

DEATH PENALTY NEWS

MAY-DECEMBER 2008

GLOBAL

UNITED NATIONS: SECOND RESOLUTION ON MORATORIUM ON EXECUTIONS

Over one hundred countries voted overwhelmingly in favour of a second resolution on "Moratorium on the use of the death penalty" at the United Nations (UN) on 18 December 2008. The resolution, reaffirming last year's UN General Assembly call for a moratorium on executions, is non-binding on states and was co-sponsored by 89 states from around the world. In the Arab League, several states, Bahrain, Jordan, Oman, Mauritania and the United Arab Emirates, abstained rather than voting no.

The voting list is the following:

IN THIS ISSUE

This issue of Amnesty International's "Death Penalty News" provides updates on major death penalty developments that occurred between 15 May 2008 and 31 December 2008. It features updates on Afghanistan, Australia, China, Democratic Republic of Congo, Ethiopia, Indonesia, Iran, Jamaica, Japan, Lebanon, Liberia, Malaysia, Mali, Nigeria, Pakistan, Saint Kitts and Nevis, Sudan, Taiwan, USA, Uzbekistan and Vietnam.

It also includes reports on the resolutions on the death penalty adopted by the United Nations General Assembly, the African Commission on Human and People's Rights and the Council of the International Bar Association Human Rights Institute.

In favour (106¹): Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Belgium, Benin, Bolivia, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Canada, Cape Verde, Chile, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Ecuador, El Salvador, Estonia, Ethiopia, Finland, France, Gabon, Georgia, Germany, Greece, Guinea-Bissau, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Mali, Malta,



¹ After the vote, the representative of Ethiopia noted that, his delegation had mistakenly voted in favour, whereas it had meant to vote against the resolution.

2 TITLE DATE

Marshall Islands, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Montenegro, Mozambique, Namibia, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Palau, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Moldova, Romania, Russian Federation, Rwanda, Samoa, San Marino, Sao Tome and Principe, Serbia, Slovakia, Slovenia, Somalia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Tajikistan, The former Yugoslav Republic of Macedonia, Timor-Leste,

Turkey, Turkmenistan, Tuvalu, Ukraine, United Kingdom, Uruguay, Uzbekistan, Vanuatu, Venezuela.

Against (46): Afghanistan, Antigua and Barbuda, Bahamas, Bangladesh, Barbados, Belize, Botswana, Brunei Darussalam, China, Comoros, Democratic People's Republic of Korea, Dominica, Egypt, Grenada, Guyana, India, Indonesia, Iran, Iraq, Jamaica, Japan, Kuwait, Libya, Malaysia, Maldives, Mongolia, Myanmar, Nigeria, Pakistan, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Solomon Islands, Sudan, Swaziland, Syria, Thailand, Tonga, Trinidad and Tobago, Uganda, United States, Yemen, Zimbabwe.

Abstain (34): Bahrain, Belarus, Bhutan, Cameroon, Central African Republic, Cuba, Djibouti, Eritrea, Fiji, Gambia, Ghana, Guatemala, Guinea, Jordan, Kenya, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Malawi, Mauritania, Morocco, Niger, Oman, Papua New Guinea, Republic of Korea, Senegal, Sierra Leone, Suriname, Togo, United Arab Emirates, United Republic of Tanzania, Viet Nam, Zambia.

Absent (6): Chad, Democratic Republic of the Congo, Equatorial Guinea, Kiribati, Seychelles, Tunisia.

THE COUNCIL OF THE INTERNATIONAL BAR

3 FEBRUARY 2009

ACT 53/001/2009

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ASSOCIATION HUMAN RIGHTS INSTITUTE WILL ACTIVELY PROMOTE THE ABOLITION OF THE DEATH PENALTY

On 15 May 2008 the Council of the International Bar Association Human Rights Institute adopted a resolution on the worldwide abolition of the death penalty.

The resolution called on all the countries in the world to establish a moratorium on executions and take steps towards the complete abolition of the death penalty, and further resolves that “the Human Rights Institute shall in the future actively promote the abolition of the death penalty and, pending its abolition, insist on strict observance of the international legal limitations on its application.”



