

DEATH PENALTY NEWS

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

SWITZERLAND: TOTAL ABOLITION OF THE DEATH PENALTY APPROVED BY PARLIAMENT

A proposed amendment to the Swiss Military Penal Code, abolishing the death penalty in time of war, has been approved by the Council of States, the second chamber of the Swiss parliament. The decision was taken on 2 March 1992 by a vote of 31 to 8. The National Council, Switzerland's other chamber of parliament, had approved the amendment in October 1991 (see Death Penalty News, December 1991).

Under the Military Penal Code of June 1927, the death penalty had been applicable in time of war or imminent threat of war for a wide range of offences. It was mandatory for "desertion to the enemy" but optional for all other offences.

Under Swiss law, legal amendments do not come into force until three months after their official publication. During that time they are subject to an optional referendum which can only be held if 50,000 signatures are collected requesting one. After the three month period the Federal Council sets a date for the amendment to come into force.

EUROPEAN PARLIAMENT CALLS FOR ACTION AGAINST DEATH PENALTY

The European Parliament has called for action against the death penalty in member states of the European Community (EC) and throughout the world.

In a resolution adopted on 12 March 1992 by 109 votes to 50 with 2 abstentions, the parliamentary body of the 12-member EC said that "no state, and in particular no democratic state, may dispose of the lives of its citizens or other persons on its territory by having its law impose the death penalty".

The resolution calls on EC member states to abolish the death penalty if they have not already done so, and to ratify the Sixth Protocol to the European Convention on Human Rights and the Second Optional Protocol to the International Covenant on Civil and Political Rights - two international treaties providing for the abolition of the death penalty in peacetime.

Other countries in the 26-member Council of Europe are also encouraged to abolish the death penalty, as are countries belonging to the (then) 48-member Conference on Security and Cooperation in Europe (the USA and the Commonwealth of Independent States are mentioned by name).

The European Commission, the European Council and EC member states are requested "to exert all possible political and diplomatic pressure in all quarters until the death penalty is entirely abolished in all countries in which it still exists" and "to conduct their foreign policy, especially the sector of economic cooperation agreements, in such a way as to ensure that human rights are fully respected and, in particular, that the abolition of the death penalty becomes a factor of crucial importance". They are asked also to work in the United Nations for a binding moratorium on the death penalty and to publicize the European Parliament's position on the death penalty "so as to make the public more aware of the fact that the death penalty is both ineffective and unacceptable". The resolution also asks EC member states to refuse to extradite prisoners to retentionist countries without seeking assurances that the death penalty will not be imposed.

The resolution was adopted on the basis of a 28-page report by Italian Member of the European Parliament Maria F. Aglietta. The report examines the death penalty from the point of view of international conventions and resolutions, and considers the human rights dimension, looking at the right to life argument and the cruel, inhuman and degrading aspects of the punishment. It outlines the arguments for and against the death penalty.

In 1986 the European Parliament adopted a resolution which declared that "the death penalty is a cruel and inhuman form of punishment and a violation of the right to life, even where strict legal procedures are applied". The new resolution goes considerably beyond the 1986 one by adding steps to be taken to secure worldwide abolition.

GEORGIA: RESTORATION OF 1921 CONSTITUTION MEANS ABOLITION OF DEATH PENALTY

On 21 February 1992 the Military Council then in power in Georgia annulled the existing constitution and restored the 1921 constitution of the briefly independent Georgian Democratic Republic, Article 19 of which enshrines the abolition of the death penalty. It is presumed that there will be a stay on death sentences and executions pending formal abolition in law following forthcoming parliamentary elections, and that the nine people under sentence of death when the 1921 constitution was restored will have their sentences commuted.

At the end of March F received detailed death penalty statistics from the Minister of Justice, broken down by offence and covering the years 1980 to 1991. According to this information 140 people were sentenced to death and 64 executed during that period. All sentences and executions since 1989 were for premeditated murder under aggravating circumstances.

