

# DEATH PENALTY NEWS

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

## PAKISTAN: NINETEEN EXECUTIONS SINCE APRIL 1992

Nineteen prisoners have been executed in Pakistan during 1992, the first year since 1988 in which executions are reported to have been carried out.

Southern Sindh became the first Pakistani province to reintroduce executions when, in April 1992, two prisoners were hanged for murder (see *Death Penalty News*, June 1992). During November 1992 a further 17 executions have taken place in Punjab province.

Eleven prisoners convicted of murder, including a 17-year old male, were hanged in various prisons in Punjab province on 15 November, the biggest mass execution ever in Pakistan according to local human rights workers. Six other convicted prisoners due to be executed were reportedly reprieved when relatives of the murder victims accepted compensation and, as permitted under Pakistan's Islamic law, granted a pardon.

A further six prisoners were hanged for murder in the Punjab provincial capital Lahore on 25 November 1992. The execution of a seventh prisoner, who was also due to be hanged on 25 November, was reportedly deferred for legal reasons.

There are reportedly around 150 people who were convicted of murder by special courts during the past year and a half and AI fears that they may soon be executed. AI believes that the procedures of the Special Courts for Speedy Trial, introduced in August 1991, and the Special Courts for the Suppression of Terrorist Activities do not conform to minimum standards for fair trial (see *Pakistan: Special Courts for Speedy Trial* (AI Index: AIS/33/23/91)).

## AI URGES PERU NOT TO EXTEND THE DEATH PENALTY

AI wrote in November 1992 to the President of Peru, Alberto Fujimori, to express deep concern over public statements he made the previous month concerning his government's intention to withdraw from obligations to abide by clauses on the death penalty enshrined in the American Convention on Human Rights. AI understood that such steps were to be taken in order that the Peruvian state may put into effect legislation which provides for the death penalty for acts of treason as defined in anti-terrorist Decree Law No. 25,659 [for tr: Decreto Ley No. 25,659].

In December, during a visit to Peru, AI delegates held talks with Ambassador José Urrutia, a Ministry of Foreign Affairs [for tr: Ministerio de Relaciones Exteriores] representative. The Ambassador assured the delegates that the government had eventually decided that they were not going to withdraw from the Convention, but he went on to indicate that the government would still be looking for a way of legislating for the death penalty through reforms to the Constitution to be proposed by the newly elected Democratic Constituent Congress [for tr: Congreso Constituyente Democrático]. This Congress is expected to initiate its work in January 1993.

Peru ratified the American Convention on Human Rights on 28 July 1978, including the clauses which state: "The death penalty will not be reestablished in states which have abolished it" (Article 4.3); "...Its application shall not be extended to crimes to which it does not presently apply" (Article 4.2); and "In no case shall capital punishment be inflicted for political offences or related common crimes" (Article 4.4).

The last execution in Peru took place in January 1979. Under a new constitution which was approved that year, and which came into force in July 1980, the death penalty was abolished for peacetime offences. Article 235 states, "There is no death penalty except for treason in times of external war". However, on 5 April 1992 President Fujimori suspended the legislature and announced the setting up of an executive-led Government of Emergency and National Reconstruction [for tr: Gobierno de Emergencia y Reconstrucción Nacional]. The Government immediately decreed that those clauses of the Constitution which stood in the way of reforms to be undertaken by the new Government were suspended. The clauses suspended by the Government have never been specified.

On 15 December 1989, Peru was one of the states which, by a majority vote at the UN General Assembly, favoured the adoption of a second optional protocol to the International Covenant on Civil and Political Rights for the abolition of the death penalty. Peru is also a member of the Organization of American States which, in its General Assembly of 4-9 June 1990, decided to adopt without a vote the protocol to the American Convention on Human Rights relating to the abolition of the death penalty.

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## **LIBYA: RESUMPTION OF EXECUTIONS**

The first officially announced executions in Libya for over five years were carried out in November 1992. According to reports, Libyan television announced on 10 November 1992 that six men had been sentenced to death and executed that morning after having been convicted of criminal offences including rape and murder. The next day, pictures were shown on television of the six men prior to their execution.

According to Libya's Code of Criminal Procedure (CCP), capital offences are tried by the criminal section of courts of appeal. The CCP provides for automatic review of death sentences by the Court of Cassation. All death sentences require ratification by the Secretariat of the General People's Congress, Libya's highest authority since 1977. Executions generally take place in prisons.

In March 1988 Colonel Mu'ammar al-Gaddafi called for the abolition of the death penalty in Libya and its replacement with other punishments. The Great Green Document on Human Rights in the Era of the Masses, adopted in June 1988, stated that the death penalty would be applied "only to he whose life constitutes a danger or corruption to society", and set abolition as an aim of Libyan society. Al deeply regrets recent executions in Libya and has expressed its concern in a message to Colonel Gaddafi.