AFRICA

DEMOCRATIC REPUBLIC OF CONGO—EIGHT DEATH SENTENCES HANDED DOWN IN TWO HIGH-PROFILE MURDER CASES

According to reports from UN-backed Okapi, on 21 May 2008 three people were sentenced to death by the military appeal court in Bukavu for the June 2007 murder of Serge Maheshe. Two other men, friends of Serge Maheshe, who had been sentenced to death in the first trial, were acquitted by the appeal court.

The sentencing to death of the three people was widely condemned, including by the UN Mission to the DRC (MONUC) which said that "not everything had been done to uncover the truth". The then UN High Commissioner for Human Rights Louise Arbour criticised the use of military courts, which continue to judge civilians in violation of international law and the Congolese Constitution, and deplored the refusal of the court to explore different hypotheses or ask for ballistic tests.

During the appeal, defence lawyers and independent observers received anonymous threats, including death threats (see Amnesty International Urgent Action AFR 62/003/2008, 01 May 2008).

On 22 September 2008 a military court in Kinshasa sentenced to death three soldiers and two civilians (one in absentia) for the murder of Daniel Boteti, members of the opposition party "Movement for the Liberation of Congo (MLC)", on 6 July 2008.

ETHIOPIA—DEATH SENTENCE COMMUTED AS PART OF NEW YEAR'S CELEBRATIONS

5 FEBRUARY 2009

ACT 53/001/2009

AMNESTY
INTERNATIONAL



The President of Ethiopia Girma Woldegiorgisse commuted a death sentence to life imprisonment as part of the celebrations for the country's New Year on 10 September 2008.

ETHIOPIA—MENGISTU SENTENCED TO DEATH

On 26 May 2008 Ethiopia's Supreme Court sentenced former ruler Mengistu Haile Mariam and other 18 officials to death for genocide and other crimes against humanity.

Mengistu is living in exile in Zimbabwe, while the other 18 officials are all in custody in Ethiopia. Under Ethiopian law, the President must approve the death sentences before execution dates are set.

MALI—BILL TO ABOLISH THE DEATH PENALTY POSTPONED

The draft bill to abolish the death penalty currently filed within Mali's National Assembly was not examined at the Parliamentary session which ended on 5 July 2008. The lawmakers postponed the reading and adoption of the bill to the next session of the National Assembly.

President Amadou Toumani Tour introduced the bill to abolish the death penalty in a speech he delivered at the National Assembly in September 2007, but protests from religious groups as well as from the opposition party "Union Nationale pour la Renaissance" (UNPR) put the bill on hold. The last execution in Mali was carried out in 1979.

NIGERIA—HOUSE OF REPRESENTATIVES REJECTS BILL TO ABOLISH THE DEATH PENALTY FOR ARMED ROBBERY

On 10 July 2008 the House of Representatives in Nigeria rejected a Bill aimed at replacing the death penalty with life imprisonment for armed robbery.

6 FEBRUARY 2009

ACT 53/001/2009

NIGERIA- MAN PARDONED AFTER TWENTY-TWO YEARS ON DEATH ROW

The President of Nigeria Umaru Yar'Adua pardoned a man who had been on death row for more than twenty-two years on 14 November 2008. Ibrahim Aliyu, who is now 57, had been convicted for armed robbery and detained in a maximum security jail in Lagos for twenty-five years. His co-defendant remains in prison.

Two prisoners on death row for murder had their death sentences commuted to life imprisonment by Ebonyi State Governor. The governor of Enugu state commuted the sentence of one death row inmate.

More than 720 men and 11 women are currently under sentence of death in Nigeria. For more information on the application of the death penalty in Nigeria, visit: <http://www.amnesty.org/en/for-media/press-releases/nigeria-waiting-hangman-20081021>

**AMNESTY
INTERNATIONAL**



Despite arguments that the death penalty had not succeeded in deterring crime, it was argued that the Federal House of Representatives did not have legislative competence to debate on the issue. A member successfully argued that: “This debate should be done in the houses of assembly of the states. Murder is a state matter; that is why governors sign death warrants for armed robbers. Armed robbery is a state crime...”

