

DEATH PENALTY NEWS

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AMNESTY INTERNATIONAL
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AI Index: ACT

A BULLETIN ON THE DEATH PENALTY AND MOVES TOWARDS WORLDWIDE ABOLITION

IRAN EXECUTES EIGHT JUVENILE OFFENDERS IN 2005

Iran has executed at least eight people in 2005 for crimes committed when they were children, including two who were still under 18 at the time of their execution.

On 19 July, 18-year-old Ayaz M., and a child, Mahmoud A, were publicly hanged in the northeastern city of Mashhad. According to reports, they were convicted of sexual assault on a 13-year-old boy and had been detained since May 2004.

An unnamed 17-year-old was among four men executed on 23 August in Bandar Abbas. They were convicted of kidnapping, rape, and theft.

On 13 July, Ali Safarpour Rajabi was hanged for killing a police officer in Poldokhtar. He had been sentenced to death in February 2002 when he was 17 years old for a crime committed when he may have been only 16 years old.

Farshid Farighi, aged 21, was hanged in prison in the city of Bandar Abbas. He was convicted of five

murders, reportedly carried out between the ages of 14 and 16.

On 12 September, a 22-year-old convicted of rape was publicly hanged in the southern province of Fars. He had reportedly been sentenced to death in 2000, suggesting that he was under the age of 18 when the crime was committed. (cont/on page 2)

USA: MORE THAN 1000 EXECUTIONS SINCE 1977

Since 1976, when the death penalty was reinstated by the US Supreme Court, more than 1,000 men and women have been judicially executed in the United States, an average of one execution every 10 days.

During the last six months, 30 people were executed in the states of Alabama, Arkansas, Delaware, Georgia, Indiana, Maryland, Missouri, North Carolina, Ohio, Oklahoma, South Carolina, and Texas which executed 10 people. The 1000th execution took place on 2 December in North Carolina.

In Texas, Francis Newton was executed on 14 September, despite doubts over the reliability of her

conviction. She was found guilty on the basis of circumstantial evidence, and always maintained that she was innocent. She was the first black woman to be executed in the USA since 1977.

There were five executions in December: In South Carolina, Shawn Humphries and in North Carolina, Kenneth Lee Boyd were executed on 2 December; in Maryland, Wesley E. Baker was executed on 6 December, in California Stanley Tookie Williams was executed on 13 December and in Mississippi, John Nixon was executed on 14 December.

(For more USA news see page 4.)

IRAN EXECUTIONS (cont/)

On 10 December Rostam Tajik was publicly executed in a park in the city of Esfahan, central Iran. He had reportedly been sentenced to *qisas* (retribution specified by the victim's family) by the General Court of Esfahan for a murder committed in May 2001 when he was 16 years old. The sentence had reportedly been upheld by the Supreme Court.

The Special Rapporteur on extrajudicial, summary or arbitrary executions of the United Nations Commission on Human Rights, Philip Alston, called on the Iranian authorities on 9 December not to proceed with the execution, stating "At a time when virtually every other country in the world has firmly and clearly renounced the execution of people for crimes they committed as children, the Iranian approach is particularly unacceptable ... It is all the more surprising because the obligation to refrain from such executions is not only clear and incontrovertible, but the Government of Iran has itself stated that it will cease this practice."

As a state party to the ICCPR and the Convention on the Rights of the Child (CRC),

Iran has undertaken not to execute anyone for an offence committed when they were under the age of 18. Iran has claimed to be considering legislation to prohibit this practice

but over the past two years the number of executed child offenders has, in fact, risen. Recent comments by a judiciary spokesman suggest that the new law would in any case only prohibit the death penalty for certain crimes.

AI recorded 83 executions in Iran in 2005 but the true number could well be higher

INTERNATIONAL EVENTS

The third annual ***World Day against the Death Penalty*** on 10 October was commemorated in 50 countries around the world from Austria to Zimbabwe.

