

**EXTERNAL (for general distribution)**

**AI Index: AMR 51/47/94  
Distr: UA/SC**

**EXTRA 32/94**

**Death Penalty**

**27 June 1994**

**UNITED STATES OF AMERICA (USA) Imminent move to extend the Federal Death Penalty**

A major crime bill that would enlarge the scope of the federal death penalty to cover more than 60 crimes may soon become law in the United States. Amnesty International understands that a decision on the bill may be reached by 4 July 1994.

The bill was passed by the House of Representatives on 21 April 1994. A similar measure was passed by the Senate in November 1993. A joint committee of the House and Senate are presently considering both versions in order to agree on a final bill. This will then be presented to the full House and Senate for final approval before passing to President Clinton, who is expected to sign it into law.

**BACKGROUND INFORMATION**

At present the death penalty is authorized under federal law only for murder during aircraft hijacking and certain drug-related homicides. The crimes included in the bill range from the murder of federal officials to non-homicidal offences, including the attempted assassination of the President and large-scale drug trafficking. There have been no executions under federal law since 1963.

Amnesty International already has grave concerns about the increase in state executions in the USA, the evidence of race discrimination in the application of the death penalty in states, and the inadequate legal representation of many capital defendants. An amendment to the Federal Crime Bill which would allow state defendants to challenge their death sentences on grounds of racial discrimination was included in the House bill, but not in the Senate's version.

A further amendment to ensure adequate legal representation for capital defendants in both state and federal cases was dropped from both bills. The provision to allow the death penalty for non-homicidal offences appears to fall short of standards set by the United States Supreme Court in the 1970s, holding that sentence of death for non-homicidal kidnapping would be "*cruel and unusual*".

The expansion of the death penalty in the USA would be contrary to international human rights standards and treaties which encourage governments to restrict the use of the death penalty, with a view to its ultimate abolition. The USA ratified the International Covenant on Civil and Political Rights (ICCPR) in June 1992. The Human Rights Committee, which supervises the implementation of the ICCPR, in a general comment on Article 6 concerning the right to life, encourages state parties to restrict the use of the death penalty with a view to its ultimate abolition. Article 4 (2) of the American Convention on Human Rights (ACHR), signed by the USA in 1977, states: "*In countries that have not abolished the death penalty...its application shall not be extended to crimes to which it does not presently apply.*"

After over 20 years of constitutional analysis, retiring Supreme Court Justice Harry A Blackmun concluded in a Texas death penalty case in February 1994, that the death penalty in the USA is unconstitutional and "*remains fraught with arbitrariness, discrimination, caprice and mistake*". He further stated "*...I feel morally and intellectually obligated simply to concede that the*

*death penalty experiment has failed. It is virtually self-evident to me now that no combination of procedural rules or substantive regulations ever can save the inevitability of factual, legal and moral error gives us a system that we know must wrongly kill some defendants."*

Amnesty International opposes the death penalty as a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading treatment or punishment as proclaimed in the Universal Declaration of Human Rights.

**RECOMMENDED ACTION: Please send faxes if possible, or telegrams or express letters, in English, to both Chairmen and, if possible, one other Committee member, using some of the following:**

- expressing deep concern that the USA is considering extending the scope of the death penalty under the proposed Crime Bill, H.R. 3355;
- urging House and Senate Conferees not to pass such legislation;
- citing relevant international standards;
- stressing that the overwhelming conclusion from studies on the issue is that there is no reliable evidence that the death penalty deters crimes more effectively than other punishments;
- urging the USA to adopt more effective punishments which are more in keeping with the standards and values of a civilized society;
- expressing particular concern about moves to extend the death penalty to crimes to which it does not presently apply, which is contrary to the spirit of the ACHR, to which the USA is a party;
- expressing particular concern about the extension of the death penalty to non-homicidal offences;
- commenting that, in the USA, the use of the death penalty has been shown to be arbitrary, often falling disproportionately on minority and underprivileged groups;
- noting that execution is irrevocable, and despite the most stringent judicial safeguards, can be inflicted on the innocent;
- referring to US Supreme Court Justice Blackmun's recent statement opposing the death penalty;
- expressing concern that the expansion of the death penalty in the USA would be out of line with current worldwide trends towards the abolition of the death penalty.

**APPEALS TO:**

House Judiciary Committee  
House of Representatives  
Washington DC 20515, USA

**Telegrams: House Judiciary Committee, House of Representatives, Washington DC, USA**

**Faxes: Jack Brooks (Chairman) +1 225 1958**

William Hughes +1 225 3737

Don Edwards +1 225 3746

Mike Synar +1 225 2796

John Conyers +1 225 0072

Charles Schumer +1 225 3788

Carlos Moorhead +1 226 1279

Henry Hyde +1 226 1240

Bill McCollum +1 225 0999

F James Sensenbrenner +1 225 3190

Senate Judiciary Committee

United States Senate  
Washington DC 20510, USA

**Telegrams: Senate Judiciary Committee, US Senate, Washington DC, USA**

**Faxes: Joseph R Biden (Chairman) +1 202 224 9516**

Edward M Kennedy +1 202 224 2417

Howard M Metzenbaum +1 202 224 6519

Dennis DeConcini +1 202 224 4521

Patrick J Leahy +1 202 224 3595

Orrin G Hatch +1 202 224 6331

Strom Thurmond +1 202 224 1300

Alan K Simpson +1 202 224 1315

Charles E Grassley +1 202 224 6020

**COPIES TO:**

Newspaper:

The New York Times, 229 W43 St, New York, NY 10036, USA

**Faxes: +1 212 556 3690**

**and to diplomatic representatives of USA accredited to your country.**

**PLEASE SEND APPEALS IMMEDIATELY.**