were aware of their nationality at no time were they informed of their rights under the Vienna Convention on Consular Relations. German consular officials only became aware of the case in 1992 when they were contacted by the LaGrands who had learned of their rights from other prison inmates.

On 3 March 1999, German national Walter LaGrand was executed in the Arizona gas chamber, despite an order by the ICJ requiring a stay of execution. Arizona had executed Walter's brother, Karl LaGrand, a week earlier by lethal injection despite appeals for clemency by the German government.

The day before Walter LaGrand's execution, the Federal Republic of Germany brought proceedings against the USA before the ICJ. Germany maintained that the USA had violated its binding obligations under Article 36 of the Vienna Convention on Consular Relations by failing to promptly notify the LaGrand brothers of their consular rights, thus preventing Germany from providing timely assistance to its nationals.

On 27 June 2001, the ICJ issued its judgement. By 14 votes to one, the Court found that the United States had "breached its obligations to Germany and to the LaGrand brothers under the Vienna Convention on Consular Relations," by failing to promptly inform Karl and Walter LaGrand following their arrest of their right to communicate with their consulate. The Court noted: *"It is immaterial for the purposes of the present case whether the LaGrands would have sought consular assistance from Germany, whether Germany would have rendered such assistance, or whether a different verdict would have been rendered. It is sufficient that the Convention conferred these rights, and that Germany and the LaGrands were in effect prevented by the breach of the United States from exercising them, had they so chosen."*

Article 36 of the Vienna Convention on Consular Relations requires the local authorities in any country to promptly inform detained, arrested or imprisoned foreign nationals of their right to have their consulate notified of their detention. At the request of the detainee, the authorities

must then notify the consulate of the arrest without delay and permit consular access to the detained national. Consuls have the right to visit and communicate with their nationals in all cases and may arrange for the detainee's legal representation or provide other legal and humanitarian services. It is clear from the plain language of its provisions that a primary objective of Article 36 is to safeguard the due process rights of arrested foreign nationals. Numerous international human rights instruments adopted by the United Nations also enshrine the right to consular notification and assistance, evidence of the universal significance of these rights to the international community of nations.

A primary task of all consuls is to render assistance to their citizens abroad and to see that they receive fair, equal and humane treatment while in custody. Consular access and assistance are indispensable whenever foreign nationals face prosecution and incarceration under local legal systems, especially when a death sentence may result. Timely consular intervention ensures that foreign detainees understand their legal rights, which include proper translation facilities if the foreign national does not have a good grasp of the language in which the trial is to be held, and also to be provided with the means to mount a proper defence. *(See also item in "The Death Penalty Worldwide: Developments in 2000", AI Index: ACT 50/001/2001, pages 14-15)*

On 10 September, the Oklahoma Court of Criminal Appeals granted an indefinite stay of execution to Mexican national Gerardo Valdez, citing the novel and complex issues of international law raised by his last-minute appeal. Valdez's attorneys had filed a habeas corpus petition based on the recent binding judgment of the ICJ in the LaGrand Case, arguing that the failure of Oklahoma authorities to inform Valdez of his consular rights upon arrest required the setting aside of his death sentence and a new trial. Although Valdez was known by the authorities to be a Mexican national upon his arrest in July, 1989, Mexican consular officials first learned of his existence in April 2001, just three months before his scheduled execution.

At least 104 foreign nationals representing 33 nationalities are currently known to be under sentence of death in the USA.

Canada

In 1991 the Supreme Court of Canada ruled that Charles Ng and Joseph Kindler could be sent back to the USA for trial without guarantees that their lives would be spared and that this course of action did not violate the Canadian Charter of Rights.

This decision was reversed in February 2001 when, in the case of Burns and Rafay, the Supreme Court held unanimously that the Canadian government must routinely seek and obtain assurances in extradition cases “in all but exceptional circumstances” (which the Court declined to define). The two men are accused of murdering the family of Atif Rafay in 1994 in the US state of Washington and then escaping to Canada, where they have been imprisoned in Vancouver, British Columbia since 1995. Following the Supreme Court’s decision the Canadian government received assurances from the prosecutor in King County, Washington, where the trial will be held, that the men if found guilty will not be sentenced to death. (*See also item under “EXTRADITION” and “The Death Penalty Worldwide: Developments in 2000”, AI Index: ACT 50/001/2001, page 16*)

South Africa

The South African Constitutional Court ruled in May that the country’s government had violated their constitutional and legal obligations by handing over a Tanzanian national to US authorities without first obtaining assurances that he would not face the death penalty in the USA. Khalfan Khamis Mohamed had been arrested in October 1999 in Cape Town on suspicion of being involved in the 1998 bombing of the US embassy in Tanzania. He was interrogated without the presence of an attorney, held incommunicado and summarily deported. The Constitutional Court made it clear that the “*procedure followed in removing Mohamed to the United States of America was unlawful whether it is characterised as a deportation or an extradition*”.

It ruled that:

“In handing Mohamed over to the United States without securing an assurance that he would not be sentenced to death, the immigration authorities failed to give any value to Mohamed’s right to life, his right to have his human dignity respected and protected and his right not to be subjected to cruel, inhuman or degrading punishment.”

The Court recalled its 1995 decision finding that the death penalty violated fundamental human rights and the constitution, and added that now “*the international community shares this Court’s view of the death sentence, even in the context of international tribunals with jurisdiction over the most egregious offences, including genocide.*”

The Constitutional Court also took the highly unusual step of sending its judgment directly to the US federal judge presiding over Mohamed’s capital murder trial. Mohamed was later

convicted, but after three days of deliberation, the jury could not reach the requisite unanimity for a death sentence. As a result he was sentenced to life imprisonment without the possibility of parole. The jury forewoman said that seven of the 12 jurors had concluded that *“If Khalfan Mohamed is executed, he will be seen as a martyr and his death may be exploited by others to justify future terrorist acts”*.

