

# @DEATH PENALTY NEWS

1991

AMNESTY INTERNATIONAL

FEBRUARY

Easton Street

File Index: ACT 55/01/91

Distribution: SC/DP/PO/CO/GR

London WC1X 8DJ

United Kingdom

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

## 1990 A RECORD-BREAKING YEAR FOR ABOLITION

More countries abolished the death penalty in 1990 than ever before. Seven countries abolished the penalty for all crimes, while in an eighth country, Nepal, the death penalty was abolished for ordinary crimes.

**NAMIBIA, SÃO TOMÉ and PRÍNCIPE, and MOZAMBIQUE** approved new constitutions in 1990 which either abolished the death penalty or made no provision for it.

In **HUNGARY** the Constitutional Court abolished the death penalty by ruling that its provision under the penal code violated new provisions of the country's constitution (see box below).

**ANDORRA** adopted its first written penal code making no provision for the death penalty, while the **CZECH and SLOVAK FEDERATIVE REPUBLIC** amended its penal code abolishing the death penalty. In **IRELAND** the parliament voted to abolish the death penalty for the three crimes for which it was still retained.

At the year end 44 countries had abolished the death penalty for all offences, while 17 had done so for all but exceptional crimes such as wartime crimes. Twenty-five countries were abolitionist de facto: they retain the death penalty in law but have not carried out any executions for the past ten years or more. Ninety-two countries retain and use the death penalty.

Other positive moves in 1990 included the rejection in the **UNITED KINGDOM** House of Commons on 17 December of a move to reintroduce the death penalty for murder by 367 votes to 182 - a margin of 165, larger than in 1988 when the issue was last voted upon. A counter-motion to abolish the death penalty for treason was defeated by a margin of only 32 votes, opening new prospects for eventual total abolition in the country. In **TURKEY** the Grand National Assembly (parliament) on 29 November ratified amendments to the penal code which reduce by 16 the offences punishable by death. The mandatory death penalty is retained for 13 offences including murder.

## **ABOLITION IN HUNGARY - CONSTITUTIONAL COURT RULING**

*AI has obtained the text of the Hungarian Constitutional Court ruling of 24 October 1990 which abolishes the death penalty under the penal code (see Death Penalty News, November 1990). The court found that the death penalty violates the "inherent right to life and human dignity" as provided under Article 54 of the country's constitution together with a new provision under Article 8 of the constitution that "while regulations concerning basic rights and responsibilities in the Hungarian Republic are defined by law, the fundamental content of that right cannot be restricted."*

*Extracts from the ruling follow:*

*"... the death penalty in the penal code and other legislation contradict the meaning of 'the right to life and human dignity' by restricting such rights. But the provisions which allow the death penalty to be applied do not merely restrict the fundamental content of the basic right but cause the irremediable obliteration of life and human dignity. Consequently the court ruled these provisions unconstitutional and abolished them."*

*"Human life and dignity form an inseparable entity and it is the greatest of all assets. The right to life and human dignity is similarly an inseparable and unrestrictable right which is the very basis of numerous other basic rights. The right to life and human dignity is a right to an absolute value which imposes restrictions on the criminal jurisdiction of the state."*

# JAPAN: FORUM DISCUSSES ABOLITION

An "Anti-Death Penalty Forum 90" held in Tokyo on 1 December 1990 attracted 1,300 participants making it the largest event ever held in Japan on the death penalty issue. The forum marked the first anniversary of the adoption by the United Nations of the Second Optional Protocol to the International Covenant on Civil and Political Rights on the abolition of the death penalty.

The program included a lecture by Dr Shigemitsu

Dando (a former Supreme Court judge); speeches by members of most of the major political parties; musical and theatrical items; and messages from abroad.

AI's Japanese Section, the Conference to Stop the Executions, the Japanese Council on Crime and Delinquency and Lawyers Against the Death Penalty worked together to organize the event which was supported by 109 members of the Diet (legislature).

Dr Shigemitsu Dando (former Supreme Court judge)

## MESSAGES TO THE ANTI-DEATH PENALTY FORUM 90: ABOLISH THE DEATH PENALTY!

**PETER GABRIEL, British pop star:**

**"THE DEATH PENALTY MUST GO.**

*Killing solves nothing. It does not work as a deterrent. There has never been any real evidence to suggest that it has.*

*The death penalty has never existed in any society without wrongful execution of innocent people.*

*The death penalty is demanded by politicians who buy votes with fear.*

*The death penalty discriminates against racial minorities and those without power and money. If you are a black man convicted of murdering a white man, you are four times as likely to receive the death penalty as a white man convicted of murdering a black.*

*The death penalty creates voyeuristic media events that excite the sadistic elements in our nature. It breeds violence.*

*The death penalty is a lie.*

*The death penalty has no place in a civilized world.*

**THE DEATH PENALTY MUST GO."**

**ADOLFO PEREZ ESQUIVEL,  
1980 Nobel Peace Prize winner:**

*"I heartily support your Forum 90 initiative to urge Japanese abolition of the death penalty. As human beings, we must join together the world over, across differences in language, culture, race or religion to promote and defend human life and dignity wherever and however they are threatened.*