The focus of the World Day this year was on Africa as a continent on the road to abolition. Despite the numerous human rights problems, recent developments show a growing trend towards abolition among African countries. Senegal abolished the death penalty for all crimes in December 2004 and Liberia in September 2005.

The event was organised by the World Coalition against the Death Penalty (WCADP), a coalition of 38 human rights organizations, bar associations, trade unions and local and regional authorities. AI and other groups organised events ranging from concerts and film screenings to televised debates and radio programs (see photographs on page 9). Thirteen of the continent's 53 states have permanently abolished the death penalty and another 20 countries no longer carry out executions, making a majority which no longer use the death penalty. A petition against the death penalty containing more than 38,000 signatures from around the world will be presented to the president

of the African Union and letters sent to heads of state in retentionist African countries in January 2006. (See photographs on last page)

Cities for Life: On 30 November, abolitionist groups participated in this annual global event organized by the Italian religious Community of Sant'Egido to "say no to the death penalty". Public monuments in 30 capital cities and 300 towns around the world were illuminated while Berkeley, Ottawa, Montevideo and Batumi in Georgia were among the cities taking part for the first time. For more information and photographs visit the website www.santegidio.org

LIBERIA ABOLISHES THE DEATH PENALTY

On 16 September, Gyude Bryant, Chairman of the National Transition Government of Liberia since former President Charles Taylor relinquished power in 2003, ratified the Second Optional Protocol to the ICCPR which provides for the total abolition of the death penalty. This followed the 18 other international human rights treaties the government had signed or ratified in September 2004.

The last judicial execution in Liberia took place in the 1980s.

SUDAN CONSTITUTION ALLOWS EXECUTION OF CHILDREN

The new interim Constitution, which was ratified on 9 July, failed to abolish the death penalty, particularly as it applies to those under the age of 18.

Article 36(2) states that "The death penalty shall not be imposed on a person under the age of 18 ... except in cases of retribution or *hudud*. This exception makes the safeguard against executing children meaningless as

hudud crimes cover a wide range of offences including drinking, robbery and murder. Article 36(2) is incompatible with Sudan's ratification of the Convention on the Rights of the Child that prohibits child executions.

Nagmeldin Abdallah, who was 15 years old at the time of his arrest for the murder of a trader in the town of Al-Damazin in the Blue Nile state of eastern Sudan in 2003, may now be executed at any time. Nagmeldin Abdallah's appeal against his sentence was rejected by the Blue Nile Appeal Court in June 2003 and the Supreme Court confirmed his death sentence in November 2005.

PRESIDENT OF INDIA CALLS FOR REFORM OF DEATH PENALTY

The President of India, A.P.J. Abdul Kalam used his prerogative under Article 72 of the Constitution to request the government, for the second time, to pardon around 50 prisoners who have been sentenced to death. His earlier recommendation for clemency in these cases had been returned by the Home Ministry stating the cases were not fit for a Presidential pardon.

In October, President Kalam publicly called for the death penalty to be discussed in Parliament and a comprehensive policy of reform to be drawn up. The newly-appointed Chief Justice of India, Justice Y.K. Sabarwal, also expressed his support for abolition of the death penalty, publicly telling reporters that as a citizen of the country, he was in favour of abolishing the death penalty and that as Chief Justice he would apply it only "in the rarest of rare cases".

The last execution took place in August 2004 when President Kalam dismissed the mercy petition from

Dhananjay Chatterjee who was executed despite having already served a long sentence (see **DP News** December 2004).