Caribbean

A landmark decision announced on 2 April by the Eastern Caribbean Court of Appeal will affect the future of the death penalty in the eight countries under its jurisdiction. The Court found that the mandatory imposition of the death penalty was unconstitutional. The countries affected by this ruling are Antigua and Barbuda, Belize, Dominica, Grenada, Montserrat, St Christopher and Nevis, St Lucia and St Vincent and the Grenadines.

The case was brought on behalf of Newton Spence and Peter Hughes, prisoners on death row in St Vincent and the Grenadines and St Lucia respectively, both of whom had been sentenced to death for murder. It had been referred to the Eastern Caribbean Court of Appeal by the Judicial Committee of the Privy Council (JCPC) in England. This is the first time that a Caribbean court has significantly reduced the application of the death penalty and it has gone further than the JCPC has ever gone. The decision shows that the opinion widely held in the region, that the JCPC is the only court concerned about the indiscriminate imposition of the death penalty, is unfounded.

Eliminating the mandatory death penalty will affect the fate of many people on death row, whose cases will now have to be reviewed in the light of the decision, and may lead in future to the death penalty being imposed in only the most extreme cases. It should be noted however that the government of St Lucia has filed an appeal with the JCPC against the decision of the Eastern Caribbean Court of Appeal. The result of the appeal was not known at the end of 2001.

Singapore

In May Singapore’s highest court, the Court of Appeal, ruled that those who assist drug traffickers can no longer plead that they only played a minor part, but will face the death penalty. The ruling came in the case of Ali Serti who had been sentenced to death after he had been found with more than 100 grams of heroin in his pocket. In his appeal Serti said he was merely helping the supplier to pack the drugs into sachets and argued that he should have been jailed for possession and not sentenced to death for trafficking. The Court held, however, that helping dealers was as bad as selling drugs and discounted the appellant’s

arguments that this did not constitute trafficking. The ruling further weakens the right to presumption of innocence in that possession of designated amounts of drugs is taken as evidence of trafficking unless the contrary is proved. (*See also item under “EXPANSION OF SCOPE AND ATTEMPTS TO EXPAND”*)

(b) **Establishment of courts**

Caribbean Court of Justice

At the February meeting of Caribbean Community (CARICOM) Heads of Government in Barbados, an agreement was signed establishing in principle the Caribbean Court of Justice which is planned to replace the Judicial Committee of the Privy Council as the final court of appeal. Eleven of the 15 member states signed the agreement: Antigua and Barbuda, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, St Lucia, St Christopher and Nevis, Suriname and Trinidad and Tobago. It is not expected that the court will become operational until at least 2003 as some of the countries involved will need to amend their constitutions. Others will have to hold referenda and win a two-thirds parliamentary majority. (*See also item under “INTERGOVERNMENTAL ORGANIZATIONS”*)

Military courts in the USA

On 13 November President George W. Bush signed a Military Order on the Detention, Treatment and Trial of Certain Non-Citizens in the War Against Terrorism. The Military Order is discriminatory in that its provisions apply only to foreign nationals, and it gives overwhelming and unchallengeable discretionary powers to the executive. The Order provided for the setting up of special military commissions to try people deemed by the President to be suspected of involvement in “international terrorism”. The commissions would have the power to pass death sentences. Those tried by the commissions would not be allowed to seek any remedy in any court in the USA or anywhere else.

The Military Order generated widespread international and national concern. For example, in an urgent appeal to the US government on 16 November, the UN Special Rapporteur on the independence of judges and lawyers expressed his deep concern about the Order and “the wrong signals it sent, not only in the United States, but around the world”. He wrote: “The very fact that such powers are available to the Executive strikes at the core of the principles of the rule of law, equality before the law and the principles of a fair trial.” He stated that he was “not convinced that such repressive measures curtailing the core values of the rule of law and a fair trial are necessary”.

By the end of the year, more detailed regulations being drafted by the Pentagon in relation to the provisions of the Military Order had not been finalized.

ATTEMPTS TO REINSTATE THE DEATH PENALTY OR TO RESUME EXECUTIONS

Sri Lanka

In March 1999 the office of the President announced that death sentences would no longer be automatically commuted when they come before the President. Following this decision scores of people were sentenced to death for murder, but no one was executed. In November 2001 the government announced that it would be putting into practice the decision to execute taken in 1999. The original announcement said that:

“Death Sentences imposed by the court in cases of murder and drug trafficking will be carried out and will not be commuted to life imprisonment if, in accordance with the relevant constitutional and statutory procedure, the judge who heard the case, the Attorney General and the Minister of Justice unanimously recommend the execution of such sentence.”

The implementation of this decision has been subject to much delay. This has been due in part to the fact that before the Minister of Justice can record his final observations he has to obtain the views of the respective judges who recorded the verdict of death. He also has to consider the views of the Attorney General. As some of the judges are now retired the Minister of Justice has not yet been able to get all their observations as a judge, once retired, is not able to obtain the case records from the courts. So it is a problem for judges to make their observations on judgements they have given prior to their retirement. A further question has arisen - whether it is correct to implement the death penalty on those found guilty to the charge of homicide prior to the 1999 announcement, as judges passing sentence of death at that time would have been aware that it would not be implemented as capital punishment was being automatically commuted then.

On 5 December 2001, the People’s Alliance government was replaced by a government by Prime Minister Ranil Wickremasinghe of the United National Party. It was not clear at the end of the year how the new government would position itself on the issue. *(See also item under “DEATH SENTENCES AND EXECUTIONS, Attempts to Resume*

Executions” and item in “The Death Penalty Worldwide: Developments in 2000”, AI Index: ACT 50/001/2001, pages 17/ 18.)

