

DEATH PENALTY NEWS

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

WORLD CONGRESS MEETS IN MONTREAL

Abolitionists from around the world met in Montreal from 6 to 8 October at the Second World Congress against the Death Penalty.

The Congress was organised by *Ensemble contre la peine de mort* (Together against the Death Penalty) and Penal Reform International in collaboration with **AI-Canada** and other Canadian organisations. It followed the First World Congress against the Death Penalty, held in Strasbourg in 2001.

The Congress heard eloquent testimonies from relatives of murder victims and former death row prisoners. There were statements by UN officials, governmental representatives, members of various professions and celebrities.

In a taped message, French President Jacques Chirac told the Congress that his country had begun the procedure for ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), an international treaty providing for the abolition of the death penalty. The Canadian Foreign Minister said that his country also was seriously considering ratifying the Protocol (see box, p. 6).

AI Secretary General Irene Khan described the global picture of abolition as "a mottled one", with "a range of different situations from total abolition to frequent executions". To address this situation, abolitionists must adopt a "differentiated campaigning strategy, varying according to regions and countries", she said.

Louise Arbour, recently appointed UN High Commissioner for Human Rights, sent a message pledging her "support and solidarity" and calling for a moratorium on executions.

In a final declaration, the Congress reaffirmed that executions fail to address the pain and suffering of victims of crime. The Congress welcomed the fact that "more and more victims' families are now working against the death penalty" and called on all countries "to develop appropriate mechanisms to address their needs".

Preparations are now under way for the Third World Congress against the Death Penalty, with a preparatory conference to be held in Istanbul in 2005.

Former UN High Commissioner for Human Rights Mary Robinson addressing the Montreal Congress. ©AI

ABOLITION IN TURKEY AND SENEGAL

Turkey and Senegal have abolished the death penalty for all crimes bringing to 82 the number of totally abolitionist countries in the world (see box, p. 5).

On 7 May the **Turkish** parliament passed a bill removing all provisions in the constitution relating to the death penalty. Subsequently, Law No. 5218, known as the "ninth harmonization law", was adopted by parliament on 14 July. Under this law, the death penalty was removed from all articles of the Turkish Penal Code and converted to life imprisonment. The last execution in the country was in 1984.

On 10 December, UN Human Rights Day, the **Senegalese** Parliament passed a law abolishing the death penalty for all crimes. The law was adopted by an overwhelming majority. Senegal becomes the fourth West African state to abolish the death penalty, following Cape Verde, Guinea-Bissau and Côte d'Ivoire. Senegal has not carried out any executions since 1967 but continued to pass death sentences, most recently in July 2004.

CHINA: PROPOSED REFORMS

China is to restore Supreme Court responsibility for approving death sentences, according to Huang Songyou, Vice-President of the Chinese Supreme People's Court. Speaking at the annual conference of the China Law Society held in

October in Guangzhou, capital of south China's Guangdong Province, Huan Songyou said this reform has been listed in the legislative plan of the 10th National People's Congress, which continues until March 2008.

Under China's Criminal Procedural Law, the Supreme People's Court should approve all death sentences in China. However, since 1980 the Supreme People's Court has delegated this authority to lower level courts, which currently approve around 90 per cent of death sentences. Under the proposed amendments, the Supreme People's Court will resume its responsibility for approval. The reform could mean a reduction of up to one third in the number of executions according to one prominent academic in China, as well as greater consistency in sentencing patterns.

Professor Chen Zhonglin, a senior member of China's National People's Congress, told a fringe meeting of China's national parliament in March that China executes an estimated 10,000 people a year. This estimate cannot be confirmed, as China does not publish official execution figures.

INTERNATIONAL EVENTS

The annual **World Day against the Death Penalty**, organized by the World Coalition against the Death Penalty, took place on 10 October with events in over 15 countries including Burundi, Lebanon, Malaysia, Morocco, Rwanda and the Philippines. Events included film showings, religious ceremonies, press conferences, public debates and the collection of hundreds of signatures on petitions calling for an end to the use of the death penalty against child offenders in the Philippines and the USA.

Cities for Life, organized by the Italian organization the Community of Sant' Egidio, was celebrated on 3 November with the illumination of public buildings in over 250 cities and towns across the world. Mexico City and Atlanta were among the cities that took part in the event for the first time in 2004.

IRAN: CHILD EXECUTIONS CONTINUE

Three people who were under 18 years old at the time of the crime have been executed in Iran this year, despite the country's obligations under the ICCPR and the UN Convention on the Rights of the Child, both of which forbid the execution of child offenders. Several others have been sentenced to death.