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## **BANGLADESH: EXTENSION OF DEATH PENALTY**

Three prisoners are reported to have been executed in Bangladesh during 1992. Al is alarmed that these executions may signal a resumption of the active use of the death penalty in Bangladesh, as in 1991 no executions were reported to have taken place, and only one execution was reported in 1990. According to official sources there are at present 114 prisoners on death row in Bangladesh; 66 of these prisoners were sentenced to death between the beginning of 1991 and September 1992.

On 15 September 1992 President Biswas promulgated the Curbing of Terrorist Activities Ordinance 1992, which extends the death penalty to new offences. It lists nine offences under the heading of terrorism or anarchy and provides punishments from five years' imprisonment to the death penalty for any one of them, without relating specific offences to specific punishments. The offences listed include extorting money, obstructing and diverting traffic, damaging vehicles and property, snatching jewellery by force, and harassing and abducting women and children.

The ordinance also provides for the setting up of special tribunals whose procedures will in significant ways fall short of international standards for fair trial. For example, trials can take place in absentia; and the rigid time frame prescribed for trials will make it difficult for defendants to present a full defence. Parliament passed a bill to replace the ordinance, which is based on its provisions, by a majority on 1 November and it is now law for a two-year period.

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## **SWITZERLAND: TOTAL ABOLITION OF THE DEATH PENALTY COMES INTO FORCE**

An amendment to the Swiss Military Penal Code, abolishing the death penalty in time of war, came into force on 1 September 1992 (see Death Penalty News April 1992 for details of the amendment).

### **ANGOLA: MOVES TOWARDS COMPLETE ABOLITION OF THE DEATH PENALTY**

Angola's parliament, the National Assembly, approved a constitutional amendment providing for abolition of the death penalty for all offences on 26 August 1992. The amendment passed by a narrow margin; 89 votes in favour and 83 against.

It is believed that this amendment, as well as all other constitutional changes made during the August session will have to be approved by the new National Assembly, elected in late September 1992, before it comes into force. If the amendment does come into force, Angola will become the fifth African country to abolish the death penalty for all offences, the other countries being Cape Verde, Sao Tomé and Príncipe, Namibia and Mozambique.

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## **INTERNATIONAL TREATIES**

### **GERMANY RATIFIES THE SECOND OPTIONAL PROTOCOL**

The Federal Republic of Germany (FRG) ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty on 18 August 1992. Twelve countries have now ratified the protocol<sup>1</sup>.

### **THE CZECH AND SLOVAK REPUBLIC AND HUNGARY RATIFY THE SIXTH PROTOCOL**

On 18 March 1992 the Czech and Slovak Federal Republic ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Sixth Protocol which provides for abolition of the death penalty for peacetime offences. Hungary ratified the convention and the protocol on 5 November, bringing to 19 the total number of countries which have ratified the protocol.

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## **FORMER USSR: DEATH PENALTY STATISTICS**

**Azerbaijan:** All delegates who visited Azerbaijan in October 1992, were provided with recent statistics on the use of the death penalty by Chingiz Bashirov, Vice Chairman of the Azerbaijani Supreme Court. According to these the number of death sentences passed had fallen from 17 in 1986 to three in each of the years 1989 and 1990, but had risen to 18 in 1991. A further 18 death sentences had been passed in the first half of 1992. The Vice Chairman explained that this steep rise was in connection with an increase in the number of convictions for murder as a result of the conflict in the disputed region of Nagorno-Karabakh. All but two of the 76 sentences passed since 1986 had been for premeditated, aggravated murder. The exceptions were one sentence passed in 1986 for "infringing the life of a police officer" (Article 191-1) and one passed in 1992 for "sabotage" (Article 61). Thirty-four people were executed between 1986 and 1990, all convicted of premeditated murder, but no executions had been carried out since then.

According to unofficial sources 45 prisoners were being held on death row as of October 1992: seven ethnic Armenians, five ethnic Russians and 33 Azerbaijanis. One ethnic Armenian awaiting execution, Yuri Dzhangiryan, died in prison in June 1992.

President Abulfaz Elchibey of the Azerbaijani Republic has issued a statement expressing his personal opposition, on principle, to the death penalty. This was reported in a radio broadcast on 30 September 1992. President Boris Yeltsin of the Russian Federation had recently sent President Elchibey an appeal on behalf of a

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<sup>1</sup> The September edition of the Death Penalty News noted that Luxembourg's ratification of the Second Optional Protocol brought to 12 the total number of countries which had ratified the protocol. This total has not changed, as it formerly included the ratification of the German Democratic Republic (GDR), which the United Nations considered valid even though the GDR had become part of the FRG.