USA - Massachusetts

On 12 March, after only three hours of debate, the Massachusetts House of Representatives defeated a bill to reinstate the death penalty by a large majority, 60 votes for and 92 votes against.

EXPANSION OF SCOPE AND ATTEMPTS TO EXPAND

Afghanistan

On 8 January Mulla Mohammad Omar, the Supreme Leader leader of Afghanistan’s Taliban ruling party, issued a decree that any Afghan Muslim who converted to Christianity or Judaism, would be executed. The Taliban were in control of roughly 90 per cent of Afghanistan at the time.

Singapore

In May Singapore’s highest court, the Court of Appeal, ruled that those who assist drug traffickers can no longer plead that they only played a minor part, but will face the death penalty. The ruling came in the case of Ali Serti who had been sentenced to death after he had been found with more than 100 grams of heroin in his pocket. He claimed that he had been earning pocket money by helping the supplier pack the drugs into sachets. Under Singapore’s tough narcotics laws, possession of more than 500 grams of cannabis, 15 grams of heroin or 250 grams of methamphetamines carries a mandatory sentence of death by hanging. *(See also item under “COURTS, Significant Decisions”)*

USA

Following the events of 11 September, “anti-terrorist” proposals which would include expansion of the death penalty were made by legislators in several US states, including Alabama, Illinois, New Jersey, Nevada, Ohio and North Carolina. Within a week of the attacks on the World Trade Centre, the New York legislature had enacted an “anti-terrorism” package which included expansion of the death penalty. Legislators in Iowa and Wisconsin proposed reintroduction of the death penalty following the 11 September attacks.

USE OF THE DEATH PENALTY AGAINST CHILD OFFENDERS

Amnesty International recorded three executions of child offenders in 2001: one in Iran, one in Pakistan and one in the USA.

Iran

Mehrdad Yousefi, aged 18 years, was hanged in May. He had been convicted of murder which was committed when he was only 16 years old.

Pakistan

In November Ali Sher, who was aged 13 at the time of his crime in 1993, was executed. This happened despite the Juvenile Justice System Ordinance 2000, which prohibits the death penalty for anyone aged below 18 years at the time of the crime, being officially notified and coming into force in Pakistan on 1 July 2000. Following this execution and as a result of a request made by Irene Khan, the Secretary General of Amnesty International, during a visit to Pakistan in December, President Pervez Musharraf announced that he was commuting the death sentences of the young offenders who still remained on death row. The death sentences, numbering around 100, were to be commuted to terms of imprisonment. The decree was notified in the official gazette and acquired the force of law in December.

USA (Texas)

In October Gerald Mitchell was executed for a murder committed when he was aged 17. He was sentenced to death in 1986.

Thailand

At the end of the year a bill was under consideration in the Thai Parliament to remove the use of the death penalty for those convicted of crimes committed when they were under the age of 18 years. This is to bring the law into line with Thailand's commitments under the Convention on the Rights of the Child and the ICCPR, both of which it has ratified.

TABLE 2: EXECUTIONS OF CHILD OFFENDERS, 1990 - 2001

Country	Name of Prisoner	Age	Date of Execution
Democratic Republic of Congo	Kasongo	14 at time of execution	15 January 2000
Iran	Kazem Shirafkan Three young males Ebrahim Qorbanzadeh Jasem Ebrahimi Mehrdad Yousefi	17 at time of execution One 16, two aged 17 at time of execution 17 at time of execution 17 at time of execution 16 at time of offence, 18 at time of execution	1990 29 September 1992 24 October 1999 14 January 2000 29 May 2001
Nigeria	Chiebore Onuoha	17 at time of execution	31 July 1997
Pakistan	One juvenile Shamun Masih Ali Sher	17 at time of execution 14 at time of offence 23 at time of execution 13 at time of offence, 22 at time of execution	15 November 1992 30 September 1997 November 2001
Saudi Arabia	Sadeq Mal-Allah	17 when sentenced to death	3 September 1992

USA	Dalton Prejean	17 at time of offence	18 May 1990
	Johnny Garrett	17 at time of offence	11 February 1992
	Curtis Harris	17 at time of offence	1 July 1993
	Frederick Lashley	17 at time of offence	28 July 1993
	Christopher Burger	17 at time of offence	7 December 1993
	Ruben Cantu	17 at time of offence	24 August 1993
	Joseph John Cannon	17 at time of offence	22 April 1998
	Robert Anthony Carter	17 at time of offence	18 May 1998
	Dwayne Allen Wright	17 at time of offence	14 October 1998
	Sean Sellers	16 at time of offence	4 February 1999
	Steve Edward Roach	17 at time of offence	10 January 2000
	Chris Thomas	17 at time of offence	13 January 2000
	Glen McGinnis	17 at time of offence	25 January 2000
	Gary Graham	17 at time of offence	22 June 2000
Gerald Mitchell	17 at time of offence	22 October 2001	
Yemen	Nasser Munir Nasser al'Kirbi	13 at time of execution	21 July 1993

USE OF THE DEATH PENALTY AGAINST WOMEN - SIGNIFICANT CASES

Botswana

Mariette Sonjaleen Bosch, a South African mother of three children, was sentenced to death in February 2000 for the murder of Maria Wolmarans, who was shot dead in her home in June 1996. Her appeal against conviction and sentence was heard in the Botswana Supreme Court in January but was turned down. President Festus Mogae of Botswana refused to grant clemency and she was executed on 31 March 2001.

