

DEATH PENALTY NEWS

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

GREECE ABOLISHES THE DEATH PENALTY WITHOUT RESTRICTIONS

On 16 December 1993 the Greek Parliament passed Law No. 2172 abolishing the death penalty without restriction. Article 33 of this law provides for in wartime as well as peace time. It is reported that Greece will now ratify the Sixth Optional Protocol to the European Convention on Human Rights, which it signed on 2 May 1983.

The last execution in Greece was for murder and took place on 25 August 1972, during the time when the country was under military rule. Since then, although death sentences have been imposed by the Greek courts (the most recent in 1988), they have all been commuted to life imprisonment by the President.

The number of countries abolitionist for all crimes is 53.

RATIFIES THE SECOND OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

On 24 February 1994 Denmark ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, which aims at the abolition of death penalty worldwide.

The death penalty was abolished in Denmark for ordinary crimes in 1930 although it was retained under the Military Penal Code for certain crimes committed in wartime. After World War II a special retroactive law was enacted which provided for the death penalty for certain crimes committed during the wartime German occupation of Denmark. Forty-six people were executed as a consequence.

A law enacted in 1952 which provided for the death penalty during a state of war or foreign occupation was repealed in 1978. This had the effect of abolishing the death penalty for all offences including those in the Military Penal Code.

In December 1993 the retroactive law passed after World War II was repealed thus removing the last obstacle towards Denmark's ratification of the Second Protocol.

UK – REINTRODUCTION OF THE DEATH PENALTY REJECTED BY A LARGE MAJORITY

On 21 February 1994, two proposed amendments to the Criminal Justice and Public Order Bill which would have restored capital punishment for certain offences were defeated. The amendments were as follows:

a) New Clause 2

'A person aged 18 years or above who is convicted of the murder of a police officer acting in the execution of his duty shall on conviction be sentenced to death.'

and b) New Clause 4

(1) Subject to the following subsections the penalty for murder shall be death.

(2) No person aged under 18 years shall suffer the death penalty.

(3) As soon as practicable following a sentence of death, a special sitting of the Court of Appeal shall be convened to consider whether the circumstances of either

(a) the commission of the offence or

(b) the offender

whether or not such circumstances were adduced in evidence at the trial, are such as would justify the substitution of a sentence of life imprisonment in place of the sentence of death.'

Mr John Greenaway, who introduced the new Clause 2, referred to the 8 police officers who had been killed while in pursuit of their duty in the three years since the previous debate in Parliament and said that those who supported the new clause believed that capital punishment for the murder of a police officer would reduce the number of police murders.

Mrs. Elizabeth Peacock, in introducing the new Clause 4 said that "It is high time that we, as Members of Parliament came down from our ivory towers and did what the people of Britain want us to do and supported the re-introduction of the death penalty."

The Home Secretary, Michael Howard admitted that up to and including the 1990 debate he had voted consistently in favour of the death penalty for certain categories of murder considering that the appeal procedure would effectively eliminate the risk of a miscarriage of justice. However, recent irregularities in capital cases, which this procedure had failed to identify, had caused him to re-examine his position. He said:

"Miscarriages of justice are a blot on a civilized society. For someone to spend years in prison for a crime he or she did not commit is both a terrible thing and one for which release from prison and financial recompense cannot make amends. But even that injustice cannot compare with the icy comfort of a posthumous pardon."

Clause 2 was defeated by 383 votes to 186 and Clause 4 by 403 votes to 159, with majorities of 197 and 244 votes respectively. These were the largest majorities ever recorded against the death penalty from the 13 debates on its reintroduction since it was provisionally abolished nearly 30 years ago in 1965. The last time a vote was taken on two similar amendments was 1990 and the majorities then were 135 and 163.

MOROCCO - KING COMMUTES 195 DEATH SENTENCES

To mark his 33 years on the throne of Morocco on 5 March the King commuted the death sentence of 195 prisoners to life imprisonment. The Moroccan Human Rights Organisation has said that it appears from their lists that all those under sentence of death had had their sentences commuted.

TURKEY - TURKISH MEDICAL ASSOCIATION REFUSES TO PARTICIPATE IN EXECUTION

The Turkish Medical Association (TMA) has recently issued a statement announcing that the country's doctors will not participate in a possible forthcoming execution. If this execution goes ahead, it would be the first for over nine years; the last was carried out in October 1984.

On 17 November 1993, the parliamentary Judicial Commission approved the death sentence of Seyfettin Uzundiz, who was convicted in 1992 of murder and armed robbery. The case will now be sent to the Turkish Grand National Assembly for approval, which requires a simple majority. If approved, the execution could be carried out immediately.

Execution in Turkey is by hanging and, under current legislation, a doctor is required to be present. Article 12 of the Turkish Penal Code requires the presence of doctors at executions. Article 66 of the Regulations concerning the Administration of Penal Institutions and the Execution of Sentences states that a doctor must be among those present, and Article 69 of the same Regulations requires that a doctor establishes death before the body is taken down.

