

DEATH PENALTY NEWS

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A SUMMARY OF EVENTS ON THE DEATH PENALTY AND MOVES TOWARDS WORLDWIDE ABOLITION

GUINEA-BISSAU TOTALLY ABOLISHES THE DEATH PENALTY

Guinea-Bissau abolished the death penalty for all crimes on 16 February 1993, when the National Assembly, Guinea-Bissau's parliament, passed an amendment to the Constitution. Before this amendment, military courts were empowered to impose the death penalty for aggravated murder and offences against state security.

The movement towards abolition in Guinea-Bissau began over a decade ago, but gathered real momentum after the Constitution was amended in May 1991 to introduce a multi-party political system. There was a general consensus among the new political parties, as well as among many members of the ruling Partido Africano da Independência da Guiné e Cabo Verde (PAIGC), African Party for the Independence of Guinea and Cape Verde, that the death penalty should be abolished. The Guinea-Bissau Human Rights League, formed in mid-1991, has campaigned actively for abolition. President Joao Bernardo "Nino" Vieira, who came to power in 1980, recently stated that he also favours abolition.

LAUNCH OF INTERNATIONAL LEAGUE FOR ABOLITION OF THE DEATH PENALTY

At its recent congress in Rome, the Italian Radical Party launched a new International League for the Abolition of the Death Penalty. From 4 - 8 February 1993, hundreds of abolitionist parliamentarians and activists gathered to inaugurate a "worldwide parliamentary campaign for the abolition of the death penalty throughout the world by the year 2000". Although based in Italy, this international movement for abolition has the considerable support of eminent politicians, artists and intellectuals from around the world - including Nobel Peace Prize laureate Elie Wiesel; Elena Bonner Sacharova; Coretta Scott King; Gore Vidal; Noam Chomsky; David Szegal, and Marcello Mastroianni. The aim of the new International League is to press for the introduction of an identical bill or resolution to abolish the death penalty in the parliaments of all retentionist countries before the close of the century. An analysis of the legislative status of the death penalty in these countries will be carried out by the new League with a view to the content and timing of such a measure. At the same time, the League hopes to mobilize popular opinion against the death penalty wherever possible through a strenuous information and education campaign.

Brian Phillips, Coordinator of the Abolition of the Death Penalty Program at AI's International Secretariat, addressed the congress on 5 and 6 February. He presented AI's current views on abolitionist strategy, and emphasized the need for massive human rights education projects on the death penalty to accompany essential legislative strategies for abolition. He stressed the fact that legislative change alone can always be reversed - as recently seen in the case of the Philippines - if there is not sufficient conviction among the general public that retention of the death penalty is incompatible with a commitment to human rights. Without access to abolitionist arguments, it is often the case that a frightened or threatened people will reach for the death penalty as a quick solution for economic or social problems like a soaring crime rate or the advent of terrorism.

JAMAICA, TRINIDAD AND TOBAGO: MOVES TO RESUME HANGINGS

JAMAICA: Moves by the Jamaican authorities to resume hangings have been temporarily halted pending the hearing of a constitutional motion currently before the Jamaica Supreme Court. The last executions in Jamaica took place in February 1988.

Since a law was passed in October 1992, repealing legislation which had provided mandatory death sentences in all cases of murder and creating new categories of "capital" and "noncapital" murder, more than 100 death row prisoners have had their offences reclassified as "capital" murder and 59 have had their death sentences commuted.

The Court of Appeal, which was to start examining prisoners' appeals against their capital murder classifications, has agreed to postpone the appeals process pending the hearing of a constitutional motion filed by Jamaican lawyers which challenges the fairness of the classification process. The motion is due to be heard by the Jamaica Supreme Court on 1 March 1993. If it is denied, an appeal will be lodged with the Jamaica Court of Appeal. The case could ultimately be heard by the Judicial Committee of the Privy Council (JCPC) in London. It is not expected that warrants will be issued in the immediate future.