Amnesty International expressed shock at the secret and rushed manner of her execution. The execution was carried out while materials relating to her petition for clemency were still being prepared and while a petition on her behalf was pending before the African Commission on Human and Peoples' Rights. Her husband came to the prison for a scheduled visit to her on Friday 30 March only to be told that there was a prison inspection taking place that day which meant there could be no visitors. Her family received a telephone call the following Sunday afternoon, 1 April, requesting their presence at the prison the following morning. They were informed when they arrived that her death warrant had been read to her on the

Friday evening and she had been executed on the following day, Saturday 31 March. Mariette reportedly said in a farewell note to her husband, "*They did not want me to see you.*"

She is the first white person and the fourth woman to be sentenced to death since Botswana's independence from Britain in 1966. A total of 34 people have been executed in Botswana since that date.

USA (Oklahoma)

Three women were executed in the USA in 2001, all of them in Oklahoma. They were Lois Nadean Smith, Marilyn Plantz, and Wanda Jean Allen.

Wanda Jean Allen, executed on 11 January, became the first African-American woman to be put to death in the USA since 1954. She had been sentenced to death in 1989 for shooting her lover, Gloria Leathers, in Oklahoma City in 1988. She claimed she had acted in self-defence. In a 1991 affidavit, the lawyer who had represented Allen at trial in his first capital case, stated that only after the trial had he learned that when Allen was 15 years old, her IQ had been measured at 69, and that the doctor who examined her had recommended a neurological assessment because she manifested symptoms of brain damage. The lawyer stated: "I did not search for any medical or psychological records or seek expert assistance" for use at the trial.

A psychologist conducted a comprehensive evaluation of Wanda Jean Allen in 1995 and found "clear and convincing evidence of cognitive and sensory-motor deficits and brain dysfunction" possibly linked to an adolescent head injury. At the age of 12, Allen had been hit by a truck and knocked unconscious, and at 14 or 15 she had been stabbed in the left temple. He found that Allen's "intellectual abilities are markedly impaired". He found "particularly significant left hemisphere dysfunction", impairing her "comprehension, her ability to logically express herself, her ability to analyse cause and effect relationships..." He also concluded that Allen was "more chronically vulnerable than others to becoming disorganized by everyday stresses - and thus more vulnerable to a loss of control under stress".

Since the USA resumed executions in 1977 eight women have been executed in the country.

Iran

A woman was stoned to death in Evin Prison in Tehran in May, the first recorded stoning since 1997. According to reports the woman was aged 35 and had already served eight

years' imprisonment for "corruption on earth" having been convicted of appearing in a pornographic film. In the same prison in July Maryam Ayoubi was stoned to death. She had been found guilty of adultery and of murdering her husband.

Nigeria

At least 12 states in northern Nigeria have adopted Islamic Sharia law penal codes which put strict restrictions on the conduct of women. This has caused a great deal of controversy and anger in the states concerned and thousands have been killed in riots. A case in Sokoto state which caused a great deal of concern, both nationally and internationally, was that of Safiya Yakubu Hussaini. Safiya Hussaini, a divorcee, became pregnant, was convicted of adultery and was sentenced to be executed by stoning. The man concerned in the case, Yakjubu Abubakar, already has two wives and, after initially admitting paternity of Safiya Hussaini's child, withdrew his admission and finally denied all responsibility. Under Islamic law, if a man withdraws his confession, he must be acquitted unless four men can be made to testify that they witnessed the adulterous act. For a woman, even a divorced one, the burden of proof is much simpler: pregnancy outside marriage is considered to be adultery and the sentence is stoning. Once the child was weaned, Safiya Hussaini would be executed.

The Sharia Court of Appeal of Sokoto State agreed to hear Safiya Hussaini's appeal in March 2002, however the Governor of Sokoto State, Alhaji Dalhatu Bafarawa, declared that the death sentence is irreversible. Conversely the late federal Minister of Justice, Bola Ige, condemned the stoning verdict as "harsh and crude" and said that stoning to death must not happen in Nigeria. The case caused unease in Nigerian government circles as it was potentially a major source of contention between the federal government and the northern states, and in the run-up to the parliamentary and presidential elections in 2003 could seriously threaten the country's stability. **[Later: Safiya Hussaini was acquitted in March 2001 by the Sokoto State Sharia Court of Appeal.]**

USE OF THE DEATH PENALTY AGAINST THE INNOCENT

USA

Between 1973 and the end of 2001, 98 people were released from death rows in the USA after compelling evidence of their innocence emerged. The large numbers of such cases is the main factor behind the unprecedented concern in the USA about the fairness and reliability of the capital justice system, and probably accounts for the dropping support for the death penalty in public opinion polls.

An analysis of the 98 cases shows that contributory factors to wrongful convictions in capital cases include inadequate legal representation, and the withholding of evidence, or the use of unreliable evidence such as coerced confessions or disputed eyewitness testimony. In 11 of the 98 cases, DNA testing played a substantial role in showing the innocence of the condemned prisoner.

In a speech on 2 July, the 25th anniversary of the US Supreme Court decision (*Gregg v Georgia*) that allowed US executions to resume, Supreme Court Justice Sandra Day O'Connor 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". She said that "if statistics are any indication, the system may well be allowing some innocent defendants to be executed". Noting that Minnesota, where she was speaking, was abolitionist, she told her audience: "You must breathe a big sigh of relief every day."

Innocence Protection Act

The proposed Innocence Protection Act was first introduced in the US Congress in February 2000, however the Act had not been passed by the end of the year and so it was reintroduced in March 2001. Among other things it would offer grants and other incentives to states in an attempt to ensure competent legal counsel at every prosecution stage; it would provide convicted offenders with access to post-conviction DNA testing; it would encourage states to require that juries be informed of the option to sentence defendants to life without parole; and it would ensure adequate compensation for those who have been unjustly imprisoned. The Act would also express the sense of the Congress that the death penalty is disproportionate and offends contemporary standards of decency when applied to juveniles or the mentally retarded.