SUDAN—50 PEOPLE SENTENCED TO DEATH BY THE COUNTRY’S COUNTER-TERRORISM COURTS

Between June and August 2008, the newly set-up Sudanese counter-terrorism courts sentenced to death 50 alleged members of the Justice and Equality Movement (JEM) convicted of participating in an armed attack on the capital on 10 May 2008. The Darfur-based armed opposition group was quickly pushed back by the government’s armed forces on the outskirts of Khartoum. The attack was however followed by a wave of arrests, detentions and enforced disappearances, mainly targeting Darfuris living in Khartoum.

Amnesty International and other organizations expressed concern on the fairness of the trials that lead to the sentences of death.

The United Nations Special Representative of the Secretary General to Sudan Ashraf Qazi stated “the judicial process may have not met international standards” and that “it would appear that the accused were only given access to lawyers after the trials begun; confessions were obtained while the accused were held incommunicado and in the absence of legal counsel and the court did not investigate allegations of ill treatment”.

The UN Special Representative also encouraged Sudan to abolish the death penalty and, in the interim, to establish a moratorium on executions as called for by the UN General Assembly resolution 62/149 adopted on 18 December 2007



AMERICAS

7 FEBRUARY 2009

ACT 53/001/2009

JAMAICA-DEATH PENALTY RETAINED

The Jamaican Parliament voted by a large majority a motion to retain the death penalty at the House of Representatives on 25 November 2008 and at the Senate on 19 December 2008. The vote emerged in the light of discussions around the new Charter of Rights and Freedoms Bill, which seeks to replace Chapter III of the Jamaican Constitution dedicated to the protection of fundamental rights and freedom of persons. The purpose of the vote was to decide whether provisions allowing for the death penalty as an exception to the right to life, should be retained or deleted from the Charter.

USA-SUPREME COURT PROHIBITS DEATH PENALTY FOR CHILD RAPE

On 25 June 2008 the US Supreme Court struck down by five votes to four a Louisiana law providing the death penalty for the non-homicidal rape of a child. The five Justices in the majority opinion held that execution was an excessive punishment in such cases, and that the USA's constitutional ban on "cruel and unusual" punishments bars imposition of the death penalty for the rape of a child "where the crime did not result, and was not intended to result, in the victim's death".

USA, TEXAS-MEXICAN NATIONAL EXECUTED

Mexican national José Medellín was executed in Texas on 5 August 2008 despite worldwide appeals for the execution to be stopped, including from the United Nations Secretary-General Ban Ki-moon.

José Medellín was sentenced to death in 1994 for his part in the murder of two girls in Houston in 1993. In violation of the USA's international legal obligations, José Medellín was never advised by Texas authorities of his right as a detained foreign national to seek consular assistance. This is required under Article 36 of the Vienna Convention on Consular Relations (VCCR). José Medellín was subsequently deprived of the extensive assistance that Mexico provides for the defence of its citizens facing capital charges in the

8 FEBRUARY 2009

ACT 53/001/2009

USA, GEORGIA-ANOTHER STAY OF EXECUTION FOR TROY DAVIS

Troy Davis was granted a provisional stay of execution 24 October, just three days before he was scheduled to be put to death. He has been on death row for 17 years for a crime he maintains he did not commit.

In its decision, the three-judge panel on the US Court of Appeals for the 11th Circuit concluded that Troy Davis had met the burden for a provisional stay of execution. The court then ordered the parties to address the question of whether Troy Davis can satisfy "the stringent requirements" under federal law to get back into court for further appeals on his innocence claim.

More than
and around

AMNESTY
INTERNATIONAL



executive clemency for Troy Davis. Among them are former US President Jimmy Carter, Archbishop Desmond Tutu and Pope Benedict XVI; the European Union, the European Parliament, and the Secretary General of the Council of Europe.

USA. The Mexican Consulate did not learn about the case until nearly four years after José Medellín's arrest, by which time his trial and the initial appeal affirming his conviction and death sentence had already concluded.

