

DEATH PENALTY NEWS

March 2002

AMNESTY

INTERNATIONAL

AI Index: ACT 53/002/2002
Distribution: SC/DP/PO/CO/GR

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A QUARTERLY BULLETIN ON THE DEATH PENALTY AND MOVES TOWARDS WORLDWIDE ABOLITION

NEW ABOLITIONIST PROTOCOL

The Council of Europe has adopted a new protocol on the death penalty. It is the first legally-binding international treaty to abolish the death penalty in all circumstances with no exceptions.

Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms [European Convention on Human Rights, ECHR], concerning the abolition of the death penalty in all circumstances was adopted by the Council of Europe's Committee of Ministers on 21 February. It will be opened for signature on 3 May. AI is calling on all Council of Europe member states to sign the Protocol immediately and to ratify it as soon as possible thereafter.

Protocol No. 13 is the fourth international treaty on the abolition of the death penalty to have been elaborated. Protocol No. 6 to the ECHR, adopted in 1982, provides for abolition except in time of war or imminent threat of war. The Second Optional Protocol to the International Covenant on Civil and Political Rights and the Protocol to the American Convention on Human Rights to Abolish the Death Penalty provide for the total abolition of the death penalty but allow states to retain it in time of war if they make a reservation to that effect on ratifying the treaty.

The development of a totally abolitionist protocol was first proposed by Swedish member of parliament Hans Göran Franck in a report to the Council of Europe's Parliamentary Assembly in 1994. A draft of Protocol No. 13 which implemented this proposal was agreed by the Committee of Experts for the Development of Human Rights in Strasbourg in October and by the Steering Committee on Human Rights in Strasbourg in November (see **DP News** December 2001).

Protocol No. 13 will enter into force three months after 10 states have agreed to be bound by it. Any state party to the ECHR may become a party to the Protocol.

The adoption of Protocol No. 13 marks another step in the Council of Europe's effort to make Europe a death penalty-free zone. The text of Protocol No. 13 and of the Explanatory Report can be found on the Council of Europe website www.coe.fr

INTERNATIONAL TREATIES

The **Second Optional Protocol to the International Covenant on Civil and Political Rights** has been ratified by 46 countries and signed by 7; the **Protocol to**

the American Convention on Human Rights has been ratified by 8 countries and signed by 1; **Protocol No. 6 to the European Convention on Human Rights** has been ratified by 39 countries and signed by 3. **Protocol No. 13 to the European Convention on Human Rights** will open for signature on 3 May 2002.

THE DEATH PENALTY FOR SEXUAL RELATIONS: ACQUITTAL IN NIGERIA, EXECUTIONS IN SAUDI ARABIA

Safiya Yakubu Hussaini, a divorced mother of five children, was acquitted on 25 March by the State Sharia Court of Appeal in Sokoto State, **Nigeria** of the charge of adultery. She had been sentenced to death by stoning in October 2001 (see **DP News** September 2001).

The case caused an international furore not least because of the gender-discriminatory character of the sentence, leaving the male partner of the alleged adultery to go free. There was also concern that the laws and sentencing procedures of the Sharia courts, which have been established for Muslims only in several northern states in the country, are different from those in the rest of Nigeria.

The Nigerian Minister of Justice, Kanu Agabi, wrote in a letter on 21 March addressed to the governors of the Muslim Nigerian states which introduced the new Sharia-based penal codes that they must not allow their courts to “undermine the fundamental law of the nation which is the constitution”. “A Muslim should not be subjected to a punishment more severe than would be imposed on other Nigerians for the same offence” he added, and any court which imposed discriminatory punishment was “deliberately flouting the constitution”.

Appeals against Safiya Yukubu Hussaini’s sentence came from around the world. Members of the World Women Parliamentarians organization from 130 countries meeting in Rabat, Morocco in March adopted a motion calling for an amnesty for Safiya Yukubu Hussaini and condemned the death penalty against her. The Secretary General of the Council of Europe called on

Nigerian President Olusegun Obasanjo to reprieve Safiya Yukubu Hussaini. In a press release on 8 March to mark International Women’s Day he added: “This is not an isolated case - every day, worldwide, women face harsh treatment and discrimination because of their sex.” He called on governments and religious authorities to do everything in their power “to change both laws and attitudes and put an end to such barbaric practices”.

Three days before Safiya Yakubu Hussaini was acquitted, another divorced woman, 30-year-old Amina Lawal Kurami, was sentenced by a Sharia court in Katsina State to death by stoning for having a baby out of wedlock. The man whom Amina Lawal Kurami named as the father of her child denied involvement and the charges against him were dropped. Amina Lawal Kurami has appealed against the sentence.

