

DEATH PENALTY NEWS

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AMNESTY INTERNATIONAL
1 Easton Street
London WC1X 0DW
United Kingdom

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A BULLETIN ON THE DEATH PENALTY AND MOVES TOWARDS WORLDWIDE ABOLITION

UN VOTES FOR GLOBAL MORATORIUM ON THE DEATH PENALTY

In an historic vote at the UN General Assembly (UNGA) plenary session on 18 December, 104 countries adopted a resolution calling for “a moratorium on executions with a view to abolishing the death penalty”. 54 countries voted against the resolution and 29 countries abstained.

The landmark decision, which is non-binding on states, had cross-regional support and followed a vote taken at the UN Third Committee's 62nd session, on 15 November, on resolution L29 calling for a global moratorium on executions. The voting at the Third Committee was 99 countries in favour, 52 against and 33 abstentions. The resolution was co-sponsored by 87 states from around the world

The following countries voted for the final resolution: Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Belgium, Benin, Bolivia, Bosnia-Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Canada, Cape Verde, Chile, Colombia, Congo (Rep), Costa Rica, Cote D'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Guatemala, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Kazakhstan, Kiribati, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Macedonia, Madagascar, Mali, Malta, Marshall Islands, Mauritius, Mexico, Micronesia, Moldova,

Monaco, Montenegro, Mozambique, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Palau, Panama, Paraguay, Philippines, Poland, Portugal, Romania, Russian Federation, Rwanda, Samoa, San Marino, Sao Tome Principe, Serbia, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Tajikistan, Timor-Leste, Turkey, Turkmenistan, Tuvalu, Ukraine, United Kingdom, Uruguay, Uzbekistan, Vanuatu, Venezuela.

The following countries voted against it: Afghanistan, Antigua-Barbuda, Bahamas, Bahrain, Bangladesh, Barbados, Belize, Botswana, Brunei Dar-Salam, Chad, China, Comoros, Korea (Dem Rep), Dominica, Egypt, Ethiopia, Grenada, Guyana, India, Indonesia, Iran, Iraq, Jamaica, Japan, Jordan, Kuwait, Libya, Malaysia, Maldives, Mauritania, Mongolia, Myanmar, Nigeria, Oman, Pakistan, Papua New Guinea, Qatar, St Kitts-Nevis, St Lucia, St Vincent-Grenadines, Saudi Arabia, Singapore, Solomon Islands, Somalia, Sudan, Suriname, Syria, Thailand, Tonga, Trinidad-Tobago, Uganda, USA, Yemen, Zimbabwe.

The following countries abstained: Belarus, Bhutan, Cameroon, Central African Republic, Congo (Dem Rep), Cuba, Djibouti, Equatorial Guinea, Eritrea, Fiji, Gambia, Ghana, Guinea, Kenya, Korea (Rep), Laos, Lebanon, Lesotho, Liberia, Malawi, Morocco, Niger, Sierra Leone, Swaziland, Togo, United Arab Emirates, Tanzania, Viet Nam, Zambia.

The following countries were **not present for the vote**: Guinea-Bissau, Peru, Senegal, Seychelles and Tunisia.

The UNGA has previously taken important steps towards abolition and to limit the death penalty over many years. In 1977 the UNGA reaffirmed, in resolution 32/61, that the “main objective to be pursued in the field of capital punishment is that of progressively restricting the number of offences for which the death penalty may be imposed with a view to the desirability of abolishment this punishment”. The UNGA has adopted standards to limit the application of the death penalty and safeguards to protect the rights of those facing capital punishment, including by adopting the Second Optional Protocol to the International Covenant on Civil and Political Rights and endorsing the Safeguards Guaranteeing Protection on the Rights of Those facing the Death Penalty.

There were two previous attempts to pass similar resolutions in 1994 and 1999, but since then the number of abolitionist states has increased. At the UNGA in 2006, Finland, as the President of the European Union, delivered a statement supported by 85 states which expressed “deep concern at the continuing use of the death penalty around the world”. The statement went on to call on states that still maintain the death penalty to abolish it completely and, in the meantime, to establish a moratorium on executions. Other states have subsequently endorsed that statement. Therefore, the adoption of the resolution calling for a moratorium on executions at the 62nd session of the UNGA, the UN’s highest political body, is a clear recognition by states of the growing international trend towards abolition of the death penalty.

NIGERIA MISLEADS WORLD ABOUT EXECUTIONS

Evidence has emerged that at least seven secret executions have taken place in Nigerian prisons in the last two years, despite assurances by the government that Nigeria has not executed “in years”.

The executed men were convicted in a Kano state court and then relocated to other prisons around the country for execution. The death warrants were all signed by the current governor of Kano state, Malam Ibrahim Shekarau.

