

DEATH PENALTY NEWS

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AMNESTY INTERNATIONAL

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

ITALY - DEATH PENALTY ABOLISHED FOR ALL CRIMES

On 5 October 1994 the Italian parliament gave its final approval to a bill eliminating the death penalty from the Wartime Military Penal Code. This means that Italy is now totally abolitionist bringing the number of totally abolitionist countries in the world up to 54.

A bill containing the same text had been approved by the Chamber of Deputies, one of the two houses of the Italian parliament, in July 1993. An analogous bill was awaiting discussion by the Senate when parliament was dissolved in order to enable a general election to take place. (See Death Penalty News December 1993 and March 1994)

Following the election, thirty senators resubmitted the text and it was approved by the joint Defence and Justice Committees of the Senate on 14 September. The text was approved by the joint Defence and Justice Committees of the Chamber of Deputies on 5 October, and the law was promulgated in 25 October.

The relevant articles are as follows:-

Article 1

1. *For crimes covered by the Wartime Military Penal Code and by the wartime military laws, the death penalty is abolished and is substituted by the maximum sentence in the Penal Code.*
2. *Article 241 of the Wartime Military Penal Code and all the provisions of that code and of the wartime military laws that refer to the death penalty are repealed.*

Article 2

1. *The current law will take effect from the date of its publication in the "Gazzetta Ufficiale" [Official Gazette].*

TURKEY - A RETURN TO THE OLD ORDER?

As part of the activities organized during a recent Amnesty International Death Penalty Action on Turkey, a number of signatures were obtained on a petition which welcomed the fact that no executions had taken place in Turkey during the last 10 years and urged that the death penalty be abolished completely in that country.

The petition was signed by the presidents of Amnesty International's sections in 13 European countries, the USA, Japan and New Zealand, together with members of parliament, former ministers, diplomats, writers, religious leaders and other people prominent in all these countries.

On 25 October, the 10th anniversary of the last judicial execution carried out in Turkey, two British Members of Parliament endeavoured to deliver the petition to the Turkish Embassy in London. Although they had an appointment the two MPs - Anne Clwyd, (Labour MP for Cynon Valley) and Nick Harvey (Liberal Democrat MP for Devon North) - were refused admission to the embassy and eventually could only carry out the delivery of the petition by sliding it under the firmly closed door (see photograph below).

"I have never been so insulted at an embassy", said Anne Clwyd, and she expressed the view that such behaviour felt like a "return to the old order".

The petition was covered in detail in "*Cumhuriyet*", a well-respected daily paper in Turkey which highlighted the fact that two of the signatories were Nobel Prize winner Jacques Barrot and Mohamed T. Mehdi, the General Secretary of the US National Council for Islamic Relations.

Meanwhile in Ankara on 26 October a Turkish prosecutor demanded the death sentence for two more MPs, bringing to eight the number of Kurdish parliamentarians facing execution if convicted of treason charges (see Death Penalty News June 1994).

EUROPEAN BODY CALLS FOR ANTI-DEATH PENALTY TREATY

The parliamentary body of the 32-member Council of Europe has called for the creation of a treaty to abolish the death penalty for all crimes.

The request came in the form of a **recommendation** adopted by the Council of Europe's Parliamentary Assembly on 4 October 1994. The recommendation now goes to the Council of Europe's Committee of Ministers for action.

The proposed treaty would be in the form of an optional protocol to the European Convention on Human Rights. At present, the Sixth Protocol to the Convention provides for abolition in peacetime. Twenty-five states have either ratified or signed the Sixth Protocol.

If adopted, the treaty would be the first in the world to provide for the abolition of the death penalty with no exception allowing its retention in wartime. The treaty would also oblige states parties not to reintroduce the death penalty under any circumstances.

In its recommendation (number 1246 (1994)), the Parliamentary Assembly also asks the Committee of Ministers to set up a control mechanism whereby states which retain the death penalty would be obliged to inform the Secretary-General of the Council of Europe without delay of any death sentences passed, and which would bind any country that schedules an execution to halt it for a period of six months, during which time the Secretary-General could send a delegation to the country to conduct an investigation and make a recommendation to the country concerned. States retaining the death penalty would be obliged to set up national commissions with a view to abolishing the penalty.

The Parliamentary Assembly also adopted a **resolution** (number 1044 (1994)) on the abolition of capital punishment on 4 October. The resolution "calls upon all the parliaments in the world which have not yet abolished the death penalty to do so promptly" and urges heads of state to grant clemency in death penalty cases.

The recommendation and resolution had been proposed in a report prepared by Hans Göran Franck, a Swedish member of the Parliamentary Assembly. (For further information and the texts of the recommendation and resolution, see AI Index: IOR 61/03/94.)