The Turkish Medical Association has in the past consistently called for the abolition of the death penalty and, faced with this possible resumption of executions, has issued a statement from which the following is taken:

"It is unacceptable conduct for doctors, who are committed to the preservation of life, to examine a prisoner prior to execution or to aid in determining whether or not death has occurred. We demand changes in the laws which require the presence of a doctor during the execution of death sentences to bring the law into line with the directives of the World Medical Association and TMA assemblies. We

believe that an end must be put to the paradoxical situation whereby those whose duty it is to maintain life take part in the act of killing.

We, the members of the Central Council of the TMA declare that, should we be required to participate in an execution, we will under no circumstances accept such a request.”

The World Medical Association at its meeting in Lisbon in 1981, resolved that it was unethical for physicians to participate in capital punishment; and the UN Principles of Medical Ethics enjoin health personnel, particularly physicians, to refuse to enter into any relationship with prisoners other than one directed at evaluating, protecting or improving their physical and mental health.

IRAN - CONSULTATIVE ASSEMBLY APPROVES DEATH PENALTY FOR DEALERS IN OBSCENE VIDEOS

In December the Iranian Consultative Assembly (Parliament) approved legislation providing for the death penalty for producers and distributors of pornographic audio and video material. If such promoters are found to be "Corrupt on Earth", they can receive the death penalty.

The new legislation still requires approval by the Guardian Council, a body composed of twelve religious experts.

USA – SUPREME COURT JUDGE CONCEDES DEATH PENALTY EXPERIMENT HAS FAILED

On 22 February, following an order from the Supreme Court denying a review in the Texas death penalty case of Bruce Callins, Justice Harry A. Blackmun issued a 22-page dissent in which he said that after a 20-year struggle with the issue of capital punishment he had concluded that: "... the death penalty experiment has failed..." and that it was time for the Court to abandon the delusion that capital punishment could be consistent with the Constitution.

In *Furman versus Georgia* in 1972, the Supreme Court declared that the death penalty must be imposed fairly and with reasonable consistency, or not at all. However, in a series of rulings beginning in the late 1970s, the Court also insisted that jurors be free to consider any evidence that the defendant might put forward on his own behalf. Justice Blackmun maintains that these two aims are irreconcilable, saying that "A step towards consistency is a step away from fairness."

This is not the first time that Justice Blackmun has dissented from a Supreme Court ruling. In January 1993, following the decision that a death row inmate who presents belated evidence of innocence is not normally entitled to a new hearing in a Federal Court before execution, he wrote an 18-page dissent in which he said that "the execution of a person who can show that he is innocent comes perilously close to simple murder." (See *Death Penalty News* February 1993).

PAKISTAN TO BAN PUBLIC HANGINGS?

On 6 February 1994, the Deputy Attorney General, Mumtaz Mirza, was quoted as saying in Pakistan's Supreme Court that a policy decision had been made not to hold any hangings in public in future.

Public hangings have been subject to changes of policy under different governments in Pakistan. During the rule of General Zia (1977-1988), public executions were carried out, sometimes even on a mobile folding gallows which was transported from place to place. When Benazir Bhutto became Prime Minister in 1988, she commuted over 2,000 death sentences to life imprisonment and all executions were suspended during her time of office. Her successor in 1990, Nawaz Sharif, extended the scope of the death penalty and announced the re-introduction of public hangings, but none were actually carried out. Benazir Bhutto was returned to power in 1993.

The statement quoted above was made in the context of a hearing in the Supreme Court on whether being hanged in public violated the dignity of man. Under its powers to take up any "questions of public importance with reference to the enforcement of any of the Fundamental Rights" guaranteed by the Constitution (Article 184), the Supreme Court had in 1991 begun to consider the question whether public hangings violated the

dignity of man. In late 1991 it had issued a temporary order staying public executions pending a final decision. It argued that to hang a man in public, no matter how grave the crime, was highly insulting in all circumstances.

The stay order clearly only affects public hangings; executions in jails have continued to be reported. The Supreme Court deliberations only include public hangings; the punishments of public stoning to death, on the statute book since 1979 for the offences of fornication and rape is not being considered.

The Supreme Court has not come to a final decision yet.

ITALY

In July 1993 the Chamber of Deputies, one of the two houses of the Italian Parliament, approved a bill to eliminate the death penalty from the Military Penal Code in Time of War (see Death Penalty News December 1993).

An analogous bill was awaiting examination by the Senate, but before a vote was taken, Parliament was dissolved to make way for a general election scheduled for 27th and 28th March. There is, therefore, no possibility of Parliament approving such a bill before the next legislature is in place.

BULGARIA – POSSIBILITY OF LIFTING OF MORATORIUM

A moratorium on the use of the death penalty came into force in Bulgaria on 20 July 1990. (see DP News October 1990). In July 1992, in a letter to Amnesty International, President Zhelev said:

"In its resolution of 12 March 1992 the European Parliament calls on the European Community and Council of Europe member states to take the necessary steps to revoke capital punishment. Accordingly, we are doing our best to abolish this anti-human measure from the Bulgarian legislation and align with the majority of European states where this has long been a fact."