As of the end the year S.486, the Innocence Protection Act of 2001 had the support in the Senate of 24 Senators and H.R.912, the Innocence Protection Act of 2001 had 215 sponsors from the House of Representatives (the lower house of the US Congress). The proposed Act has been publicly endorsed by the National Catholic Conference of Bishops.

RELIGIOUS PERSPECTIVE

Bahamas

In April a new leader of the Bahamas Christian Council was elected. The Reverend Samuel Green, pastor of the Zion Yamacraw Baptist Church in Nassau, held a press conference

following his election at which he professed his support for the death penalty and encouraged the government to “*hang them high*”. Such high profile support for the death penalty could put the government under pressure to carry out more executions.

Nigeria

Over the past two years several northern states in Nigeria have introduced penal legislation for Muslims based on the principles of Sharia. Stoning to death has been introduced for a number of existing offences previously punishable by lesser sanctions. In the legal tradition of Sharia the rules of evidence, rights of appeal, rights to legal representation and possible punishments are different from the laws which apply to citizens who are not Muslims. Sentences to death by stoning have already been passed including that passed on Safiya Yakubu Hussein. This change in the legal system has caused much unrest as Christians and others who are not Muslims have violently objected. Thousands have been killed in the rioting. (*See also item under “THE USE OF THE DEATH PENALTY AGAINST WOMEN - SIGNIFICANT CASES”*)

MEDICAL PERSPECTIVE

(a) General

United Kingdom

The British Medical Association (BMA), at its Annual Representatives Meeting (the BMA policy-making body) in Bournemouth in July adopted the following policy statement:

“That the BMA is opposed to the death penalty worldwide.”

The British Medical Association is a professional association of doctors in the UK, representing their interests and providing services for its more than 123,000 members. About 80 per cent of UK practising doctors are members.

USA

The Medical Society of the State of New York at its meeting in May passed a resolution which endorsed the idea of a moratorium on capital punishment in the USA. However, at its annual meeting in June 2001 the American Medical Association rejected the resolution submitted by the Medical Society of the State of New York and instead passed the following resolution:

“Resolved that the American Medical Association does not take a position on capital punishment and be it further resolved that our American Medical Association urges appropriate legislative and legal authorities to continue to implement changes in the system of the administration of capital punishment, if used at all, and to promote its fair and impartial administration in accordance with basic requirements of due process.”

This is a similar position to the one taken by the American Medical Association at their annual House of Delegates meeting in June 2000 when a similar resolution was put forward by the American Association of Public Health Physicians. (*See also item in “The Death Penalty Worldwide: Developments in 2000”, AI Index ACT 50/001/2001, page 30*)

The American Public Health Association (APHA) adopted a policy statement on the Participation of Health Professionals in Capital Punishment (200125, 01/01/2001) in January. In the statement, the APHA:

“Resolve[d] to publicly reaffirm its policy 8521, that health professionals not be required to participate in capital punishment.....[and further] Resolve[d], that the APHA publicly reaffirm its March 1994 collaborative statement to all health professional societies and state licensing and discipline boards that health professional participation in executions or pre-execution procedures is a serious violation of ethical codes and should be grounds for active disciplinary proceedings including expulsion from society membership and license revocation.”

(b) The death penalty and those suffering from mental retardation

Five states in the USA passed legislation banning the execution of those suffering from mental retardation during the year: Arizona, Connecticut, Florida, Missouri and North Carolina. This brought to 19 the number of US jurisdictions in which such executions are prohibited - 18 states and the Federal government. Similar legislation was vetoed in Texas by the governor, Rick Perry, who maintained that Texas does not execute mentally retarded inmates.

President George W. Bush declared on 11 June that “*the death penalty should never be applied to any individual who is mentally retarded*”.

In March the US Supreme Court announced that it would decide whether a growing national consensus against the execution of mentally retarded persons meant that such executions should be deemed unconstitutional as “cruel and unusual punishment”. To decide the issue the court agreed to hear an appeal by a prisoner from North Carolina, Ernest P. McCarver. However the Court dismissed the case in September as in the meantime North Carolina had passed a law prohibiting the use of the death penalty against people with mental retardation. The Supreme Court then agreed to hear the appeal of a Virginia death row prisoner Daryl Atkins, who is reported as having an IQ of 57. It last ruled on this issue in 1989, when it ruled that such use of the death penalty did not violate the constitutional ban on cruel and unusual punishment. **[Later: The hearing of the case started in February 2002. A number of amicus curiae briefs submitted in the case of McCarver were transferred to the Atkins appeal. They included a brief submitted by the EU.]** (*See also item under “INTERGOVERNMENTAL ORGANIZATIONS”*)

(c) **The death penalty and those suffering from mental illness**

Yemen

A case of a man executed although suffering from a mental illness was reported in Yemen. Hussein bin Hussein Al-Ma'mari was convicted of murder and sentenced to death in December 1998 despite reports that he had been diagnosed as schizophrenic. His death sentence was upheld by the Supreme Court in June 2001 and approved by President Ali Abdullah in August. Hussein bin Hussein Al-Ma'mari was executed in August.

USA

Jay D Scott from the state of Ohio was executed in June. He was reportedly schizophrenic. The president of the National Mental Health Association wrote on Scott's behalf the day before his first execution date, which was in April. Other such cases are possible because in some jurisdictions evidence of mental illness is either undocumented or ignored.

DEATH SENTENCES AND EXECUTIONS

(a) General

During 2001 at least 3,048 prisoners were executed in 31 countries and at least 5,265 people were sentenced to death in 68 countries. These figures include only cases known to Amnesty International; the true figures are certainly higher.