On 31 March 2004 the International Court of Justice (ICJ) ruled that the USA had violated its VCCR obligations in the case of José Medellín and 50 other Mexican nationals on death row in the USA. The ICJ ordered the USA to provide judicial "review and reconsideration" of the convictions and sentences, to determine if the defendants had been prejudiced by the VCCR violations.

Following the execution, on 8 August the Office of the UN High Commissioner for Human Rights recalled that the USA "has an international obligation to comply with the decision of the International Court of Justice, an obligation which cannot be set aside because of domestic constitutional arrangements." It was also noted that "the ICJ order remain valid for another 50 Mexican nationals on death row in the United States whose situation is similar to that of Mr. Medellín".

USA, MARYLAND-COMMISSION ON CAPITAL PUNISHMENT RECOMMENDS ABOLITION

On 12 November 2008, by a vote of 13 to 7, the Maryland Commission on Capital Punishment voted to recommend abolition of the state's death penalty. The Commission's final report on its findings and recommendations was presented to the Maryland legislature on or 14 December 2008.

The Commission was established under an Act signed into law by Governor Martin O'Malley on 13 May 2008. Its mandate was to study the following areas in relation to the capital justice system in Maryland: racial disparities; jurisdictional disparities; socio-economic disparities; a comparison of the costs associated with death sentences and the costs associated with sentences of life imprisonment without the possibility of parole; a comparison of the effects of prolonged court cases involving capital punishment and those involving life imprisonment without the possibility of parole; the risk of innocent people being executed; and the impact of DNA evidence in assuring the fairness and accuracy of capital cases.

Maryland has carried out five executions since 1977. The last

**AMNESTY
INTERNATIONAL**



execution in Maryland was in December 2005. Two bills to repeal the death penalty in Maryland will be examined by the Senate in early 2009.

USA, VIRGINIA- DEATH SENTENCE OF MAN WITH MENTAL ILLNESS COMMUTED

Levar Walton had the death sentence against him commuted to life imprisonment without the possibility of parole by the Governor of Virginia, Timothy Kaine. Walton, who suffers from serious mental illness, including paranoid schizophrenia, was due to be executed in Virginia on 10 June. He was sentenced to death in 1997 for the murders of an elderly couple, Elizabeth and Jesse Hendrick, aged 81 and 80, and a 33-year-old man, Archie Moore, in the town of Danville in November 1996.

ASIA

AFGHANISTAN- JOURNALIST'S DEATH SENTENCE COMMUTED

The Appeal Court of Kabul overturned Sayed Perwiz Kambaksh's death sentence on 21 October 2008. The student journalist was sentenced to 20 years' imprisonment for "blasphemy". Amnesty International believes there are no grounds for his conviction.

AFGHANISTAN- RESUMPTION OF EXECUTIONS

The Afghan government executed nine people in early November 2008. It is believed that a further 11 individuals were executed shortly after.

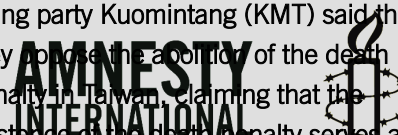
10 FEBRUARY 2009

ACT 53/001/2009

TAIWAN—RULING PARTY OPPOSES ABOLITION OF THE DEATH PENALTY

On 10 August some legislators from the ruling party Kuomintang (KMT) said that they opposed the abolition of the death penalty in Taiwan, claiming that the existence of the death penalty served as warning that to those who intend to engage in illicit activities.

The remarks came one day after the new Minister of Justice Wang Ching-feng stated that she would attempt to abolish the death penalty to bring the island into line with the international trend towards abolition.



The move followed reports that President Hamid Karzai had approved death sentences for at least 111 people on death row in Afghanistan. The death sentences signal a potential change back to previous trends of wide usage of the death penalty.