In Saudi Arabia, three men convicted by a criminal court of homosexual acts were publicly beheaded in Abha, Asir province, on 1 January. As is customary in Saudi Arabia, the trial proceedings were shrouded in secrecy.

It seems likely that ‘Ali bin Hittan bin Sa’id, Muhammad bin Suleyman bin Muhammad and Muhammad bin Khalil bin ‘Abdullah, all Saudi Arabian nationals, were executed primarily because of their sexual orientation. A statement issued by the official Saudi Press Agency claimed the men “committed acts of sodomy, married each

other, seduced young men and attacked those who rebuked them”.

These were not the first cases in the country of people being executed for alleged same-sex sexual relations. In July 2000 six men were executed on charges partly relating to their sexual orientation, also in Abha, a southwestern resort close to the Red Sea.

CARIBBEAN MANDATORY DEATH PENALTY RULED UNCONSTITUTIONAL

The Judicial Committee of the Privy Council (JCPC) in England, the highest court of appeal for most of the English-speaking Caribbean states, ruled on 22 February in three separate cases that the imposition of a mandatory death sentence, where the defendant has no opportunity to advance personal or offence-based mitigation, was unconstitutional. While the ruling does not forbid the death penalty, it allows for mitigating evidence to be given and taken into account prior to sentence. The Prime Minister of Jamaica, P.J. Patterson, led other political leaders of the region in criticising the ruling, stating that it was the latest example of the JCPC's determination to "unilaterally abolish capital punishment in the Caribbean and a further demonstration of their insensitivity to the nature of the problems faced in regional jurisdictions".

The JCPC ruling in the cases of *Hughes v The Queen* (St Lucia), *Reyes v The Queen* (Belize) and *Fox v The Queen* (St Kitts and Nevis) upheld an earlier ruling of the Eastern Caribbean Court of Appeal (see **DP News** March 2001) following an appeal against the decision of the lower court initiated by the government of St Lucia.

The ruling will affect the imposition of the death penalty in Antigua, Barbados, Belize, Dominica, Grenada, St Kitts and Nevis, St Lucia and St Vincent and the Grenadines. Existing death sentences will be reviewed and an entirely new sentencing procedure will be required in future.

Saudi Arabia has one of the highest rates of execution in the world in both absolute numbers and per capita. Over 200 people have been executed since 2000, some for non-violent offences. The majority of those executed have been foreign workers from countries in Asia, the Middle East and Africa.

TAIWAN REDUCES SCOPE OF MANDATORY DEATH PENALTY

On 8 January legislators in Taiwan abolished the mandatory death penalty for kidnapping, gang robbery and other crimes of violence. Death sentences may, however, still be handed down at the discretion of the court.

A statement issued by the Justice Ministry maintained that despite executing 176 people in the past 10 years, the ministry "had failed to deter crime even by imposing the severest criminal punishment". The Justice Ministry welcomed the reduction in mandatory death penalties as an important step which might lead to total abolition within the next three years.

KRYGYZSTAN TO EXTEND MORATORIUM

President Askar Akayev signed a decree on 11 January extending the moratorium on executions in the country until the end of 2002, according to a report by Kyrgyz radio. Press reports quoted the president as saying the death penalty would "gradually" be abolished by 2010.

In announcing the decree, Secretary of State Osmonakun Ibraimov reportedly said: "The death penalty...is especially dangerous because an innocent person could be subjected to this atrocity by the state. One would be simply carrying out atrocity after atrocity."

USA - GEORGIA COMMUTES DEATH SENTENCE OF MENTALLY ILL MAN

On 25 February the Georgia Board of Pardons and Paroles commuted the death sentence of Alexander Williams to life imprisonment without parole. The first death row inmate to be granted clemency by the Georgia Board

The case generated international pressure on the Board to grant clemency. Among those who called for the execution to be halted was the United Nations High Commissioner for Human Rights, two UN Special Rapporteurs, the Inter-American Commission on Human Rights, the European Union, and the Council of Europe. Inside the USA, appeals were made by the American Bar Association, the Children's Defence Fund and the National Alliance for the Mentally Ill.

In a statement issued on 25 February, the Chairman of the Board of Pardons and Paroles said: "...By making sure that Williams will remain in an 8-foot by 10-foot prison cell for the rest of his life with absolutely no hope for parole, we hope that the certainty of our decision will give Mrs. Bunch [the mother of the victim] the closure she so deserves."