*The death penalty is such a threat: far from helping to 'safeguard' society by 'removing criminal elements from its midst', it serves to instill in society disregard for the value of all human life, legitimizing a supposed right of some to determine the fate of others.*

*For this reason the international community has spoken out forcefully against capital punishment, most recently through the United Nations approval one year ago of the Second Optional Protocol to the International Covenant on Civil and Political Rights.*

*I welcome this opportunity to join my voice to your urge for Japanese ratification of this protocol.*

*Day by day, step by step, the forces of life will overcome the forces of death."*

## EXPANSION OF THE DEATH PENALTY

**PAKISTAN:** On 10 December 1990, President Ghulam Ishaq Khan issued an ordinance to extend the death penalty to kidnapping for ransom. A life sentence was previously the maximum sentence. Kidnapping is a common crime in parts of Pakistan.

**MALDIVES:** The parliament passed a law in December 1990 providing for the death penalty as an optional punishment for crimes associated with terrorism. President Maumoon Abdul Gayoom told the legislature that the anti-terrorism laws were necessary following a series of arson attacks on shops and vehicles. The new law covers kidnapping, hostage-taking, hijacking, possession of firearms, arson and threatening the public. It is not yet clear exactly which of these crimes can carry the death penalty. The death penalty had previously been provided for murder and treason, but there have been no executions reported since 1952.

## THE DEATH PENALTY IN PRACTICE

**SOUTH AFRICA:** Alpheus Sekoboane, convicted of murder in February 1987, was executed on 15 November 1990 in Bophuthatswana, one of South Africa's nominally independent "homelands". It was the first execution anywhere in South Africa since November 1989.

According to the South African organization Lawyers for Human Rights, Alpheus Sekoboane had not filed a petition for clemency because he could not afford a lawyer. When the notice of execution was given lawyers for Human Rights immediately instructed lawyers to proceed with an application for a stay of execution. The court turned down the application on the grounds that President Lucas Mangope had already decided not to grant clemency.

**IRAN:** Following the launch of a new initiative to combat drug-trafficking at the beginning of September 1990, two groups of prisoners convicted of drug-trafficking were publicly hanged. The groups, comprising 44 and 48 people respectively, were executed within two weeks of each other in the city of Mashhad.

At the end of August 1990 Hojatolislam Moqtadai, President of the Supreme Court, had announced that a special system was being set up so that courts could deal with drug-trafficking cases more quickly; he said that the aim was to ensure that convicted traffickers would be hanged within 15 days of arrest.

All recorded over 700 executions of people convicted of criminal offences during 1990.

More than 400 of the executions were ostensibly for drug-related offences.

**IRAQ:** According to an Arab diplomat, eight of Iraq's top generals were executed in November 1990 for allegedly plotting against President Saddam Hussein. Those executed included Lieutenant General Nizar Khazraji, who was dismissed as chief of staff early in November 1990.

**TUNISIA:** Nacer Damergi was executed in Tunis on 17 November 1990. He had been convicted of rape and murder. This was the first execution carried out since President Zine El Abidine Ben Ali came to power in November 1987.

## NEW LITERATURE

**1990 SURVEY OF STATE LEGISLATION**, available from the National Coalition to Abolish the Death Penalty, 1525 G St NW 11-11, Washington DC 20005, USA

This survey summarizes bills on the death penalty introduced in state legislatures in the USA during the first half of 1990. It gives details of the progress of the relevant bills state by state. Over 180 bills were filed in 44 states on a variety of issues, including changes in the appeals procedures, compensation for prisoners wrongly convicted of capital crimes, changes in the method of execution, life imprisonment without parole as an alternative to the death penalty, additional mitigating factors to be considered in sentencing, and provisions for legal representation. Only 26 of the bills had been adopted as of mid-1990.

Bills to introduce the death penalty were filed in 12 states - Alaska, Hawaii, Iowa, Kansas, Massachusetts, Michigan, Minnesota, New York, Rhode Island, Vermont, Wisconsin and West Virginia. The only one to be passed by the legislature was in New York; it was later vetoed by the Governor. The veto was not overridden.

Five states adopted laws expanding the scope of the death penalty to include drug-related murders. Two states - Kentucky and Tennessee - passed bills to prohibit the execution of the mentally retarded.

## NEWS BRIEFS

## CONSTITUTIONAL REFORMS: ALBANIA AND LAOS

AI has made submissions to the authorities in Albania and Laos urging that the death penalty be abolished under new constitutions now being drafted.

In Laos a draft constitution published in June 1990 failed to recognize fundamental human rights; AI has made a series of recommendations, including abolition of the death penalty.

In Albania AI sent its recommendations to the members of a constitutional commission established by the People's Assembly in November 1990. However, a draft constitution published at the end of December 1990 did not propose the abolition of the death penalty, although it recognized many fundamental rights, including religious freedom, which had been banned since 1967.