CHINA—ROLE OF DEFENCE LAWYERS IN CAPITAL CASES OUTLINED

On 21 May 2008 the Ministry of Justice and the Supreme People's Court (SPC) jointly issued a judicial interpretation to outline the defence lawyers' role in capital cases. The judicial interpretation authorizes justice bureaus and government-controlled lawyers associations to intervene in death penalty case by providing guidance. It fails, however, to address the conflicts between the revised Lawyers' Law, effective since 1 June, and the Criminal Procedure Law regarding provisions on access to lawyers in cases involving state secrets. Under the Criminal Procedure Law, approvals from the investigative organ are needed for a suspect to appoint a lawyer, or to have a lawyer-client meeting. As the revised Lawyers' Law has no provision specifically on state secret cases, the role of defence attorneys in cases involving state secrets should be the same as in other criminal cases. In August, the Law Committee of the National People's Congress issued a written reply to an inquiry raised by a Chinese People's Political Consultative Conference member and confirmed that the Lawyers' Law should prevail for contradictions regarding the rights of lawyers between the Criminal Procedure Law and the new Lawyers' Law. Despite this, in practice, the Chinese authorities continue to deprive criminal suspects access to legal representation on state secret grounds.

According to a senior SPC official, the SPC overturned about 15 per cent of the death sentences handed down by high courts in the first half of 2008. However, statistics on death sentences and executions remain state secrets and it is impossible for external observers to verify this claim.

According to the China Daily, a senior SCP judge said in December that the SPC was working on guidelines to unify across the country standards on the application of the death penalty for murder, robbery, abduction, drug trafficking and intentional injury.



INDONESIA—EXECUTIONS RESUMED IN JUNE

Indonesia resumed executions on 26 June 2008 after a 14-month hiatus, when Nigerian nationals Samuel Iwachekwu Okoye and Hansen Anthony Nwaliosa were executed for drug-trafficking. Since then, eight people have been executed in Indonesia, among which Amrozi bin H.Nurhasyim, Ali Ghufron and Imam Samudera. The three, widely known as the “Bali Bombers”, were convicted of involvement in the 12 October 2002 bombings on the island of Bali, which killed 202 people and injured a further 209. Their execution was carried out by firing squad on 8 November 2008.

At least 116 people are believed to be under sentence of death in Indonesia.

JAPAN—EIGHT MORE EXECUTIONS

Eight more people were executed by hanging in Japan since June 2008.

Tsutomu Miyazaki, Shinji Matsuda and Yoshio Yamasaki were executed for murder on 17 June 2008, while Mantani Yoshisuki, Yamamoto Mineteru and Hirano Isamu were executed on 11 September 2008.

Two men were executed in Japan on Tuesday 28 October, bringing the number of executions carried out in the country this year to 15. The executions of Michitoshi Kuma and Masahiro Takashio were the first round of executions approved by Minister of Justice Mori Eisuke since he took office on 25 September. They are further evidence of Japan’s intent to continue sanctioning the state taking of life.

There are currently around 100 people on death row in Japan.

MALAYSIA—NINE DEATH SENTENCES COMMUTED

AMNESTY INTERNATIONAL



On 1 July the Pardons Board commuted nine death sentences in Malaysia. Five of these were commuted to life imprisonment and four to twenty years’ imprisonment. Prime Minister Datuk Seri Abdullah Ahmad Badawi, in a written reply to Fong Kui Lun, member of the Democratic Action Party (DAI) and member of the Parliament for Bukit Bintang party, said that the Pardons Board received sixteen petitions from people under sentence of death between 2003 and May 2008.

PAKISTAN- “CYBER TERRORISM” PUNISHABLE BY DEATH

On 6 November 2008 the President of Pakistan Asif Ali Zardari issued the “Prevention of Electronic Crimes” law, which provides for sentences of imprisonment and other punishments for a range of cyber crimes, including the death sentence when acts constituting “the offence of cyber terrorism” cause death. Under the Ordinance, “cyber terrorism” is described as anyone “with terroristic intent” accessing or attempting to access a computer or computer network or electronic system or electronic device and “thereby knowingly engages in or attempts to engage in a terroristic act”. The Ordinance is backdated to be effective from 29 September 2008.