Now there are concerns that the Board of Pardons and Paroles has commuted Alexander Williams's sentence to one which violates international law. Life imprisonment without the possibility of release for people who were under 18 at the time of the crime violates the Convention on the Rights of the Child which has been ratified by 191 countries. The USA, the only country apart from Somalia not to have ratified the Convention, has signed it.

NEWS IN BRIEF

Nigeria - The first execution under Sharia law in Nigeria was carried out on 3 January in the northern city of Kaduna, Kaduna State. Sani Yakubu Rodi, convicted of the murder of a mother and two of her children, was hanged in the central prison of Kaduna after judicial authorities changed the method of execution from public stabbing for fear of outrage at this method among non-Muslims in the region.

since 1994, Alexander Williams, who suffers from serious mental illness for which he has been forcibly medicated on death row, was facing execution for the 1986 murder of 16-year-old Aleta Carol Bunch committed when Williams himself was only 17.

USA - The second part of *A Broken System: Error Rates in Capital Cases 1973-1995*, a comprehensive study of the death penalty by legal experts at Columbia University in New York, was published in February. The study was commissioned in 1991 by the US Senate Committee on the Judiciary; the first section of the study was published in the spring of 2000. The study has found that the death penalty in the USA is "collapsing" under the weight of errors in the capital punishment system which the authors describe as "broken". Professor James Liebman, who led the study, has stated publicly that he thinks there is a "very high risk" that innocent people have been executed in the USA and that the "time is ripe to fix the death penalty. Or, if it can't be fixed, to end it."

USA - Federal - On 28 March, US Attorney General John Ashcroft announced that he was authorizing federal prosecutors to seek the death penalty against French national Zacarias Moussaoui who was arrested in August 2001 on charges that he conspired to commit the attacks on the USA of 11 September 2001. In his announcement Attorney General Ashcroft said: "Following my instructions, the United States attorneys have filed a notice of intent to seek a sentence of death. In the notice we have alleged numerous reasons, called aggravating factors, which we believe indicate why the death penalty is appropriate. Among these reasons is the impact of the crime on thousands of victims. To that end, we remain committed not only to carrying out justice in this case but also to ensuring that the rights of the victims are fully protected." Victims' rights have often been cited by US politicians as a justification for executions.

Federal - US Secretary of Defence Donald Rumsfeld has released the operating procedures for trials by military commissions of people accused of “international terrorism”.

The proposed commissions were provided for in a Military Order signed by President George W. Bush on 13 November 2001 (see **DP News** December 2001) and will have the power to hand down death sentences. The Pentagon’s procedures, announced on 21 March, state that

Arizona - In January the US Supreme Court agreed to hear the appeal of Timothy Ring to decide the constitutionality of having a judge rather than a jury decide sentencing in a death penalty case. *The Court will be looking at the issue in light of its decision handed down in a non-death penalty case in 2000*, in which it held that “any fact (other than prior conviction) that increases the maximum penalty for a crime must be...submitted to a jury and proven beyond a reasonable doubt”. In Arizona and eight other states it is judges who decide whether to impose the death penalty after a jury has determined guilt. Several inmates in these states have had their executions stayed pending the Court’s decision on Timothy Ring’s appeal.

Florida - Krishna Maharaj, a citizen of the United Kingdom, was re-sentenced on 27 March to life imprisonment after spending almost 15 years on death row. Krishna Maharaj has consistently maintained his innocence. For more information about this case, see *USA: Worlds Apart: Violations of the rights of foreign nationals on death row - cases of Europeans*, AI Index: AMR 51/101/00, July 2000.

Georgia - Tracy Housel, a citizen of the United Kingdom, was executed on 12 March after being on death row for over 16 years. His lawyer had failed to investigate or present substantial available mitigating evidence including that of his client’s abusive childhood and mental health problems. Clemency was

death sentences can only be handed down by a unanimous decision of seven commission members who will be military officers appointed by the Secretary of Defence or his designee. There will be no right of appeal.

For **AI**’s response to trials by military commissions see *USA: Memorandum to the US Government on the rights of people in US custody in Afghanistan and Guantanamo Bay*, AI Index: AMR 51/053/2002.

refused despite appeals from the government of the United Kingdom as well as the European Union, the Council of Europe and the Inter-American Commission on Human Rights which called for a stay of execution.

Indiana - Governor Frank O’Bannon signed a bill into law on 26 March which prohibits imposing the death penalty on defendants who were under 18 at the time of the crime. Indiana is the 16th US state to prohibit the execution of child offenders.