Mohammad Zadeh and a young man known as Salman were reportedly executed on 25 January and 12 May respectively. Both had been 17 at the time of the crimes.

On 15 August a 16-year-old girl, Atefeh Rajabi, was reportedly publicly hanged in Neka in the northern Iranian province of Mazandaran for "acts incompatible with chastity". Her co-defendant, an unnamed man, was reportedly sentenced to 100 lashes and released after the sentence was carried out.

In November a 16-year-old child identified in the Tehran daily newspaper *Sharq* only by his first name, Vahid, was reportedly sentenced to death. He had allegedly killed his friend, who he reportedly claimed had tried to sexually abuse him. He claimed that his act was in self-defence. Earlier in November, the Tehran daily *Hamshahri* reported that eight other juveniles faced execution, five sentences of which had reportedly been upheld by the Supreme Court. Three of these youths had reportedly committed acts for which they were sentenced to death when they were 15 and 16 years old.

A bill to raise the minimum age for the death penalty to 18 is reportedly under consideration in Iran.

PAKISTAN: JUVENILE DEATH PENALTY COULD RESUME

A decision by the High Court in Lahore on 6 December that the Juvenile Justice System Ordinance (JJSO), promulgated in 2000, should be revoked means that children can once again be sentenced to death in Pakistan.

The decision to revoke the JJSO, which the Lahore High Court reportedly found to be "unreasonable, unconstitutional and impracticable", will do away with juvenile courts, and children will again be tried under the same procedure as adults. Convictions of juveniles during the time the JJSO was in force between 2000 and December 2004 will not be affected by this judgment, but cases pending in juvenile courts will be transferred to the regular courts.

AI has urged the government of Pakistan to abide by its obligations under the Convention on the Rights of the Child and to appeal to the Pakistan Supreme Court against the Lahore High Court's decision.

DOCTORS AND LAWYERS OPPOSE CHILD EXECUTIONS

AI has released statements by members of the medical and legal professions opposing the use of the death penalty against child offenders.

In September, 20 medical experts from eight countries with outstanding credentials in the fields of child and adolescent psychology, psychiatry and social development sent an open letter to the heads of government of China, Pakistan, the Democratic Republic of Congo, Philippines, Iran, Sudan and the USA urging them to stop using the death penalty against children.

"Although adolescents generally know the difference between right and wrong, they can suffer from diminished capacities to reason logically, to control their impulses, to think through the future consequences of their actions, and to resist the negative influences and persuasion of other", the letter said. "They should face punishment for criminal actions, but the sanctions which can be imposed on mentally competent adolescent offenders should not be the same as those faced by adults found guilty of the same offences."

In October **AI** released a declaration signed by 798 lawyers urging the US government to ensure that the USA respect its international obligation not to execute child offenders and calling on the legislatures of US states whose laws still allowed the execution of child offenders to raise the minimum age to 18. The declaration recognized that "the Inter-American Commission on Human Rights has held that the prohibition of executing child offenders is a rule of customary international law and a norm of *jus cogens*" and concluded that "the use of the death penalty against child offenders in any circumstances violates international law".

IRAQ: DEATH PENALTY REINSTATED

The interim Iraqi government on 8 August officially reinstated the death penalty for crimes including murder, kidnapping, rape and drug trafficking, despite strong opposition from the European Union, whose officials spoke openly against the reimposition of the death penalty during a visit to Europe by the Iraqi Minister of Foreign Affairs.

The former Iraqi government had made frequent use of the death penalty. Following the invasion of Iraq by a US-led coalition in March 2003, the death penalty had been suspended by the Coalition Provisional Authority in June 2003.

Although the interim Iraqi authorities justified the reinstatement of the death penalty as a response to the deteriorating security situation, there were indications that it was done reluctantly and that some Iraqi officials opposed the measure.

In November **AI** received reports that 10 people had been sentenced to death for "criminal activities". It is not known whether the sentences have been carried out.

SRI LANKA: DEATH PENALTY TO BE REACTIVATED

The Office of the President of Sri Lanka announced on 20 November that "the death penalty will be effective from today for rape, murder and narcotics dealings". The statement followed the murder of a High Court judge, Honourable Sarath Ambepitiya, and a police officer who was providing security for him, both of whom were shot on 19 November.

A moratorium on executions has been in effect in Sri Lanka since June 1976 when the last execution took place. Successive presidents since then have automatically commuted all death sentences. In March 1999, amid reports of rising crime, the government announced that death sentences would no longer be automatically commuted when they came before the president (see **DP News** June 1999), but, following widespread condemnation, this policy was not implemented.