However, as recently as 15 November 2007, a Nigerian government representative at the United Nations stated that in Nigeria “Punishment only comes after exhaustive legal and judicial processes, including recourse to the supreme court of the land. ...It is thus on record that we have not carried out any capital punishment in recent years in Nigeria.”.

According to the most recent statistics, 784 prisoners are under sentence of death in Nigeria. The last recorded execution took place in 2002.

IRAN EXECUTES YET ANOTHER CHILD OFFENDER

Child offender Makwan Moloudzadeh was hanged on 4 December in Kermanshah Central Prison. He had been sentenced to death in July 2007 for *lavat-e iqabi* (anal sex) in connection with the alleged rape of three boys around 1999, when Makwan Moloudzadeh was aged 13.

His trial, held in the western cities of Kermanshah and Paveh, was grossly flawed. The alleged victims withdrew their accusations in the course of the trial, and reportedly said they had either lied or had been forced to “confess”. In sentencing Makwan Moloudzadeh to death, the judge relied on his “knowledge” of the case, as is allowed by Iranian law, deciding that Makwan Moloudzadeh could be tried as an adult, and that the alleged offence, otherwise unproven, had taken place.

The sentence was confirmed by the Supreme Court about a month later. His lawyer sought a judicial review of the case, and in November, the Head of the Judiciary, Ayatollah Shahroudi, granted a temporary stay of execution pending a further review of the case. On or around 1 December this review appears to have found no fault with the verdict and sentence. Makwan Moloudzadeh's lawyer

was not given advance notice of his client's execution, although this is required by Iranian law.

JAPAN EXECUTES THREE PRISONERS

Three men were executed on 19 December, one of whom was aged 75 years.

For the first time, the authorities released the names of the hanged men, on the orders of the Justice Minister, Kunio Hatoyama. However, the policy of secrecy remains, as in the practice of not informing prisoners in advance of the date of their execution continues. Nor are the families advised of the execution until after it has taken place.

After his appointment in August 2007, the Minister of Justice told reporters that he wanted Japan to implement a little-enforced law that requires the execution of inmates within 6 months of their final sentences.

Currently, the Justice Minister signs off on every execution.

'I think we might want to consider a system in which it takes place automatically and objectively without the Justice Minister's involvement,' that prisoners should be "automatically" executed six months after the failure of their last appeal.

While a small number of opponents of the death penalty continue to raise questions about its use, the general population in Japan is overwhelmingly in favour.

GUATEMALA COMMUTATES DEATH SENTENCE

On 17 October a Guatemalan court commuted a death sentence handed down in 1999 to 40 years in prison, in compliance with a 2005 ruling issued by the Inter-American Court of Human Rights.

In May 1999, Ronald Ernesto Raxcacó Reyes was sentenced to death for the kidnapping of an eight-year-old boy under

article 201 of the Guatemala Penal Code. That article had been modified in 1996 resulting in an expansion of the scope of the death penalty, in breach of the American Convention on Human Rights which prohibits the extension of the death penalty to crimes to which it did not apply at the time of ratification, which in the case of Guatemala was in 1978.

The Court also ordered the reform of article 201 of the current Penal Code and ordered Guatemala not to execute any person condemned to death for the crime of kidnapping under the current legislation.

There are 19 people under sentence of death in Guatemala. The last execution took place in 2000.

USA – NEW JERSEY ABOLISHES DEATH PENALTY

On 17 December the Governor of New Jersey, Jon Corzine, signed into law a bill abolishing the death penalty in the state and replacing it with life imprisonment without the possibility of parole. Thus New Jersey became the first US state since 1965 to legislate to abolish the death penalty. The state Senate had passed the bill by 21 votes to 16, and the lower General Assembly did the same by 44 votes to 36.

A report published in January 2007 by the New Jersey Death Penalty Study Commission – set up by the state legislature in 2006 to examine all aspects of capital punishment in the state – had found, among other things, that there was no compelling evidence that the state's death penalty "rationally serves a legitimate penological intent", and concluded that abolition would eliminate the risk of disproportionality in capital sentencing and of executing the innocent.

With New Jersey's decision, the total number of abolitionist states rose to 14. New York had effectively become the 13th abolitionist state in October when its highest court refused to make an exception to its 2004 ruling finding the state's death penalty statute unconstitutional. The challenge to that ruling had been brought by the state in the case of

John Taylor, the last person left on New York's death row. He was resentenced to life imprisonment without parole in late November.

The last executions in New Jersey and New York were in 1963. The majority of executions in the USA since judicial killing resumed in 1977 have been carried out in a small number of states. One state, Texas, accounts for around a third of executions. Twenty-six of the 42 executions in the USA during 2007 were carried out in Texas.