GUATEMALA INTER-AMERICAN COURT ISSUES TWO JUDGEMENTS

The Inter-American Court of Human Rights has issued two judgements in relation to the application of the death penalty in Guatemala. On 20 June, in the case of *Fermin Ramírez v. Guatemala*, the Court ordered Guatemala to correct grave judicial errors and reform article 132 of the Penal Code that regulates the crime of murder, stating it violates the principle of legality and the right to a fair trial, and ordered Guatemala to retry *Fermin Ramírez*. On 15 September, the Court issued its judgement in the case of *Ronald Ernesto Raxcaco Reyes v. Guatemala*. Ronald Ernesto Raxcaco Reyes was sentenced to death for kidnapping, in line with legislation that was modified to expand the scope of the death penalty after Guatemala had already ratified the American Convention on Human Rights which prohibits expansion of the application of the death penalty. The Court ordered Guatemala to suspend Ronald Ernesto Raxcaco Reyes' death sentence and to impose another sentence proportional to the nature and gravity of the crime. The Court also ordered Guatemala not to execute any person condemned to death for the crime of kidnapping under the current legislation.

On 3 May a draft law had been presented to Congress for the abolition of the death penalty. The Congressional Commission on Legislation and Constitutional Issues was given 45 working days to deliver their judgement on the draft law. Seven months later,

and despite international pressure, there has still been no judgement.

IRAQ: FIRST JUDICIAL EXECUTIONS SINCE SADDAM HUSSAIN ERA

Three members of an armed group were hanged on 1 September, the first prisoners to be judicially executed since the overthrow of Saddam Hussain.

Ahmad al-Jaf, 'Uday Dawud al-Dulaimi and Jasim 'Abbas were sentenced to death on 22 May by a criminal court in al-Kut, southeast of Baghdad, on charges of kidnapping, rape and murder.

The death penalty had been suspended by the Coalition Provisional Authority in June 2003 but, following the transfer of power in June 2004, was reinstated by the Iraqi interim government on 8 August. In October, the Iraqi National Assembly adopted a counter-terrorism law which extended the use of the death penalty to include terrorism-related offences. Jalal Talabani, who became President of Iraq after the elections in January, is opposed to capital punishment and has reportedly refused to sign any death sentences, though his two vice-presidents have the power to do so. At least 50 people have been sentenced to death in Iraq this year.

BARBADOS TO BRING FIRST DEATH PENALTY CASES TO NEW COURT

Barbados is to appeal a commutation of two death sentences by the Barbados Court of Appeal before the Caribbean Court of Justice (CCJ), according to statements made by Barbados Attorney-General Mia Mottley during a conference in Trinidad. The CCJ, which was inaugurated in Port of Spain, Trinidad in April, was established to

replace the Judicial Committee of the Privy Council (JCPC) in London which had previously served as the highest court of appeal in Barbados.

Lennox Ricardo Boyce and Jeffrey Joseph were sentenced to death for murder in 2002. In June, the Barbados Court of Appeal commuted their sentences to life imprisonment citing the 1993 JCPC ruling in *Pratt v. Morgan*, that it was unconstitutional to execute prisoners who had already spent five years in prison, in view of the length of time that Lennox Boyce and Jeffrey Joseph would wait for their cases to be heard by the Inter-American Commission of Human Rights.

The last execution in Barbados took place in 1984.

JAPAN'S NEW MINISTER OF JUSTICE "WILL NOT SIGN EXECUTION WARRANTS"

Minister of Justice Sugiura Seiken stated during his inaugural press conference on 31 October that he would not sign execution warrants. He stated that "From the standpoint of the theory of civilizations, I believe that the general trend from a long-term perspective will be to move toward abolition."

Shortly after, he retracted the above remarks stating that they represented his "feelings as an individual and (the comment) was not made in relation to the duties and responsibilities of a justice minister who must oversee the legal system".

Horie Morio was sentenced to death at the Supreme Court on 26 September 2005, despite reports that he suffers from a serious mental illness and does not understand the meaning of his sentence. This decision appears to contradict Japan's Criminal Procedure Code which stipulates that a trial should

be suspended if the defendant is not of "sound mind".

Horie Morio had been charged with murder and robbery of an elderly couple. In 1993, a court suspended his trial due to his illness and the trial was resumed in March 1998 (after a re-examination in 1997 which found him capable of standing for trial).