Russian soldier, Lieutenant Yevgeny Lukin, who was sentenced to death on 31 August 1991 for murder. President Elshibey responded with the following statement: "I am against the death penalty in principle, and the issue of Lt. Lukin's fate is now being examined".

**Belarus:** According to information AI received from the Minister of Justice in May 1992, 58 prisoners had been sentenced to death in Belarus since 1988: 12 persons in that year, five in 1989, 20 in 1990 and 21 in 1991. All sentences were for premeditated, aggravated murder. In the same period four sentences had been commuted - three in 1988 and one in 1990 - and 52 executions carried out. No figures were available for 1992. The Minister also said that the draft criminal code envisaged a reduction in the number of peacetime offences carrying a possible death sentence to eight. However, speaking to the United Nations Human Rights Committee in Geneva in July he said the proposed reduction was to four offences: premeditated, aggravated murder; aggravated rape; kidnapping of a child; and acts of terrorism with aggravated circumstances.

**Kazakhstan:** The following statistics were passed to AI by the Deputy Justice Minister of Kazakhstan in April 1992. Figures for the number of executions carried out in each year were not made available.

		<u>1987</u>	<u>1988</u>	<u>1989</u>	<u>1990</u>	<u>1991</u>
Total number of death sentences	57	26	45	37	67	
Commutations*	9	13	5	6	26	
Pardons*	0	4	2	2	0	

\* Figures as of April 1992

**Russian Federation:** At a press conference held in September 1992, a Ministry of Justice spokesperson revealed that 95 death sentences were passed in the first six months of 1992, all but one for premeditated, aggravated murder. The exception was one death sentence passed for "infringing the life of a militiaman".

**Tadzhikistan:** Statistics made available to AI by the Commonwealth of Independent States (CIS) Statistical Committee in December 1992 indicate that six death sentences were passed in 1990 in Tadzhikistan and six in 1991. One execution was carried out in 1990 and none in 1991.

## FORMER USSR: REDUCTION OF CAPITAL OFFENCES

**Armenia:** Armenia's parliamentary human rights committee reported that the death penalty had been abolished for all peacetime offences except aggravated murder and rape, according to an article in the Respublika Armenia newspaper in August 1992. AI believes that before this reduction, the Armenian Criminal Code retained a possible death penalty for 18 offences in peacetime.

Three people are currently under sentence of death in the Republic of Armenia. All were sentenced to death in 1990 by the Supreme Court of Armenia for premeditated, aggravated murder.

**Kyrgyzstan:** In October 1992 AI received notification by the Chairman of the State Committee for National Security, Anarbek Bakayev, that the Kyrgyzstan Supreme Soviet had recently abolished the death penalty for 12 articles of the criminal code. He did not specify which articles, nor the date of the Supreme Soviet's decision.

The Kyrgyzstan Criminal Code therefore apparently retains the death penalty for six peacetime offenses, reduced from 18 (the figure of 32 capital offenses given to AI by the Justice Minister in April - see Death Penalty News June 1992 - apparently referred to both peacetime and wartime offenses).

## GEORGIA: REINTRODUCTION OF THE DEATH PENALTY

Although Georgia abolished the death penalty for all offenses in February 1992 (see Death Penalty News, April 1992), the State Council reinstated this punishment for certain offenses in May. The death sentences and executions reported since then have been in the context of the recent armed conflict in Abkhazia, a region in the north-west of Georgia. According to press reports an ethnic Russian, Vitaly Gladkikh, was sentenced to death by a court martial in the Abkhazian capital of Sukhumi, currently in Georgian hands, on 10 November 1992 and was executed on 15 November. He is said to have been accused of conducting mercenaries from the Russian Republic to Abkhazia, in order to fight on the Abkhazian side. In another case the Georgian State Minister for Abkhazian Affairs was quoted on 18 November as saying that ethnic Georgian Gia Khachirashvili had been shot "recently" after being convicted of treason by a court martial in Sukhumi.

In addition, according to the Chairman of the Abkhazian Human Rights and Inter-ethnic Relations Committee, twelve people were executed for looting by units under the control of the Abkhazian military commandant in the city of Gagra at the beginning of October 1992.

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## THE DEATH PENALTY AND DRUGS

**Guatemala:** Guatemala adopted a new law to combat drug offenses on 25 September 1992, which introduced the death penalty for drug traffickers responsible for the deaths of others, either through drug consumption or acts of violence. This contravenes the American Convention on Human Rights, which Guatemala ratified in 1978, which states that the application of the death penalty shall not be extended to crimes to which it did not apply at the time of ratification of the convention.