At the time, **AI** suggested the appointment of a commission to study the apparent rise in criminality in the country and to make recommendations for effective measures which could be taken without resort to the death penalty. In June 2001 the then Minister of Justice indicated his interest in commissioning such a study. **AI** made a similar proposal to the Prime Minister and Minister of Interior in March 2003 but did not receive a response.

NEWS IN BRIEF

India - The first known execution since the late 1990s took place in August amid widespread popular support. Dhananjay Chatterjee was hanged in West Bengal; he had been under sentence of death for 13 years for the rape and murder of a teenage girl. The President of India and the Governor of West Bengal dismissed all mercy petitions despite appeals from **AI** and local human rights activists that the evidence against Dhananjay Chatterjee was reportedly circumstantial and that he had already served a long sentence. Other courts in India have commuted death sentences to life imprisonment on grounds of prolonged detention.

Indonesia - Three people have been executed for smuggling heroin into the country. Ayodhya Prasad Chaubey, an

Indian national, was executed on 5 August and Saelow Prasert and Namsong Sirlak, both Thai nationals, were executed on 1 October. These were the first executions in Indonesia in over three years. A further eight people, all sentenced to death for drug-related offences, had their appeals for presidential clemency rejected and were believed to be at imminent risk of execution at time of going to press.

Japan - Two people were executed in September while parliament was in recess. In November the Supreme Court upheld lower court rulings sentencing a 77-year-old woman to death for killing her husband and another woman for insurance money.

Executions in Japan are carried out in secret. Most prisoners under sentence of death have been imprisoned for many years; some are detained in solitary confinement for 10 years or more with no contact with other prisoners and only limited contact with the outside world.

USA NEWS

New York: Death penalty law ruled unconstitutional - On 24 June, New York state's highest court, the Court of Appeals, ruled in the case of Stephen La Valle that the jury's instructions under the state's death penalty law contravened the state constitution. The court vacated the death sentence of Stephen LaValle because of a constitutional defect in the existing statute which could only be remedied by passage of a new law by the state legislature.

Under the existing New York statute, the jury is instructed to decide whether the defendant should be sentenced to death or to life without parole. Either choice has to be unanimous; if the jury fail to agree, the court would sentence the defendant to life imprisonment with parole eligibility after serving a minimum of 20 to 25 years. This instruction is referred to as a "deadlock instruction", and it is unique among US state death penalty laws in that the sentence required after a deadlock is less severe than the sentences the jury is allowed to consider.

Texas: US Supreme Court ruling - The US Supreme Court on 15 November overturned the death sentence of a man convicted of murder in Texas because the jury in his trial did not consider his learning disability and other evidence. The Supreme Court justices cited their decision earlier this year in the case of another Texas death row inmate, Robert Tennard, which opened the door to new challenges from several dozen condemned men in Texas who claim they have low IQs and were not given enough chance to present mitigating evidence to a jury.

Indiana: Clemency granted - On 2 July Indiana Governor Joseph Kernan commuted Darnell Williams' death sentence for murder to life imprisonment without the possibility of parole. Darnell Williams had been due to be executed on 9 July for a double murder committed in 1986. This was the first time since executions resumed in the USA in 1977 that executive clemency has been granted in an Indiana death penalty case.

In a statement, Governor Kernan noted several reasons behind his clemency decision: borderline mental retardation, the fact that Joseph Kernan's co-defendant would not face execution and doubts about Joseph Kernan's direct participation in the crime.

Texas leads US death penalty - The latest statistics show that Texas accounts for more than one third of all US executions carried out since executions in the country resumed in 1977. Of the 944 executions carried out nationwide by late November 2004, Texas accounted for 336, including 23 of the 59 executions in 2004.

Innocent prisoners released - During 2004 five names were added to the list of US prisoners sentenced to death and later released from death row on grounds of innocence, bringing to 117 the number of such cases since 1973. Three such prisoners have been released since August.

Ryan Matthews, convicted in Louisiana in 1999, had the charges against him dismissed in August. He had been sent to death row for a crime committed when he was 17 years old, but in 2004 he was granted a new trial after it was found that the state had suppressed evidence and after DNA testing implicated another person in the murder.

Ernest Ray Willis was sentenced to death in Texas in 1987 for the arson murder of two women who died in a house fire in 1986. A federal judge overturned the conviction in 2004 after an arson specialist reviewed the original evidence and concluded that there was no evidence of arson.

A third man, Dan Bright, sentenced to death in Louisiana in 1996, was released in August 2004.