USA NEWS (cont/)

The case of Stanley Williams generated widespread interest and a heated debate about the death penalty in the USA. He had been one of the founders of the notorious "Crips" street gang in Los Angeles in the 1970s and was sentenced to death for killing four people in 1979. While on death row he repudiated his violent lifestyle and dedicated himself to warning young people about the dangers of gang life. Stanley Williams had been nominated for the past four years for a Nobel Peace Prize for his work and this year received an award from the President's Council on Service and Civic Participation. He maintained to the end that he was innocent of the murders for which he was executed.

John Nixon who was executed on 14 December, was convicted of a contract killing in 1986. He was 77 years old at the time of his execution, the oldest person to be executed in the USA since the resumption of capital punishment in 1977.

USA: Posthumous Pardon

Lena Baker, who was executed in Georgia in 1945 for the murder of her employer, was granted a formal pardon in August by the Georgia Board of Pardons and Paroles. The pardon cited that as she acted in self-defence, she could have been charged with the lesser offence of manslaughter which carries an average sentence of 15 years.

It is not known how many people may have been innocent of the crimes for which they were executed but there are at least eight cases with a strong probability of wrongful conviction.

Among them are two child offenders from Texas, Ruben Cantu and Gary Graham, who were both 17 years old when they were arrested for murder, and Cameron Willingham, also from Texas, who was convicted of killing his three children in a fire at their home in 1992. He was executed in 2004 despite evidence from arson experts that the fire could well have been accidental.

For further information please see the Death Penalty Information Center website.

USA: Clemency

On 29 August Indiana Governor Mitch Daniels commuted Arthur Baird's 1987 death sentence for murder on grounds of mental illness.

On 29 November, the day before Robin Lovitt was due to become the 1000th person to be executed in the USA, Virginia Governor Mark Warner commuted the execution of Robin Lovitt on grounds that DNA evidence which might have cleared him had been destroyed.

USA: Exonerations

There were two exonerations in 2005: Derrick Jamison, who was sentenced to death in Ohio in 1985, had charges against him dismissed after serving 20 years on death row. Harold Wilson, who was sentenced to death in 1989 in Pennsylvania, was acquitted on the basis of DNA evidence.

There have been 122 exonerations in the USA since 1973.

CHINA TO REINSTATE SUPREME COURT REVIEW OF DEATH SENTENCES

On 27 September the Deputy Director of the Supreme People's Court (SPC), Wan E'xiang, announced that the SPC would establish three new courts that would reclaim the SPC's prerogative to review all death sentences. In apparent acknowledgement of political interference in the trial process in lower courts, Wan E'xiang claimed this reform "will ensure the death penalty process is fully neutral from administrative departments and prevent the intervention of other powers".

The UN High Commissioner for Human Rights, Louise Arbour, visited China in late August and met with the Justice Minister and the president of the SPC. She noted that despite China's ratification of several major human rights treaties, the death penalty continues to be applied extensively, and to offences that do not meet the international standard of "most serious crimes". She deplored the lack of reliable statistics on the death penalty, stating that "transparency is critical for informed public debate on the issue".

The death penalty applies to around 68 crimes in China, including non-violent offences such as tax fraud, embezzlement of state property and accepting a bribe.

China: Admits to sale of executed prisoners' organs -After years of official denial that such a practice existed, Vice Health Minister Huang Jiefu admitted in December that the sale of organs from executed prisoners was widespread.

Since the late 1990s when the method of execution was changed from shooting to lethal injection, there have been reports from medical personnel of being present at executions in "mobile execution vans" in which they would harvest organs as quickly after death as possible. Speaking to *Caijing* magazine,

Huang Jiefu said new regulations were now being drafted to end the lucrative trade in organ transplants.

SINGAPORE EXECUTION FOR DRUG TRAFFICKING

Van Tuong Nguyen, a 25-year old Australian citizen of Vietnamese origin, was hanged in Singapore on 2 December despite an international campaign to save his life. He had been arrested in December 2002 at Singapore's Changi airport in transit from Cambodia to Australia when police found him in possession of nearly 400 grams of heroin.