USA- INNOCENCE

More than 120 people have been released from death rows in the USA since 1975 on the grounds of innocence. In December, two more names were added to this list. Michael McCormick was acquitted at his retrial for a murder for which he had spent 16 years on death row in Tennessee.

Also in December, prosecutors dismissed all charges against Johnathon Hoffman in the crime for which he had served nearly a decade on death row in North Carolina. He had been granted a new trial in 2004 following allegations of prosecutorial misconduct and of crucial evidence being withheld from the defence.

On 19 December Kenneth Richey, a British citizen, was released from prison. He had been convicted and sentenced to death in 1987 of an arson attack on an apartment block which killed 2 year old Cynthia Collins. Grave doubts around Richey's guilt had been raised and AI featured his case in the 1998 publication *Fatal Flaws: Innocence and the death penalty in the USA* (51/069/1998). Richey entered a plea of 'no contest' to reduced charges. While this was not an admission of guilt it resulted in his sentenced being reduced to time served. His actual release was postponed until 7 January 2008 because of Richey's health problems.

USA- EXPANSION OF DEATH PENALTY

On 12 December 2007, a Louisiana jury sentenced Richard Davis to death for the rape of a five-year-old child. Louisiana law provides for the death penalty for the aggravated rape of children under the age of 13. In May 2007, the Louisiana Supreme Court upheld the death sentence of Patrick Kennedy for the rape of an eight-year-old girl in March 1998. Until Richard Davis was sentenced, he was the only prisoner on death row in the USA for a crime not involving murder.

In 2008, the US Supreme Court will consider Kennedy case and rule on the constitutionality of such use of the death penalty, 31 years after the Court ruled that the death penalty for rape was unconstitutional (*Coker v. Georgia*, 1977). The *Coker* ruling involved a man sentenced to death for the rape of a 16-year-old girl. Georgia law and the US Supreme Court characterized the victim as an adult, thereby leaving the door open to those states which have passed laws making sex crimes against children capital crimes. The last execution for rape in the USA was in Missouri in 1964. There were six other executions that year for non-homicidal offences – five for rape (Arkansas, Missouri and Texas) and one for robbery (Alabama).

INTERNATIONAL EVENTS: WORLD DAY AND CITIES FOR LIFE

The theme for the fifth **World Day against the Death Penalty** on 10 October was "Stop the death penalty: The World decides". The main WCADP objective of this year was to gather support for the resolution on a global moratorium on executions that was tabled at this 62nd session of the UN General Assembly (UNGA) which began 18 September.

At least three hundred and fifty events were staged in 59 countries around the world in support of the resolution on a moratorium on executions at the UN General Assembly, and an online petition calling on support for a global moratorium remains open for signature on [http:// www.worldcoalition.org](http://www.worldcoalition.org). On the 2 of November the hand over of the 5 million

signatures collected by the petition was presented on the name of the WCADP to the UN President of the General Assembly.



Sakae Menda (an innocent man who was on death row in Japan for 34 years), Yvonne Terlingen (AI), Mpagi Edward Edmary (accused in Uganda of murdering a man who was later found to be alive) and Ray Krone (was the 100th prisoner on death row in the US to be released after being found innocent since the death sentence was first reintroduced in 1973) speaking at a panel session at the UN headquarters, hosted by Amnesty International on 16 October 2007. ©AI

The sixth **Cities for Life** event, initiated by the lay religious community of Sant'Egidio based in Rome, was commemorated on 30 November in more than 752 cities around the world. To show opposition to the death penalty, monuments have been illuminated in 33 capitals and 719 cities in 56 countries including Rome, Madrid, Ottawa, Mexico City, Barcelona, Buenos Aires, Austin, Dallas, Bogota', Balanga City, Nakuru, Seoul.



Cities for Life in Salzburg, 30 November 2007©AI

Belarus – Alyaksandr Syarheychyk, who was sentenced to death on 22 May, has reportedly been executed. Belarus is the only country in Europe to retain the death penalty. Executions are carried out in secret and are not officially recorded. Relatives are not advised of the date of execution or where the body is buried.

Cook Islands- On 8 November the Cook Islands Crimes Amendment Bill was passed in the Parliament of the Cook Islands. In the Bill the word “death” was amended to “life imprisonment”, making the Cook Islands the 92nd country to abolish the death penalty for all crimes.

European Union- The Portuguese presidency of the EU announced on 7 December that a decision had been made to officially designate 10 October as the annual “European Anti-Death Penalty Day”. This decision had previously been stalled by a veto from Poland in September but following a change of government in that country, the initiative got unanimous agreement from all the member states.

Zambia – The death sentences of 97 prisoners were commuted to life imprisonment in August by President Levy Mwanawasa.

NEWS IN BRIEF