Virginia - The US Supreme Court heard oral arguments in February in the case of Darryl Atkins, a prisoner with alleged mental retardation. The Court will rule later this year if the use of the death penalty against people with mental retardation violates the US Constitution. It last ruled on this issue in 1989 and there is optimism that this time the Court will rule against such executions.

Death Sentences and Executions in 2001

During 2001 at least **3,048** people were **executed in 31** countries. At least **5,265** people were **sentenced to death in 69** countries. These figures include only cases known to Amnesty International; the true figures were certainly higher.

The vast majority of executions worldwide were carried out in a tiny handful of countries. In 2001, 90 per cent of all known executions took place in China, Iran, Saudi Arabia and the USA. In China, limited and incomplete records available to Amnesty International at the end of the year

indicated that at least 2,468 people were executed, but the true figure was believed to be much higher. At least 139 executions were carried out in Iran. In Saudi Arabia, 79 executions were reported, but the total may have been much higher. Sixty-six people were executed in the USA.

**Death Penalty Statistics:
Abolitionist and Retentionist Countries
(March 2002)**

Abolitionist	for	all	crimes
74	Abolitionist for ordinary crimes		
only	15	Abolitionist in practice	
	22	Retentionist	
		84	

Please check AI's website on www.amnesty.org for the latest updated statistics on **ratifications** of international treaties on the death penalty, **facts and figures** on the death penalty, lists of **abolitionist and retentionist countries**, **death sentences and executions in 2001** and *The Death Penalty Worldwide: Developments in 2001*, AI Index ACT 50/001/2002.

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COUNTRY	DATE	SUBJECT
Afghanistan	March September	Two women convicted of prostitution executed Four men publicly hanged
Azerbaijan	September	President signs law forbidding extradition where death penalty is allowed
Bangladesh	March June	First execution since 1997 More on first executions in over three years
Canada	March	Two Canadian men to be extradited to USA to face trial
Caribbean	March	Eastern Caribbean Court of Appeal rules against mandatory death penalty
Chile	June	Abolition for ordinary crimes
China	June September December	China steps up executions China dramatically increases executions China accused of organ harvesting Political executions continue Death sentence for embezzlement
Congo (Dem Rep)	June	Child soldier transferred to prison block reserved for prisoners condemned to death
Guinea	March	First known executions in 17 years
India	June	Supreme Court dismisses petition to review death sentence on child offender
Indonesia	June	First known executions in six years
Iran	March June September December	Opposition to death penalty Child offender hanged More than 28 executions in August, some of them public Man hanging on gallows pardoned by victim's family
Iraq	December	Decrees issued providing death penalty for prostitution, homosexuality, incest and rape. Also, those convicted of providing accommodation for prostitution will be executed by the sword
Ireland	June September	Referendum on death penalty Conference held on International Law and the Abolition of the Death Penalty
Italy	March	Hands Off Cain launches Internet petition for a UN vote to ban executions worldwide
Korea (South)	December	Draft bill to abolish death penalty

Nigeria	September	Sharia courts pass death sentences by stoning
Pakistan	September December	Death sentence for blasphemy Juvenile death sentences commuted
Philippines	March	Commutations
Russian Federation	September December	President supports moratorium Moves to abolish death penalty
Singapore	June	Recent Internet poll on death penalty reveals unexpected result
Tajikistan	December	Conference on death penalty held
Turkey	September	Parliament passes constitutional amendment limiting use of death penalty
USA	March June September December	Massachusetts - House of Representatives votes not to reinstate the death penalty Florida - Spanish prisoner acquitted First US federal executions in 38 years Int'l Commission of Jurists rulings on USA Supreme Court Justice acknowledges serious questions being raised about use of death penalty in the US North Carolina - US Supreme Court dismisses mental retardation appeal as moot Virginia - US Supreme Court will consider mental retardation appeal Oklahoma - Court of Criminal Appeals grants indefinite stay of execution to Mexican citizen Texas - Child offender granted emergency stay of execution USA death penalty bar to extradition of criminal suspects Executions decrease for second year in a row New Mexico - First execution since 1960 Pennsylvania - Mumia Abu-Jamal's death sentence overturned Texas - Child offender executed
Zimbabwe	December	Three men hanged for murder
Council of Europe	June December	Calls for moratorium in Japan and USA New protocol drafted
World Congress against the Death Penalty	June	Appeal for a worldwide moratorium on the death penalty signed by 15 heads of parliament
United Nations	June	Commission on Human Rights adopts death penalty resolution
Vatican City State	March	New constitution published which does not mention death penalty