China

Between April and July at least 1,781 people were executed in the latest “strike hard” campaign carried out by the Chinese government. This total is more than the number of known executions during the last three years in the rest of the world combined. In June, on World Anti-Drug Day, over 50 people were convicted at mass sentencing rallies of crimes connected with drugs and were executed. State television carried scenes from at least one of the rallies on its national news programs. By the end of the year with the limited records available, Amnesty International had recorded 4,015 death sentences and 2,468 executions in China, although the real figures are believed to be much higher.

Iran

In January an Iranian news agency announced that 800 death sentences had been confirmed by the judiciary. By the end of 2001 there had been 125 recorded executions, although the real figure may be much higher. One man who was saved from hanging at the last minute was Ramin Tsharharleng who had been convicted of murder. He was taken down alive after four minutes, following a pardon granted by his victim’s family.

USA

The number of executions carried out in the USA fell for the second year in a row. Sixty-six people were executed in 2001, a drop of 22 per cent. In the previous year, 2000, 85 people were executed, a drop of 13 per cent from 1999.

On 6 October the Supreme Court of the state of Georgia decided that the use of the electric chair was unconstitutional, ruling that it inflicted cruel and unusual punishment. The state legislature had already changed the method of execution to lethal injection for those convicted of crimes committed on or after 1 May 2000, however this left 130 people eligible for death by electrocution because their crimes had been committed before that date. The court’s decision opened the way for executions by lethal injection to begin - the first executions in Georgia since June 1998. By the end of the year four men had been put to death in the state

by this method. Only two states, Alabama and Nebraska, continue to use the electric chair as the sole means of execution. Use of the electric chair remains legal in nine states, but those states allow lethal injection as an alternative.

(b) Public executions

Thailand

More than 50 journalists, ministers and officials witnessed the execution in April of four men convicted of drug offences and one of murder. The men were only given two hours' notice that they were to die that day. Suranit Chaungyampin, adviser to the prime minister's office, was quoted as saying that it was being done for psychological reasons, to let those involved in the drug trade see that the government were serious in their efforts to stamp it out.

Afghanistan

It was reported that in February more than 1000 people watched while two women convicted of prostitution were hanged in Kandahar sports stadium. In August four men convicted of setting off bombs in Kabul were hung from steel cranes next to the city's presidential palace.

Yemen

Executions in Yemen are normally carried out inside prisons, out of public view. However in crimes which attract unusually high attention courts will sometimes order a public execution. Such an execution was carried out in June when a man was executed in front of 50,000 people including members of the victims' families. Mohammad Adam Omar had been convicted of raping, killing and mutilating two women.

(c) Resumption of executions after periods without them

Guinea

On 5 February the government of Guinea carried out its first executions since President Lansana Conte came to power in 1984, a period of 17 years. Five people were executed in a number of provincial capitals for offences including murder and armed robbery. The Justice Minister, Abou Kamara, said that the executions were the beginning of a campaign to combat lawlessness.

Indonesia

On 19 May two men were executed by firing squad, the first known executions in over five years in Indonesia. The two men, Gerson Pandie and Fredik Soru, were sentenced to death in 1989 for the murder of a couple and their two children. The last known executions in Indonesia took place in 1995.

Bangladesh

Two men were hanged in February and March, marking a resumption of executions after a break of more than three and a half years. Firoze Mia, who was convicted of murdering four people including two children after an argument arose over a children's game of marbles, was hanged at Dhaka Central Jail on 15 February. Motaleb Hawlader, convicted of murdering his wife, was hanged in Jessore Jail in Barisal District on 1 March.

USA

On 6 November a 45-year-old man, Terry Clark, became the first person to be executed in the state of New Mexico for 41 years. He had given up his appeals in March and asked to be executed. The method was lethal injection. The last person to be executed in New Mexico, in 1960, was David Cooper Nelson who was executed in a gas chamber.

On 11 June the USA carried out its first federal execution for 38 years when Timothy McVeigh died by lethal injection. He had been found guilty of the bombing of a federal building in Oklahoma City in which 168 people lost their lives and more than 500 were injured. A second federal execution was carried out shortly afterwards when Juan Raul Garza, a Mexican-American, was put to death on 19 June, also by lethal injection.

Zimbabwe

Three men, all convicted of murder, were hanged on Friday 5 October, the first executions in Zimbabwe for three years. The last executions were carried out in April 1998 when two men were hanged after having been convicted of murder. In September 1988 during a visit to Zimbabwe Pope John Paul II appealed to the government to abolish the death penalty. No executions were carried out for seven years, during the period 1988 to 1995.

(d) Attempts to resume executions

Philippines

Executions resumed in the Philippines in February 1999 after 23 years and seven people were executed before the then President Joseph Estrada declared a moratorium in 2000 to mark

the Christian Jubilee year. In March 2001 the newly inaugurated President Gloria Macapagal Arroyo announced that she would not support the carrying out of executions. However in October President Arroyo changed her position and announced that over 90 people convicted of kidnapping would be executed as soon as the Supreme Court confirmed their sentences. She also announced that she wished to revoke the commutation of the death sentences of six people convicted of kidnapping. This reversal of her previous position was prompted by concerns that the high level of kidnappings (79 reported during 2001, although the real figure is believed to be higher than that) was having an adverse effect on business and economic investment in the country. No executions had been carried out by the end of the year.

Sri Lanka

In 1999 the President's office announced that death sentences would no longer be automatically commuted when they came before the President. Those death sentences imposed in cases of murder and drug trafficking would be carried out if the judge who heard the case, the Attorney General and the Minister of Justice unanimously recommended the execution of the sentence.

As a first step towards the process of re-implementing the death penalty the Ministry of Justice has begun the task of going through past records in order to identify and contact the judges who have passed sentence of death on criminals after 1977. This is in order to obtain a report from the judges on each case, a mandatory procedure for the implementation of the death sentence. However apart from contradictions which have arisen on the procedure to be adopted in implementing the punishment, other problems such as the availability of judges who have passed sentences of death in the relevant cases were also causing concern. As at the end of the year 2001 no executions as a result in this change in procedure had been carried out.