## TRINIDAD AND TOBAGO: THREAT OF RESUMPTION OF EXECUTIONS

The commission of inquiry into the death penalty, appointed by the government in 1989 (see Death Penalty News, May 1989), has submitted its report to the President. The commission recommends that the death penalty should be retained for the equivalent of first degree murder, that prisoners sentenced to death over ten years ago should have their sentences commuted to life imprisonment and that prisoners who have exhausted their appeals should be executed immediately.

Ninety-seven prisoners are currently under sentence of death in Trinidad and Tobago. The last execution was in 1979.

## TAIWAN: RETRIAL ORDERED FOR MAN SENTENCED TO DEATH

On 16 November 1990, the Supreme Court in Taiwan overturned the conviction of Chiou Ming-wang, who had been sentenced to death for a murder committed in 1983. Citing a lack of substantial evidence, the court ordered a retrial.

## INTERNATIONAL TREATIES ON THE DEATH PENALTY SIGNATURES AND RATIFICATIONS AS OF 31 DECEMBER 1990

INTERNATIONAL TREATY	COUNTRIES SIGNED BUT NOT YET RATIFIED	COUNTRIES RATIFIED
Second Optional Protocol to the International Covenant on Civil and Political Rights	Belgium, Costa Rica, Denmark, Federal Republic of Germany, Finland, Honduras, Italy, Luxembourg, Netherlands, Nicaragua, Norway, Romania, Spain, Uruguay, Venezuela (total: 15)	Australia, New Zealand, Portugal, Sweden (total: 4)
Sixth Protocol to the European Convention on Human Rights	Belgium, Greece, Hungary (total: 3)	Austria, Denmark, Finland, France, Federal Republic of Germany, Iceland, Italy, Liechtenstein*, Luxembourg, Netherlands, Norway, Portugal, San Marino, Spain, Sweden, Switzerland (total: 16)
Protocol to the American Convention on Human Rights to Abolish the Death Penalty	Ecuador, Nicaragua, Panama*, Uruguay, Venezuela (total: 5)	

\* Ratification by Liechtenstein on 15.11.90 and signature by Panama on 26.11.90 (after the November 1990 issue of the Death Penalty News)

**DEATH PENALTY NEWS** - In 1991 the Death Penalty News will be published on a bimonthly basis. We would be grateful for any readers' comments on its content and format.

## DEATH PENALTY NEWS - INDEX FOR 1990

This is an index, by country or organization, of articles which appeared in the Death Penalty News during 1990.

COUNTRY	DATE	SUBJECT
Albania	10/90	Reduction of crimes punishable by death
Argentina	11/90	Proposal for reintroduction of death penalty withdrawn
Barbados	01/90	Minimum age for imposition of the death penalty raised
Bermuda	11/90	Results of referendum on the death penalty
Bulgaria	10/90	Moratorium on executions
Cameroon	01/90	Death penalty introduced for importing toxic waste
Canada	09/90	Canadian facing extradition to USA for murder charge
China	10/90	All news release: more than 500 executed so far in 1990
Czech & Slovak Republic	09/90	Abolition of the death penalty
Hungary	11/90	Death penalty declared unconstitutional
Indonesia	03/90	Four executed after more than 20 years in custody
Iraq	11/90	Executions in Iraqi-occupied Kuwait
Ireland	01/90 09/90	Preparation of legislation for abolition Abolition of the death penalty
Japan	11/90	Prisoner acquitted after 15 years on death row
Mozambique	10/90 11/90	Preparation of constitution abolishing death penalty Abolition of the death penalty
Namibia	03/90	Abolition of death penalty
Nepal	10/90	Abolition of death penalty for ordinary crimes
Philippines	03/90	Possible re-introduction of the death penalty postponed
Poland	01/90	Adoption of law on amnesty
Romania	01/90	Abolition of the death penalty
St Vincent and the Grenadines	09/90	Legislation passed to allow imposition of the death penalty on 16 year olds
Sao Tome and Principe	10/90	Abolition of death penalty
Singapore	01/90	Scope of the death penalty extended
South Africa	03/90	Moratorium on executions
South Korea	09/90	Release in amnesty of woman under sentence of death
Sudan	03/90	Executions for breach of currency regulations
Switzerland	11/90	Parliament votes for revision of penal code to eliminate death penalty
Taiwan	11/90	TV debate on death penalty
Turkey	11/90	Threat of resumption of executions
United Arab Emirates	03/90	Payment of fine saves man from death penalty
United Kingdom	03/90	Gallows ready but no hangman available
USA	03/90	Man freed after nearly nine years on death row

	09/90 11/90	Execution of Jesse Tafero Nearly 2,400 on death row
Book reviews	01/90 03/90	A punishment in search of a crime - I Gray/M Stanley Death and discrimination: racial disparities in capital sentencing - S Gross/R Mauro
Organization of American States	10/90	Protocol to American Convention on Human Rights to Abolish the Death Penalty
United Nations	11/90	Recent discussions on the death penalty
World Council of Churches	10/90	Statement opposing the death penalty