**AMNESTY
INTERNATIONAL**



EUROPE AND CENTRAL ASIA

UZBEKISTAN BECOMES PARTY TO SECOND OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

On 23 December 2008 Uzbekistan acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. As of 31 December 2008, seventy states are party to the Protocol

MIDDLE EAST AND NORTH AFRICA

IRAN-PARLIAMENT APPROVES DRAFT LAW PROVIDING DEATH PENALTY FOR APOSTASY

The Majles (Iranian Parliament) gave initial approval on 16 September 2008 to a draft law that would introduce the death penalty for apostasy, heresy and witchcraft and for certain internet-related crimes such as those found responsible for websites deemed to “promote corruption and apostasy”. The bill has a clause apparently intended to limit stoning, but if passed, it would not prevent the imposition of stoning sentences, nor their implementation, as discretion as to their implementation would lie with local judicial officials.

The bill, adopted by 196 votes in favour, 7 against and 2 abstentions, has now to be reviewed by the Legislative Commission before it is sent back to the Majles for another vote.

IRAN-REPORTS OF PUBLIC EXECUTIONS

Reportedly ten people were publicly hanged in Iran in July 2008. According to reports from the Iranian state radio, four people were hanged in the southern province of Bushehr on 11 July 2008 while six others were executed in the north-eastern city of Sabzevar on 14 July 2008 in what are the first public executions to be reported in Iran since the Head of the Judiciary, Ayatollah Mahmoud Hashemi-Shahrودي banned this practice without his express permission on 30 January 2008. The ban on public executions also prohibited the circulation by news agencies of images

IRAN- MAN PARDONED AFTER HIS EXECUTION HAD BEGUN

On 2 December 2008 the state-owned Islamic Republic News Agency (IRNA) reported that an unnamed man had been pardoned by the family of the murder victim a few minutes after his execution had begun. The man was convicted for murder and detained in a prison in Kazeroun, in Iran’s southern Fars province. He was reportedly taken to hospital immediately after the pardon, where his life was saved.

This case clearly illustrates the inherent cruelty and the arbitrary nature of the application of the death penalty in Iran, where two people convicted of the same offence of intentional murder, may face completely different outcomes - and live or die - not because of the circumstances of each case, but simply because of the wishes of the families of the murder victims.



depicting execution victims.

IRAN-STONING

Amnesty International received reports of the execution by stoning of two men, Houshang Khodadadeh and another unidentified man, in Mashhad, north-east Iran, probably on 26 December 2008. The stonings were confirmed on 13 January 2009 by Judiciary Spokesman Ali Reza Jamshidi.

A third man, an Afghan national identified only as "Mahmoud Gh." managed to free himself from the pit he was to be stoned in. Under Iranian law those that free themselves are spared. He is currently believed to be in custody.

These new cases of stoning demonstrate that or even directives by the Head of Iran's Judiciary are not enough to halt this horrific practice.

LEBANON- MINISTER OF JUSTICE INTRODUCES LAW TO ABOLISH THE DEATH PENALTY

On 10 October 2008 the Lebanese Minister of Justice Ibrahim Najjar introduced a draft law to replace the death penalty with life imprisonment with hard labour.

In a press statement issued on the same day, the Minister stated that "preventive measures are more effective than the death penalty in reducing crime".

No official date has been set for the parliamentary debate on the draft law.

ARAB CIVIL SOCIETY CALLS FOR A MORATORIUM ON EXECUTIONS

Representatives of the Arab civil society and the Arab coalitions challenging the death penalty met in Egypt from 12 to 14 May 2008 to consult on the implementation of United Nations General Assembly resolution 62/149, adopted in New York on 18

**AMNESTY
INTERNATIONAL**



December 2007. Delegates from the Cairo European Commission delegation, the Office of the UN High Commissioner for human Rights, the Arab league and Amnesty International also attended the meeting, organized by the Swedish Institute and co-sponsored by Penal Reform International.

A joint declaration, known as “Alexandria declaration”, was released at the end of the meeting. It asks Arab governments to, among the rest, take concrete steps to progressively abolish the death penalty and to “consider amending article 7 of the Arab Charter on Human Rights in order to eliminate any possibility of applying the death penalty to the under 18 of age”.

**AMNESTY
INTERNATIONAL**