However, in a statement reportedly made in a radio interview on 6 February 1994 the President, while appearing to recognize that there is no convincing evidence that the death penalty is a deterrent against serious crime, said "... But in view of this giant rise of crime here, I am inclined for the death sentence ban to be lifted until the settlement of the issue of replacing the death sentence with life imprisonment."

On 22 October 1993 deputies of the New Alliance for Democracy proposed the lifting of the moratorium on the carrying out of death penalties to the Bulgarian National Assembly. The proposal will be voted on during the Assembly's current session.

USA – VIRGINIA USES ELECTRIC CHAIR FOR PERHAPS THE LAST TIME

The State of Virginia used its electric chair for the 259th, and possibly the last, time on the 3rd March 1994 when Johnny Watkins Jr. was executed at the Greensville Correctional Centre.

During the last 86 years Virginia has used the chair to execute 259 people. However, from 1st July 1994 prisoners who are to be executed will be offered the choice between electrocution and lethal injection.

Most of those condemned to death in those states where this choice is offered opt for the latter. This procedure entails receiving a sleep-inducing drug before the lethal fluids are administered.

LEBANON INTRODUCES THE DEATH PENALTY FOR POLITICALLY MOTIVATED MURDER

On 10 March 1994 the Lebanese Parliament introduced the death penalty for politically motivated murder. The incident which instigated the introduction of this proposal was the bombing of a Maronite church in February which resulted in the death of 10 people. Other incidents during the last twelve months have included an attempt

to blow up a bus carrying Orthodox priests, the bombing of the Falange Party Headquarters and an attempt to blow up the French Cultural Centre.

The Parliament also voted to make the death penalty mandatory in criminal cases of wilful murder. No judicial execution has been carried out in Lebanon for ten years, the last one being in 1983. Lebanese judges have consistently used extenuating circumstances specified under the law to avoid imposing capital punishment. One person, sentenced to death in April 1993, is currently appealing against his death sentence.

INTERNATIONAL TREATIES ON THE DEATH PENALTY

SIGNATURES AND RATIFICATIONS AS OF 21 FEBRUARY 1994

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, Honduras, Italy, Nicaragua	Australia, Denmark**, Ecuador, Finland, Germany, Iceland, Luxembourg, Netherlands, New Zealand, Norway, Panama, Portugal, Romania, Slovenia***, Spain, Sweden, Uruguay, Venezuela
Sixth Protocol to the European Convention on Human Rights	Belgium, Greece, Estonia*, Slovenia*	Austria, Czech Republic, Denmark, Finland, France, Germany, Hungary, Iceland, Italy, Liechtenstein, Luxembourg, Malta, Netherlands, Norway, Portugal, San Marino, Slovakia, Spain, Sweden, Switzerland
Protocol to the American Convention on Human Rights, to Abolish the Death Penalty	Costa Rica, Ecuador, Nicaragua, Uruguay, Venezuela	Panama

* Estonia and Slovenia signed 14 May 1993

** Denmark ratified 24 February 1994

*** Slovenia acceded 13 September 1993

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This is an index, by country or organization, of articles which appeared in the Death Penalty News during 1993

COUNTRY	DATE	SUBJECT
Egypt	06/93	Death penalty for politically motivated crimes
France	12/93	Motion signed by 137 deputies calling for debate on return of death penalty for some crimes
The Gambia	06/93	Death penalty abolished for all crimes
Greece	12/93	Death penalty abolished for all crimes
Guinea-Bissau	02/93	Death penalty abolished for all crimes
Hong Kong	06/93	Death penalty abolished for all crimes
Iran	02/93	Political executions continue
Italy	06/93 12/93	Moves towards total abolition Abolition of death penalty from the Military Penal Code in time of war approved by Chamber of Deputies (lower House of Parliament)
Jamaica	02/93 12/93	Moves to resume hangings Privy Council decision re cruel and inhuman punishment
Peru	12/93	Public referendum approving extension of scope of death penalty in draft new
Philippines	12/93	Reinstatement of death penalty
Saudi Arabia	06/93	Upsurge in public executions
Singapore	12/93	Scope of death penalty extended
South Africa	12/93	Interim Constitution Bill and moratorium
South Korea	02/93	Nine prisoners executed
Swaziland	12/93	All death sentences commuted to life to mark King's 25th birthday and 25 yrs of independence
Taiwan	06/93	Model prisoner executed
Trinidad and Tobago	02/93 12/93	Move to resume hangings Death Row stays longer than 5 years commuted to life imprisonment
Turkey	12/93	Death sentence approved - 1st for 9 years
Uganda	06/93	9 prisoners executed
USA	02/93 06/93	Supreme Court rules against late claims of innocence Recent developments
Zimbabwe	12/93	Constitution amendment passed to preclude death sentences being commuted on grounds of inhuman or degrading punishment

Book reviews	12/93	Ajai No Sikei (Capital punishment in Asia) Prof. Tsujimoto and daughter The abolition of the death penalty in International Law – Prof. Schabas
International League for the Abolition of the Death Penalty	02/93	Launch of the International League for the Abolition of the Death Penalty
International Treaties	06/93 06/93	Austria ratifies Second Optional Protocol Ecuador ratifies Second Optional Protocol
Poetry	12/93	Poetry from Texas death row