The constitutional motion is a test case filed on behalf of several named prisoners, but the issues raised are relevant to all those whose offences have been reclassified as "capital murder". The motion argues that prisoners' fundamental rights to the protection of law and a fair hearing were violated by, among other things, failing to inform them of the grounds on which their offence was reclassified, or to provide legal representation at that time. It also argues that the finding of "capital murder" entails the determination of issues which were not determined at trial or necessary to the jury's verdict of murder. (For details of AI's concerns, see [Jamaica, Moves to resume hangings: Amnesty International's concerns](#), AI Index: AMR 38/01/93.)

TRINIDAD AND TOBAGO: AI has expressed its grave concern to the government of Trinidad and Tobago over recent moves to resume hangings after a 15-year period without executions. Five execution warrants were issued during November and December 1992. Although temporary stays have been granted pending the consideration of a constitutional motion currently before the Court of Appeal, the government has indicated that further warrants will be issued in the near future and that blanket stays will not be granted pending a decision on the motion.

The issuing of so many execution warrants has placed a severe strain on Trinidad and Tobago lawyers, who represent prisoners under sentence of death free of charge after their direct appeals have been exhausted, and who sometimes have to spend thousands of dollars for official transcripts and other expenses. AI is concerned that if more execution warrants are issued, volunteer lawyers will be unable to cope with them and some prisoners may be executed without having a chance to pursue all legal avenues which could save their lives.

The constitutional motion was initially filed on behalf of Gayman Jurisingh, Faizal Mohammed and Peter Matthews. The motion argues that the carrying out of executions after a prolonged delay after prisoners have exhausted their legal appeals would be a violation of due process, and that such delay is itself "cruel and unusual punishment" in violation of the Trinidad and Tobago Constitution. Appeals in all three cases had been dismissed some years ago.

Two of the above-mentioned prisoners, Gayman Jurisingh and Faizal Mohammed, were initially sentenced to death in 1982. Their warrants were issued despite the recommendation of a Commission of Inquiry into Capital Punishment in Trinidad and Tobago (the Prescott Commission) in 1990 that prisoners under sentence of death for more than ten years should have their sentences commuted to life imprisonment. This recommendation was accepted by the government in public statements made in 1990 but has reportedly been rescinded by the present government, which came to power in 1991. The constitutional motion also argues that the previous government's acceptance of the Prescott Commission's recommendations on commutation of death sentences had created a "legitimate expectation" on the part of these prisoners that their sentences would be commuted.

Brian Francois and Lal Serratan, issued with warrants in December 1992, were granted stays after lawyers successfully argued that the same constitutional claims applied in their cases.

The last hangings in Trinidad and Tobago took place in 1979, although the death penalty remains mandatory for murder. There are currently 108 prisoners under sentence of death. (For further details, see [Trinidad and Tobago: Possible Resumption of Hangings](#), AI Index: AMR 49/05/92.)

IRAN: POLITICAL EXECUTIONS CONTINUE

AI received information that three members of the Mojahedin Organization of Iran were executed in Iran in 1992, and fears that at least 20 other prisoners, also members of the Mojahedin Organization of Iran, could be at risk of execution. Other political prisoners executed in 1992 included members of Kurdish organizations, such as Komala and the Kurdistan Democratic Party of Iran (KDP).

AI is concerned that the death penalty in Iran is frequently imposed on political suspects and others whose trials fail to meet international fair trial standards. In political cases, trials often last only a few minutes, the accused has no access to legal counsel at any stage; is denied both the right to appeal against conviction and sentence and is denied any opportunity to seek commutation of his or her sentence. Televised "confessions", apparently intended to discredit political suspects, further undermine the possibility of prisoners receiving fair trials.

Similar concerns are expressed in a 58-page report by the Special Representative for Iran to the UN Commission on Human Rights on 23 February. According to the report, 301 judicial executions were recorded in Iran during 1992, 164 of which "may be attributed to political causes".

AI recorded 325 executions in 1992 and fears that the true total may be considerably higher. (For details of recent political executions, see [Iran: AI concerned at continuing political executions](#) (AI Index: MDE 13/WU 08/92 EXTERNAL))

SOUTH KOREA: NINE PRISONERS EXECUTED

AI has written to South Korea's Minister of Justice to express concern about the execution of nine convicted murderers on 29 December 1992. The organisation also asked President-elect Kim Young-sam to commute all death sentences as part of the large-scale amnesty which he promised to mark his inauguration as President of the Republic of Korea on 25 February 1993.