LITHUANIA: SCOPE OF DEATH PENALTY REDUCED

On 5 December 1991 Lithuania's Supreme Council adopted an amendment to the Criminal Code which provides that only premeditated murder under aggravating circumstances carries a possible death sentence. Persons aged under 18 at the time the crime was committed, as well as women pregnant at the time of the crime, are exempted from the death penalty. Persons who develop limited responsibility after sentencing, as well as women who become pregnant or give birth after sentencing, may not be executed.

Before the amendment of the Criminal Code, 13 crimes carried the death penalty, including treason, sabotage, banditry and large-scale theft from the state.

In January 1992 the Ministry of Justice reported that three people had been sentenced to death in Lithuania since March 1990. All three people were convicted of murder, and all had their sentences commuted.

CANADA: GUARANTEE SECURED IN EXTRADITION CASE

In February 1992 Lee O'Bomsawin was extradited from Canada to the United States to stand trial in the state of Florida for a double murder. By exercising Article 6 of the Canadian-American extradition treaty, which allows the extraditing state to seek assurances that the death penalty will not be imposed, the Canadian Government secured a guarantee from Florida that the death penalty would not be sought.

In recent years, several other abolitionist countries have demanded similar guarantees before extraditing suspects to the US on murder charges. Canada, however, had previously declined to invoke Article 6 and had extradited two prisoners to the USA without seeking assurances that they would not be subjected to the death penalty (see Death Penalty News, December 1991).

Canada retains the death penalty for exceptional crimes only and has not executed anyone since 1962.

EXECUTIONS IN 1991 : SECOND HIGHEST FIGURE SINCE 1981

During 1991, 2,086 prisoners are known to have been executed in 52 countries and 2,705 sentenced to death in 62 countries. These figures include only cases known to AI; the true figures are certainly higher.

As in previous years, a handful of countries accounted for the majority of executions recorded. AI recorded 1,084 executions in China and 775 executions in Iran, but the true figures were believed to be higher. These two countries alone accounted for 89 per cent of all executions recorded.

The worldwide total was close to the 2,229 executions recorded in 1989. The 1991 total is the second highest annual figure recorded by AI since 1981.

MONGOLIA, ALBANIA, ARMENIA: DEATH PENALTY STATISTICS

AI's annual statistics for 1991 include, for the first time, figures from Mongolia and Albania.

According to figures released to AI by the Procurator General of Mongolia, a total of 10 people were executed in 1991. This is twice as many executions as in 1990, reversing a downward trend evident since the mid-1980s. (For previous figures see Death Penalty News, December 1991). Mongolia's new constitution, which entered into force in February 1992, retains the death penalty.

According to the first death penalty statistics AI has received from Albania, it is reported that in 1991 six death sentences were passed and four executions were carried out; all death sentences had been imposed for murder or other offences resulting in a death. One sentence was reportedly commuted to 25 years' imprisonment and a retrial of another case was ordered by the Supreme Court.

AI has also received death penalty statistics from the Armenian governmental representative in Moscow; according to this information no death sentences were passed in Armenia in 1991 but two executions took place. The two people who were executed were sentenced to death in 1989. Two other death sentences were reportedly passed in 1989; one was commuted by the Presidium of the Armenian Supreme Soviet on 5 March 1990, and the other was commuted by the President of the USSR on 12 February 1991. In 1990 three people were sentenced to death; they have each petitioned for clemency and their requests are still being considered. According to the governmental representative, Armenia retains the death penalty for a total of 32 crimes in peace and wartime.

IRAN: UNITED NATIONS REPORT CONDEMNS USE OF DEATH PENALTY

On 2 January 1992 the United Nations Commission on Human Rights released a report on the human rights situation in Iran, which condemned Iran for excessive use of the death penalty.

