
TAIWAN

@Arguments for the Abolition of the Death Penalty

AUGUST 1991

AI INDEX: ASA 38/17/91

DISTR: SC/CO/GR

On 11 July 1991 the Second Optional Protocol to the International Covenant on Civil and Political Rights came into force. This Protocol is the world's first pact of universal scope aimed at the abolition of the death penalty, reflecting the general international trend towards abolition. Ten countries have ratified the Protocol so far and a further 12 countries have signed it, indicating their intention to ratify it at a later date.

In 1990 more countries abolished the death penalty than ever before. Seven countries abolished the death penalty for all crimes, while in an eighth country, Nepal, the death penalty was abolished for ordinary crimes. In Japan no executions were carried out in 1990. Elsewhere in the Asia/Pacific region, Australia, the Philippines, Cambodia, New Zealand and Nepal have, in recent years, joined the growing number of abolitionist states. Almost half the countries in the world have now abolished the death penalty, either in practice or in law.

In Taiwan, however, executions remain at a high level. In 1990 there was a record number of 78 executions; the previous year 69 people had been executed.

The Government of the Republic of China (Taiwan) has justified the continued and increasing use of the death penalty on the grounds that it is needed to combat the alarming rise in violent crime in Taiwan. Violent crime is indeed a serious problem in Taiwan, but international research has shown that capital punishment does not in fact act as a more

effective deterrent to violent crime than other punishments. The conclusion of the 1989 United Nations report on capital punishment states that, despite years of study:

". . . research has failed to provide scientific proof that executions have a greater deterrent effect than life imprisonment. Such proof is unlikely to be forthcoming. The evidence as a whole gives no positive support to the deterrent hypothesis."

The present situation in Taiwan supports this conclusion. Despite the greatly increased use of the death penalty over the past two years the incidence of violent crime has apparently not decreased. In fact, the use of capital punishment may be contributing to crime. Research in the USA has shown that rather than acting as a deterrent, a high level of executions may have a "brutalizing" effect: through its killing of criminals the state sets an example of brutality to the public, which can then interpret killing as a acceptable act.

In March 1991 a representative of Amnesty International visited Taiwan and was told by the Ministry of Justice that it had conducted its own criminological study into the effect of the death penalty on crime rates in Taiwan. The study has not been made public and its conclusions are not known. Amnesty International urges the government to make the results and conclusions of the study publicly available to encourage an informed public debate on the use of the death penalty.

Another argument used by the Government of the Republic of China to justify its use of capital punishment is that public opinion demands it. However, respect for human rights must never be dependent on public opinion and many other governments have recognized that fact by abolishing capital punishment despite public appeals for its retention. It has sometimes been shown that members of the public support the death penalty out of uninformed or even incorrect beliefs - for example, that capital punishment is an effective deterrent against violent crime. The state should ensure that the public is fully informed on the issue of the death penalty, but it should also recognize that public opinion may be conditioned by the message handed down by the government itself. In the Federal Republic of Germany, for example, the death penalty was abolished in 1949, although a poll taken in 1950 revealed that 55% of people asked were in favour of capital punishment, while 30% opposed it. In 1986, after 37 years without executions, only 22% said they supported the death penalty and 55% opposed it: a direct reversal of the earlier figure. Governments should recognize that public opinion is largely dependent on the education and example handed down by the state itself and should not simply be cited to support the state's decisions.

Many people in Taiwan believe that capital punishment is the only just retribution for some crimes and that certain criminals actually deserve to die. This is a belief rooted in the deep aversion felt by law-abiding citizens to terrible crimes, and may seem in some cases to represent a national tradition of support for the death penalty. During a debate on the death penalty in the Hong Kong Legislative Council (Legco) in June 1991, Legco member Lee Chu-ming dismissed the view that human rights questions were Western concepts and not applicable to a Chinese society saying: "Those who hold this view seem to imply that we Chinese are not as deserving of human rights as persons from other countries."

The instinctive desire for revenge should in no way form the basis of a society's law, especially where human life is concerned. The right to life, guaranteed by all international human rights covenants, is the right of every person, whoever they may be and whatever they may have done. It is not subject to distinctions arising from a desire for revenge. Society does not benefit from killing out of retribution. The execution of a murderer cannot repair the loss of those already killed, and the cause of justice is not served by killing twice. Nor can society show its condemnation of killing by itself putting individuals to death. Execution cannot be used to condemn killing: it is killing.

There are many examples from around the world of people who have been sent to their death through wrongful conviction. A 1987 study in the USA presented evidence that 350 people convicted of capital crimes in the USA between 1900 and 1985 were innocent of the crimes charged. In most of these cases the discovery of new evidence resulted in acquittal, pardon, commutation of sentence or dismissal of the charges, often years after the original conviction. Some prisoners escaped execution by minutes, but at least 23 innocent people were actually executed.

In Taiwan itself Chang Kuo-chieh, aged 74, who had been convicted of a murder committed in 1973, was acquitted by the Taiwan High Court in February 1982. He had confessed to the crime, but parts of his statement were found to contradict the facts of the case. The courts actually reconsidered the case 11 times before at last finding him innocent. If he had already been executed their conclusion would have come too late.

In Japan four people who had been sentenced to death have been acquitted by the courts since 1984. One example is Norio Shimogami who was acquitted by the Nagoya High Court in July 1990. Once again, four innocent men narrowly escaped execution.

Amnesty International is urging the Government of the Republic of China to abolish the death penalty and to search for an alternative and effective method of tackling the problem of violent crime in Taiwan. It is asking the press and other organs of public information to make known the truth about the death penalty. Finally, it is calling on the people of Taiwan to look at the death penalty from this informed position and to join the growing movement of abolitionists.

Attachment

- Second Optional Protocol to the International Covenant on Civil and Political Rights

Further Reference Material

Further information in English about the abolition of the death penalty may be found in the following publications:

- Amnesty International: *The Death Penalty, List of Abolitionist and Retentionist Countries* (ACT 50/01/91);

- *Death Penalty News*; two-monthly publication issued by Amnesty International.

- Roger Hood: *The Death Penalty; a World-Wide Perspective, A Report to the United Nations Committee on Crime Prevention and Control*, Oxford, Clarendon Press, 1989.

- *Capital Punishment; Report of the Secretary-General*. United Nations, 1990. (E/1990/38/Rev.1)

KEYWORDS: DEATH PENALTY1 / EXECUTION / AGED / RETRIAL / RELEASE /

Amnesty International publications may be obtained from the address below:

**INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 8DJ,
UNITED KINGDOM**