The last executions in South Korea were carried out in December 1991, when another nine convicted murderers were executed. Some 50 prisoners are currently under sentence of death, mostly convicted of murder, rape and robbery. The death penalty may be imposed for a wide range of criminal and political offences in South Korea, although in practice most death sentences are imposed for crimes involving murder.

AI is concerned about the increased number of death sentences imposed by the courts since 1990 when the government launched a "war against crime". Although the government has recently stated its intention to abolish the death penalty for 10 criminal offences involving killings when death is not intended, AI believes that far more should be done to restrict the application of the death penalty. It has urged the government to conduct a thorough study into the deterrent effect of the death penalty and to impose a moratorium on executions until the results of such a study are available.

In 1989 a petition was filed with the Constitutional Court by two convicted murderers - one of whom has since been executed - to contest the constitutionality of the death penalty. In May 1992 the Constitutional Court asked a panel of legal experts to hold a debate on the subject. AI believes that the government should impose a moratorium on executions pending the Constitutional Court's decision.

US: SUPREME COURT RULES AGAINST LATE CLAIMS OF INNOCENCE

The US Supreme Court ruled on 25 January 1993 that a death row inmate who presents belated evidence of innocence is not normally entitled to a new hearing in Federal Court before being executed. In a heated 18-page dissent, Justice Harry A. Blackmun wrote that the "execution of a person who can show that he is innocent comes perilously close to simple murder".

The Court's 6-to-3 opinion, written by Chief Justice William H. Rehnquist, stated that in a capital case a "truly persuasive" demonstration of actual innocence made after trial would render the execution of a defendant unconstitutional, but "because of the very disruptive effect that entertaining claims of actual innocence would have...the threshold showing for such an assumed right would necessarily be extraordinarily high".

The majority opinion of the Court was that this threshold was not reached by Leonel Herrera, the Texas death row prisoner whose appeal brought the issue to the Court. Mr Herrera, convicted and sentenced to death in 1982 for the murder of two police officers, ten years later presented testimony that his brother, since deceased, had been the actual killer, an assertion supported by his brother's son.

The Supreme Court ruling comes at a time when over 2,600 prisoners are under sentence of death in 36 states in the US. In 1992 alone, 31 prisoners were executed, the highest number since executions resumed in 1977.

INTERNATIONAL TREATIES ON THE DEATH PENALTY

SIGNATURES AND RATIFICATIONS AS OF 26 FEBRUARY 1993

| INTERNATIONAL TREATY | COUNTRIES SIGNED BUT NOT YET RATIFIED | COUNTRIES RATIFIED/ACCEDED |
|--|---|--|
| Second Optional Protocol to the International Covenant on Civil and Political Rights | Austria, Belgium, Costa Rica, Denmark, Honduras, Italy, Nicaragua | Australia, Federal Republic of Germany, Finland, Iceland, Luxembourg, Netherlands, New Zealand, Norway, Panama*, Portugal, Romania, Spain, Sweden, Uruguay*, Venezuela* |
| Sixth Protocol to the European Convention on Human Rights | Belgium, Greece | Austria, Denmark, Federal Republic of Germany, Finland, France, Hungary, Iceland, Italy, Liechtenstein, Luxembourg, Malta, Netherlands, Norway, Portugal, San Marino, Spain, Sweden, Switzerland (Czech and Slovak Federal Republic**) |
| Protocol to the American Convention on Human Rights to Abolish the Death Penalty | Costa Rica, Ecuador, Nicaragua, Uruguay, Venezuela | Panama |

* Accession by Panama on 21.1.93 and ratification by Uruguay on 21.1.93 and by Venezuela on 22.2.93

** The Czech and Slovak Federal Republic divided into the Czech Republic and the Slovak Republic on 1 January 1993. The Council considers that the new states are bound by the human rights treaty obligations of the former Republic, including the Sixth Protocol, but the formal status of these two states is still to be worked out by the Council of Europe.

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