The report noted that during 1991 "the number of executions has increased week by week, with no sign of any reduction". Most of the reported executions were said to have been related to drug offences, and were carried out by public hanging. The report mentioned "particularly cruel methods of execution", including three alleged cases of stoning to death, as well as the case of a man reportedly pushed from a cliff top in July 1991.

AI records show that there were at least 775 executions in Iran in 1991.

INDIA: PRISONER EXECUTED AFTER HANGMAN FAINTS

On 10 February 1992 Raj Gopal Naggar, aged 45, was executed in the Central Jail in Jammu, India. He had escaped death on 23 October 1991 when the hangman fainted as he was about to carry out his first execution (see Death Penalty News, December 1991). Naggar had spent almost ten years in prison, five of which were under the sentence of death. Appeals and mercy petitions were rejected by the Supreme Court, the Jammu and Kashmir Governor and High Court, and the President of India.

CUBA: EXECUTIONS DESPITE INTERNATIONAL APPEALS

Since the beginning of 1992 Cuba has carried out three executions, despite widespread international appeals for clemency.

On 20 January 1992 Eduardo Díaz Betancourt, a Cuban exile found guilty of planning to carry out "terrorism and sabotage", was shot, just 25 days after his arrest. The execution of Eduardo Betancourt was carried out against a backdrop of widespread international appeals for clemency. The execution was condemned by the Vatican, the European Community and several governments.

On 19 February 1992 a further two men were executed. Both had been convicted of "piracy" and "murder".

In January several key political figures in Cuba repeatedly stressed the need for tougher punishment, which could include the death penalty, for "counter-revolutionaries" - a term used by the Cuban authorities to describe both violent and non-violent opponents. Cuban law provides for the death penalty for more than 15 crimes against the state, and I expressed fears that the penalty could be used against prisoners of conscience. I commented that while the death penalty is never acceptable, in Cuba it "is not even backed up by an adequate system of legal guarantees".

USA: DEVELOPMENTS IN 1991

In February 1992 I issued a report entitled United States of America: Death Penalty Developments in 1991. This document updates statistical and other information on the USA.

At the end of 1991 an unprecedented 2,547 prisoners were under sentence of death in 34 states. Fourteen prisoners were executed in 1991, bringing to 157 the total number of executions in the USA since states revised their death penalty statutes in the mid-1970s. All but one of the 1991 executions were carried out by southern states: five in Texas; two each in Florida and Virginia; and one each in Georgia, Louisiana, North Carolina and South Carolina. There was one execution in Missouri.

The report summarizes state and federal legislative developments over the year. In 1991 bills to prohibit the execution of mentally retarded defendants failed to pass in all but one of the 16 states which introduced them - New Mexico was the exception. Bills to prohibit the execution of offenders under 18 years old failed to pass in all six states in which they were introduced - at the end of the year, thirty-three juvenile offenders were under sentence of death. (One of these, Johnny Garrett, was executed in Texas in February 1992; see Death Penalty News, February 1992).

Several prisoners were granted clemency in 1991. For example, in February Virginia Governor Douglas Wilder commuted Joseph Giarratano's death sentence, three days before he was scheduled to be executed. Seven of the eight commutations granted by the outgoing governor of Ohio have now been overturned, and the inmates are again under sentence of death.

Since the report was published, I has released another external paper on the USA, The Death Penalty in California: The Case of Robert Harris. Robert Alton Harris risks becoming the first person to be executed in California since 1967, despite the fact that one-half of the Ninth Circuit Court of Appeals judges who voted on the case in December 1991 reportedly thought he should have been granted a full court review to determine whether he was deprived of effective psychiatric assistance at his original trial.

In the first three months of 1992 eleven prisoners have been executed in the USA, as against fourteen executions in the whole of 1991. In January the state of Wyoming carried out its first execution for 26 years, in March the state of Delaware carried out its first execution for 46 years, and in April the state of Arizona carried out its first execution for 29 years.