(See also item under "ATTEMPTS TO REINSTATE THE DEATH PENALTY" and item in "The Death Penalty Worldwide - Developments in 2000", AI Index: ACT 50/001/2001, page 17)

EXTRADITION

International extradition, as distinct from deportation and expulsion, is the formal process by which one country surrenders to a second country an individual who stands accused or convicted of a crime committed within the territorial jurisdiction of the requesting state.

Generally extradition is not available unless there is an extradition treaty in force between the two countries. Such treaties impose a variety of legal requirements that must be met before the surrender of the detainee can proceed. Many abolitionist countries will not extradite such persons unless the receiving country provides sufficient guarantees that they will not be subject to the death penalty. Some countries will not extradite such persons whether given such assurances or not.

Europe/USA

Under Article 19 of the European Charter of Fundamental Rights, “no one may be removed, expelled or extradited to a state where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment”. This charter is not legally binding. However the European Convention on Extradition which came into force 18 April 1960 has been ratified by all European countries except Azerbaijan and San Marino. Article 11 of this treaty states:

“Capital punishment

“If the offence for which extradition is requested is punishable by death under the law of the requesting Party, and if in respect of such offence the death-penalty is not provided for by the law of the requested Party or is not normally carried out, extradition may be refused unless the requesting Party gives such assurance as the requested Party considers sufficient that the death-penalty will not be carried out.”

In December John Ashcroft, the US Attorney General, made a tour of Spain, Germany, the UK and Italy to discuss cooperation and coordination of efforts against “terrorism” but was reportedly unable to get agreement on the extradition of terrorist suspects who could face the death penalty in the USA.

European Parliament

In Strasbourg on 17 December the European Parliament adopted a resolution on judicial cooperation between the EU and the USA in the framework of fighting “terrorism”, calling for any international agreement signed to fully respect the principles of the ECHR. Concerning extradition this means that it is only possible if the USA guarantees that the death penalty will not be applied. Moreover, extradition or refusal of entry must not be used as “disguised” extradition procedures. (*See also item under “INTERGOVERNMENTAL ORGANIZATIONS, European Parliament”*)

Canada

In 1994 in the US state of Washington the family of Atif Rafay were murdered. Atif Rafay and Glen Sebastian Burns were apprehended in Canada in 1995 and charged with their murder after undercover police taped conversations in which the pair are alleged to have boasted about the killings. The USA applied for their extradition. However in February the Canadian Supreme Court ruled that the Canadian authorities must routinely seek and obtain assurances against the death penalty in extradition cases “in all but exceptional circumstances” (which the Court declined to define). The Canadian government received assurances in March from the prosecutor in King County, Washington, where the trial will be held, that they would not be sentenced to death. (*See also item under “COURTS, Significant Decisions”*)

South Africa

The South African Constitutional Court ruled in May that the country’s government illegally handed over a Tanzanian national to US authorities without first obtaining assurances from the US that he would not, if convicted, be sentenced to death. South Africa’s constitution does not permit the death penalty. (*See also item under “COURTS, Significant Decisions”*)

RACISM

USA

In April a statewide review of racial bias and the death penalty was released in Raleigh, North Carolina. The study, entitled *North Carolina Death Penalty Study 2001*, which contributes new evidence related to concerns in the state about racial disparities in the death penalty, was conducted by Dr Isaac Unah of the Department of Political Science of the University of North Carolina and Professor John Charles Boger, a professor at the University of North Carolina School of law.

In Geneva in August the UN Committee on the Elimination of Racial Discrimination issued its concluding observations on the initial report by the USA of the measures it had taken to implement the provisions of the Convention on the Elimination of All Forms of Racial Discrimination, to which the USA is a party. The Committee noted that there was “*a disturbing correlation between race, both of the victim and the defendant, and the imposition of the death penalty*” in America and called on the USA to ensure that no death penalty was imposed as a result of racial bias.

OPINION POLLS

Canada

A survey conducted by Ipsos-Reid for the Globe and Mail newspaper in Toronto and CTV showed that support for the death penalty has dropped dramatically in recent years. The poll of 1,000 randomly selected adults was conducted in January. Results showed that 52% of Canadians support capital punishment, down from 69 percent in 1995 and 73 per cent in 1987.

Those between the ages of 18 and 34 years were most likely to oppose the death penalty, those most in favour were aged between 35 to 54. There was little difference along gender lines.

USA

A total of 1,003 randomly selected adults were interviewed in April by ICR-International Communications Research of Media, Pennsylvania, for the Washington Post and ABC News. The results showed that support for the death penalty had dropped to 63 per cent (the figure was 77 per cent only five years ago). When asked to choose between the death penalty or life without parole as the punishment for convicted murderers, fewer than half - 46 percent - favoured the death penalty. Fifty-one percent of those interviewed favoured halting all executions until a commission was established to determine whether the death penalty was being administered fairly. The proportion rose to 57 per cent when respondents were reminded that the governor of Illinois had stopped all executions in his state while a commission reviews how the death penalty has been applied.

Singapore

The human rights organization "Think Centre" which opposes capital punishment conducted an on-line Internet poll from 1-11 June with one question: "Do you support the death penalty in Singapore"? At the end of that time 1,134 people had voted and the results were 357 "yes" votes (31.5 per cent) and 778 "no" votes (68.5 per cent).

South Korea

According to a nationwide survey published by Chosun Ilbo and Mbizon, a mobile research institute, on 4 November, the number of South Koreans against the death penalty is growing. Thirty-six per cent of those polled opposed capital punishment, compared with 34 per cent in a poll conducted by the Korea Information Service in 1999 and 20 per cent in a Gallup

Korea survey in 1994. The results were obtained from 838 respondents over the age of 20 years.