Van Tuong Nguyen was sentenced to death under the Misuse of Drugs Act which carries a mandatory death sentence for anyone found guilty of trafficking in more than 15 grams of heroin.

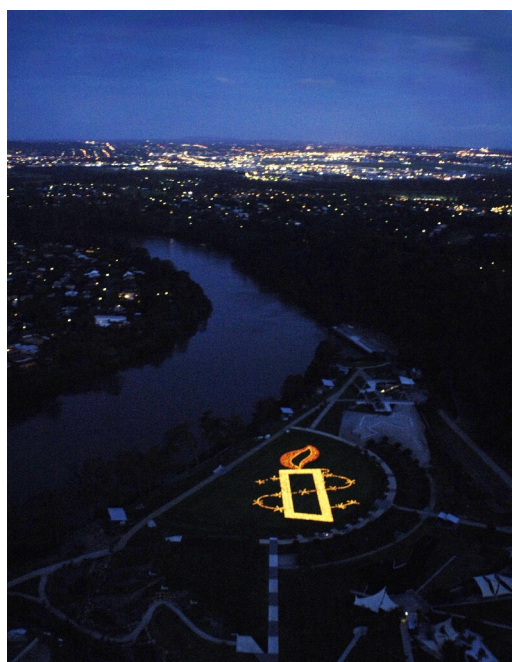
The case attracted unprecedented interest in Australia, as well as internationally, and, unusually, in Singapore itself. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions called on the government not to execute Van Tuong Nguyen stating the "mandatory imposition of the death penalty, eliminating the discretion of the court, makes it impossible to take into account mitigating or extenuating circumstances and eliminates any individual determination of an appropriate sentence in a particular case".

The Vatican had appealed for clemency to the President of Singapore, S R Nathan, on behalf of both Pope John Paul II and Pope Benedict XVI. Cardinal George Pell, the Catholic Archbishop of Sydney, deplored the execution stating "...the punishment in Van's case is completely disproportionate to the crime he has committed."

During the last few months "Candles of Hope" vigils were held

throughout Australia and thousands of appeals for clemency were sent to the government of Singapore.

Singapore has executed more than 420 people since 1991, the majority for drug trafficking. It is considered to have the highest per capita execution rate in the world.



"3000 candles of hope" event " at River Rocks Park, Brisbane campaigning for clemency for Australian citizen, Van Tuong Nguyen, who was executed on 2 December in Singapore.. The candle installation was created by Argentinian artist Jorge Pujol.

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NEWS IN BRIEF

Canada - On 25 November Canada ratified the Second Optional Protocol to the ICCPR. Announcing the accession, Foreign Affairs Minister Pierre Pettigrew and Minister of Justice Irwin Cotler stated that "Becoming a party to the treaty is part of Canada's effort to send a clear message on this important human rights issue ...Canada opposes the death

penalty and we support the international trend toward its abolition. We urge all states that retain the death penalty to abolish it or to impose a moratorium on its use, and to become parties to the Second Optional Protocol."

The last execution in Canada took place in 1962.

Jordan - King 'Abdallah II bin al-Hussein of Jordan stated in an interview with the Italian newspaper *Corriere della Sera* published on 16 November that "In coordination with the European Union we would like to modify our penal code. Jordan could soon become the first country in the Middle East without capital punishment."

King 'Abdallah was answering questions with regard to the capture of a woman in connection with the suicide bomb attacks [claimed by an armed Iraqi-based group led by Jordanian national Abu Mus'ab al-Zarqawi] on 9 November in Amman in which at least 60 people were killed.

Kuwait - Four men were publicly hanged in Kuwait City on 2 October. They had been convicted of trafficking in drugs. The sentences were upheld by two courts of appeal as well as by the Amir, Sheikh Jaber-Al-Ahmed Al-Sabah.

Ten people have been executed for trafficking in drugs since the offense became punishable by death in 1995.