"The Assembly considers that the death penalty has no legitimate place in the penal systems of modern civilized societies, and that its application may well be compared with torture and be seen as inhuman and degrading punishment within the meaning of Article 3 of the European Convention on Human Rights." - Extract from Parliamentary Assembly resolution 1044 (1994)

CHINA

During an investigation recently screened on British television it was alleged that fully equipped ambulances were at execution sites in China so that organs could be removed quickly from prisoners, who were shot according to the location of the organs required - in the head if kidneys were needed, in the body if corneas were needed.

A report published by Amnesty International in September 1993 said that organs and tissues from executed prisoners were reported to be widely used for transplants without the consent or knowledge of the executed prisoners or their relatives.

One source quoted in the Amnesty International report maintained that, in the absence of official programs encouraging

organ donation by members of the public, transplants in effect depend on the availability of organs from executed prisoners. Thus the timing of a particular execution could be influenced by pressure to use the organs of the prisoner concerned, and the general dependency on this method could become an obstacle in limiting the use of the death penalty.

The Ethics Committee of the International Transplant Society takes these allegations seriously enough to call on those involved in the transplant business outside China to boycott doctors and hospitals involved inside China. The Hong Kong and Taiwan governments are expected to introduce laws to ban the lucrative trade in human organs from China in the very near future.

SHORT ITEMS

News reports indicate that according to a poll of more than 3,000 adults conducted by the Prime Minister's office in Japan in September, 75.8 per cent of respondents said that the death penalty should be retained. Among the reasons given were that felons should compensate with their own lives and that the death penalty helps to deter felonies. But 13.6 per cent said the death penalty should be abolished, a seven per cent increase over a similar survey in 1989.

Following the publication of the poll, two Japanese prisoners, Ajima Yukio and Sasaki Kazumitsu, were reportedly executed on 1 December. Both had been convicted of murder; Ajima Yukio had been under sentence of death for 16 years. These were believed to be the first executions in 1994, but in line with its usual policy, the Japanese Government refused to confirm that the executions had taken place. Amnesty International expressed concern that the results of the opinion poll might be used to justify further executions.

In the Philippines, arrival cards for visitors to the country now have "Death to drug traffickers under Philippine law" printed on them to discourage syndicates from using the country as a channel for illegal narcotics. Malaysia has similar warnings.

USA - CALIFORNIA

Gassing Ruled Unconstitutional

In the June 1994 issue of the Death Penalty News was an illustration of a form which had to be filled in by prisoners on death row in California in order to make the choice between execution by lethal injection or by gas. If the prisoner refused to choose, the default option was the gas chamber.

However, a federal judge in San Francisco ruled on 4 October that the gas chamber is illegal as it contravenes the Eighth Amendment to the US Constitution which prohibits "cruel and unusual punishment".

Judge Marilyn Hall Patel banned gassing in California, one of only five states in the US where this method is used, saying that this method of execution is "inhumane and has no place in a civilized society". However, the State of California said it would appeal.

Lethal injection has been an option in California since 1992 but the only two executions carried out in the state under current laws have been by gas. In all, 234 people have died in the gas chamber in California since it was first used in 1938.

USA - KANSAS

Since the reinstatement of the death penalty in the state of Kansas (see Death Penalty News June 1994) the Governor has vetoed state funding for defence counsel in capital cases, effectively placing Kansas in the situation of having a death penalty statute which it cannot afford to enforce.

SOUTH AFRICA

All eleven members of the Constitutional Court have now been appointed and it is expected to start sitting in mid-February 1995. According to the court president, Arthur Chaskalson, the death penalty will be the first issue on the court's agenda.

Following a demand by South Africa's biggest farmers' union for the lifting of the moratorium on the death penalty, the Justice Minister said it would be unconstitutional to resume executions and that the Constitutional Court would rule on the issue. "I indicated the constitution guaranteed the right to life and all indications are that the Constitutional Court will declare the death penalty to be unconstitutional" he is reported as saying.

Even though the moratorium has been in place since March 1992 there are still at least 447 prisoners on South Africa's death row. On 15 and 16 February 1995 the Court will hear arguments relating to the constitutionality of the death penalty in connection with the case of several people currently under sentence of death.

KENYA

Addressing a judicial education seminar in Mombasa in September, High Court Judge Mbogholi Msagah called for the removal of the death penalty from the statute book, and recommended that representations be made to the government for abolition. Taking part in the seminar were eminent Kenyan judges and magistrates and representatives of international legal institutions.

NEW LOGO - The drawing of a noose and a judge's gavel, appearing at the top of page 1 of this issue of the Death Penalty News, is taken from a design produced by the Philippine human rights organization Task Force Detainees of the Philippines for use in an international postcard campaign to abolish the death penalty in the country.