CONFERENCES

Strasbourg, France

The First World Congress Against the Death Penalty was held in Strasbourg from 21-23 June under the auspices of the Council of Europe. It was coordinated by the French-based organization *Ensemble contre la peine de mort* (Together against the Death Penalty) and brought together non-governmental organizations, parliamentarians, lawyers, experts, writers, ex-death row prisoners and others involved in the fight against the death penalty from all around the world. An appeal calling on all States to introduce a worldwide moratorium on executions was signed by the presidents of 13 national and two regional parliaments. A Final Declaration

made by the “citizens and abolitionist campaigners gathered in Strasbourg from 21 to 23 June 2001 for the First World Congress against the Death Penalty” called on citizens, states and international organizations to take certain steps towards abolition, and committed themselves to creating a world-wide coordination of associations and abolitionist campaigners and called on all abolitionist campaigners to sign the following international petition:

“We, citizens of the world, call for an immediate halt of all executions of those sentenced to death and the universal abolition of the death penalty.”

Galway, Ireland

A bi-lingual Conference on International Law and the Abolition of the Death Penalty took place in Galway on 21 and 22 September. It was organized by the Irish Centre for Human Rights at the National University of Ireland and the *Centre de Recherche sur les Droits de l’Homme*, Université Panthéon-Assas, Paris II. Sessions were held on key cases and on international norms, the diplomatic front and other international initiatives, and moves towards international abolition. Concluding remarks were presented by Robert Badinter, the former Minister of Justice of France.

Seoul, South Korea

The “2001 Asia Forum on the Abolishment of the Death Penalty” was held from 9-10 September in Seoul. The Forum was organized by a coalition of Korean Roman Catholic

organizations, other religious groups including Buddhist, Protestant, Confucian and various indigenous religions, and Korean NGOs working against the death penalty. It was held to coincide with, and to promote, draft legislation on abolition being drawn up by a group of parliamentarians. Over 150 members of the Korean Congress had already signed a petition for the abolition of the death penalty and it was hoped that the Forum would raise public awareness on the subject. Matters discussed at the Forum included the situation in various countries and an overview of global trends. Delegates came from various countries including Pakistan, the Philippines, Mongolia, India and Japan. Amnesty International sent representatives from various countries and from its International Secretariat. A series of events were held including a drama, a concert and an art exhibition. The plenary session was held at the National Assembly Conference Hall. The event adopted a declaration entitled the “2001 Asia Forum Joint Declaration on the Abolition of the Death Penalty” calling for the abolition of the death penalty in Korea. This was the second event of its kind in East Asia; the first forum on the death penalty was held in Tokyo in 1993. (*See also item under “ABOLITION, Attempts to Abolish” and “RELIGIOUS PERSPECTIVE”*)

Taiwan

A Conference on Abolition of the Death Penalty was held at Fujen University in June. The conference was backed by different faiths and was directed by the John Paul II Peace Institute and the Department of Law. It was held with the sponsorship of the Ministry of Education, the National Science Council, the Canadian Government and Fujen University.

Dushanbe, Tajikistan

A two-day international conference backed by the Soros Foundation’s Open Society Institute and the Organization for Security and Cooperation in Europe and entitled “The Death Penalty: Pros and Cons” was held in Dushanbe on 20 and 21 December. Representatives from the legislative and higher prosecution bodies of Tajikistan, Russia, Ukraine, Kazakhstan, Kyrgyzstan, Turkmenistan, Uzbekistan and Iran attended.

MISCELLANEOUS

UK

In February, in answer to a question in the House of Commons about the stage at which it was the government’s policy to make representations against the use of the death penalty in cases of British nationals being tried overseas, it was stated that the government

“... will now express our opposition to the death penalty and its use on a British national at whatever stage and level is judged appropriate from the moment when the imposition of a death sentence on a British national becomes a possibility. “

The UK government's previous policy had been to make representations only when the judicial process had been exhausted.

TABLE 3: RECORDED WORLDWIDE EXECUTIONS BY YEAR, 1980 - 2001

Year	No. countries carrying out executions	No. executions recorded	No. countries with over 100 executions	% of all recorded executions in countries with over 100 executions
1980	29	1229		
1981	34	3278		
1982	42	1609		
1983	39	1399		
1984	40	1513	4	78%
1985	44	1125	3	66%
1986	39	743	3	56%
1987	39	769	3	59%
1988	35	1903	3	83%
1989	34	2229	3	85%
1990	26	2029	4	84%
1991	32	2086	2	89%
1992	35	1708	2	82%
1993	32	1831	1	77%
1994	37	2331	3	87%
1995	41	3276	3	85%
1996	39	4272	4	92%
1997	40	2607	3	82%
1998	37	2258	2	72%
1999	31	1813	4	80%
2000	28	1457	2	77%
2001	31	3048*	2	86%

* The total for 2001 may be subject to alteration at a later date if further information becomes available.

TABLE 4: ABOLITIONIST COUNTRIES AT YEAR END, 1981 - 2001

Year	No. countries abolitionist for all crimes	No. countries abolitionist in law or practice*
1981	27	63
1982	28	63
1983	28	64
1984	28	64
1985	29	64
1986	31	66
1987	35	69
1988	35	80
1989	39	84
1990	46	88
1991	46	83
1992	50	84
1993	53	90
1994	54	96
1995	58	101
1996	59	100
1997	63	102
1998	69	105
1999	72	108
2000	74	108
2001	74	111

* Countries which have abolished the death penalty in law for all crimes or for ordinary crimes or are abolitionist in practice, in that they have not carried out executions for the past 10 years and are believed to have an established policy or practice of not carrying out executions