Mexico - Constitutional amendments abolishing the death penalty for all crimes were adopted by Congress on 9 December and officially entered into force on their publication in the state gazette the same day. (See **DP News** June 2005)

Monaco ratified Protocol No. 6 and Protocol No. 13 to the European Convention on Human Rights (ECHR) on 30 November. Monaco abolished the

death penalty for all crimes in 1962. The last execution took place in 1847.

South Korea - On 16 November the General Assembly of Parliament approved the appointments of three new justices to the 13-member Supreme Court. During their confirmation hearings held between 9 and 15 November in the National Assembly, Park Si-hwan, Kim Ji-hyung and Kim Hwang-sik stated their position regarding the death penalty as follows:

Park Si-hwan said "I think it would be better to review the law to abolish the death penalty"; Kim J-hyung said "Abolishing the death penalty has to be considered more actively"; and Kim Hwang-si said "I am personally an abolitionist of the death penalty but it is also true that as a justice there are things to consider, including public opinion".

South Korea has maintained an unofficial moratorium on executions since the election of President Kim Dae-Jung in December 1997.

Tonga - On 10 November Tevita Siale Vola, the first person convicted of murder in this Pacific island nation in over 20 years, was spared the death penalty and sentenced instead to life imprisonment. In his judgement, Justice Robin Webster, the Chief Justice of Tonga, cited international jurisprudence and human rights standards before concluding that the death penalty should only be applied in "the rarest of rare cases when the alternative option is unquestionably foreclosed."".

Uzbekistan - On 1 August President Islam Karimov signed a decree stipulating the abolition of the death penalty in Uzbekistan from 1 January 2008.

The decree specified that by 1 January 2006 the Ministry of Justice, the

Supreme Court and the Prosecutor General should submit amendments to Uzbekistan's Criminal, Procedural and Executive Codes, with a view to abolishing the death penalty. Key government agencies were also asked to implement measures explaining the question of abolition to the general public. However, unless a moratorium is introduced promptly and all outstanding death sentences commuted, scores of people are likely to be sentenced to death and executed before January 2008 in unfair trials. (See **AI's** report *Uzbekistan: Questions of life and death cannot wait until 2008. A briefing on the death penalty*, September 2005.)

Abolitionist in practice 25
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Total abolitionist in law or practice: 122

Retentionist: 74

Yemen - Fuad'Ali Mohsen al-Shahari was executed by firing squad on 6 December. A lawyer and former member of the opposition Socialist Party, he had been under sentence of death for over nine years. He was convicted in 1996 of the murder of a member of the ruling General People's Congress Party during a gun battle in 1996.

Fuad-al Shahari maintained he had been tortured to confess to the killing that he denied committing.

DEATH PENALTY STATISTICS

Abolitionist and retentionist countries
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Abolitionist for all crimes 86

Abolitionist for ordinary crimes only 11

INTERNATIONAL TREATIES

Since the beginning of the year the **Second Optional Protocol to the International Covenant on Civil and Political Rights** has been ratified by Liberia and Canada, bringing the total number of ratifications to 56.

Protocol No. 6 to the European Convention on Human Rights was ratified by Monaco on 30 November, bringing the total number of ratifications to 45.

Protocol No. 13 to the European Convention on Human Rights has been ratified by Greece, Monaco, Norway and Slovakia, bringing the total number of ratifications to 33.

Updated lists of signatures and ratifications are available on the **AI** website.

PHOTOGRAPHS FROM ANTI-DEATH PENALTY EVENTS HELD AROUND THE WORLD - OCTOBER TO DECEMBER 2005



AI Hong Kong's vigil on for the "Cities of Life - Cities Against the Death Penalty" campaign © AI



AI Netherlands demonstration in front of the US Embassy at the 1000th execution in the USA

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AI members in Jalpaiguri, West Bengal, India held a candlelight vigil on the World Day against the death penalty

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AI Morocco demonstrating, on the World Day with other NGOs, against the death penalty.

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