**United Arab Emirates:** The Emirates News Agency reported on 29 September 1992 that the United Arab Emirates (UAE) was to introduce the death penalty for drug trafficking. On 27 October 1992 a Sharjah court sentenced three Pakistani nationals to death for smuggling drugs into the country. AI has appealed to the President to commute these death sentences.

**India:** An Indian government minister, Sitaram Kesri, proposed on 26 September 1992 that first-time drug traffickers be given the death penalty. At present the death penalty can only be applied in India for a second drug trafficking conviction; according to Kesri the proposed change to the 1989 law was sanctioned at a meeting of senior state officials held on 25 September. He said the proposal would be discussed by the cabinet and presented to parliament for approval, although it would not be considered within the next five months.

C Chakrabarty, director general of India's Narcotic Control Bureau, said some officials had serious doubts about the proposal. Chakrabarty questioned the success of the death penalty as a deterrent: "If you look at the graph for murders in India, it is going up and up, regardless of the capital punishment prescribed by law".

**Malaysia:** During 1992 at least 25 people in Malaysia were sentenced to death by the High Courts for drug trafficking. Since April 1985 the death penalty has been mandatory for drug-trafficking on conviction of possession of 15 grams of heroin or morphine, 200 grams of cannabis, or 1,000 grams of opium.

When in July 1992 an opposition MP, Karpal Singh, asked the Deputy Home Minister in parliament how many individuals were on death row for drug offenses, he was provided with a figure of 274.

AI issued several Urgent Actions during 1991 and 1992 on behalf of a group of prisoners in Malaysia who were sentenced to death in 1991 for drug offenses; the prisoners were allegedly ill-treated soon after being arrested, and were thought to be disadvantaged in their trials due to language difficulties as they are Philippine and Pakistan nationals. In addition, two of this group were under 18 at the time of their alleged offense but have not been awarded juvenile status in accordance with internationally accepted standards.

**Saudi Arabia:** Saudi Arabia has executed more than 40 people, of different nationalities, for drug smuggling in the past five years, a Saudi security official revealed at an anti-drug conference in October 1992. In 1987 the death penalty was extended to include those convicted of drug smuggling or receiving and distributing drugs from abroad.

**Iran:** Seventeen prisoners convicted of drug smuggling by Iranian revolutionary courts were executed in Tehran on 18 October 1992, according to a report released by the Jomhuri Eslami newspaper on 20 October.

According to an AI report IRAN: Executions of prisoners continue unabated (AI Index: MDE 13/18/92), the number of executions carried out in Iran for criminal offences, especially for drug trafficking offences, increased sharply from January 1989 onwards. In 1989 AI recorded over 1500 executions announced for criminal offences, more than 1000 of them for drug-trafficking offences. In 1990 at least 750 prisoners were executed, 441 of them for drug-related offences. In 1991 AI recorded at least 775 executions. The total figure in each year is expected to be considerably higher. According to Iranian press reports in 1991, the majority of death sentences were passed for drug-smuggling offences. AI is deeply concerned that the nationwide anti-drug campaign, launched in 1989, has led to increasingly arbitrary arrest and summary trial procedures rapidly followed by executions.

**People's Republic of China:** According to the official New China News Agency, 885 drug traffickers were given death sentences or suspended death sentences in China during the first nine months of 1992. The agency also reported that 277 prisoners convicted of drug trafficking were executed in Yunnan province alone between January and June 1992.

An AI report, PRC: Drugs and the Death Penalty in 1991 (AI Index: AS/A 17/07/92), examines the use of the death penalty for drugs offences in the context of a nationwide campaign in China, launched in June 1991, aimed at eliminating drug trafficking and drug use within two to three years. AI is concerned that anti-crime campaigns such as this may result in the application of the death penalty for offences which at other times would be dealt with more leniently. It is also concerned that the deadline fixed for the achievement of the goals of the anti-drug campaign is resulting in a dramatic weakening of legal and procedural safeguards against unfair trials in death penalty cases.

**Singapore:** Three prisoners, Tan Toon Hoek, Lim Joo Yin and Tan Chong Ngze, were executed in Singapore in 1992 for drug trafficking. A further two prisoners convicted of drug trafficking were sentenced to death by the High Court on 5 December 1992.

An amendment to the Misuse of Drugs Act in 1976 made the death penalty mandatory for possession of over 15 grams of heroin and 30 grams of morphine. The Act was later further amended to provide a mandatory death sentence for possession of 1.2 kg of opium, 30 grams of cocaine and 500 grams of cannabis.