

@DEATH PENALTY NEWS

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AMNESTY INTERNATIONAL

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

First of all an apology to all readers of the "Death Penalty News" for the lack of a September issue. This was due to the involvement of the Theme Team - who are responsible for death penalty work in the International Secretariat - in the International Campaign on Political Killings and "Disappearances" currently being coordinated by them.

JAMAICA

On 2 November 1993 the Judicial Committee of the Privy Council in London (which remains the final court of appeal for 16 Commonwealth countries) allowed the appeal of Earl Pratt and Ivan Morgan, who had been under sentence of death in Jamaica since 1979, and commuted their sentences to life imprisonment.

The two men have spent over 14 years on death row. The death warrant was read to them three times and they were moved to the condemned cells. Each time they received a stay - sometimes only a very short time before the time scheduled for the execution. Lawyers for both men have argued that such treatment and the long delay between sentence and execution breached the Jamaican Constitution which says:

"No person shall be subjected to torture or inhuman or degrading punishment or other treatment."

The Privy Council in their Judgment concluded that:

"These considerations lead their Lordships to the conclusion that in any case in which execution is to take place more than five years after sentence there will be strong grounds for believing that the delay is such as to constitute inhuman or degrading punishment or other treatment."

They said that in future, where an execution was to take place more than five years after sentence, the case should be referred to the Jamaican Privy Council with the recommendation that the sentence should be commuted to life imprisonment.

This decision could affect at least 103 other prisoners in Jamaica: 80 who have been on death row awaiting execution for more than five years and 23 who have been there for more than ten years.

Following this decision the Prime Minister of Jamaica, P J. Paterson, said that it did not affect Jamaica's right "to apply the death sentence in cases of conviction for capital offences."

The last execution in Jamaica was carried out in February 1988. The method of execution is by hanging.

TRINIDAD AND TOBAGO

In the Upper House of the Trinidad Senate on International Human Rights Day - December 10th - Attorney General Keith Sobion said that all condemned prisoners jailed for five years and longer from the date of their convictions will have their sentences commuted to life imprisonment. He said that the government, in deciding to commute these death sentences, had considered the implications of the Judgment of the Judicial Committee of the Privy Council in the case of Earl Pratt and Ivan Morgan from Jamaica.

Trinidad and Tobago still retains the Privy Council as its final court of appeal and its judgments are binding on the courts in that country. The decision will apply to 50 prisoners at present on death row.

ZIMBABWE

In October 1993, an amendment to the Zimbabwe Constitution was passed which ruled that the death sentence could not be challenged on the grounds that delay in execution or the conditions in which prisoners were held could be considered inhuman or degrading punishment.

This followed the test case brought by the Catholic Commission for Justice and Peace in June 1993, where four individuals had their death sentences commuted to life imprisonment following a Supreme Court ruling that the delay in carrying out their sentence of death violated the constitutional ban on inhuman or degrading punishment. Following this case, at least 28 other individuals on death row had their sentences commuted to life imprisonment. This amendment will mean that no more death sentences will be commuted on these grounds in Zimbabwe.

SOUTH AFRICA

In March 1992 the Minister of Justice said that executions would be suspended until an interim bill of rights had been agreed between the government's representatives and other parties. In June 1993 the Parliament voted in favour of ending the moratorium against executions. However the Minister of Justice later announced that the moratorium would not be summarily lifted and that further consultations had to be conducted with "extra-parliamentary bodies".

The draft interim constitution (which is silent on the subject of the death penalty) was signed at the negotiations on 18 November. The Interim Constitution Bill is before the current parliamentary session and is likely to be adopted, perhaps with some amendments. The Interim Constitution, however, will not be implemented until after the elections due to be held on 27 April 1994, when it will be subject to detailed debate prior to being implemented. That debate will cover the question of capital punishment.

PERU

A public referendum was held on 31 October on the final draft of the new Constitution approved by the Democratic Constitution Congress in September. The new Constitution extends the scope of the death penalty to include "crimes of treason in wartime and terrorism". The referendum was carried and the draft Constitution was approved.

This new Constitution violates the American Convention on Human Rights, ratified by Peru in 1978 which explicitly prohibits any extension of the death penalty or its application for political offences or related common

crimes.

PHILIPPINES

On Monday 13 December President Fidel Ramos signed a law restoring the death penalty in the Philippines. Thirteen crimes will now attract this penalty: treason, piracy and mutiny on the high seas, bribery of public officials to cover up heinous crimes, parricide, murder, infanticide, kidnapping, robbery with violence against or intimidation of persons, destructive arson, rape, plunder, violation of the Dangerous Drugs Act and car theft. The inclusion of plunder in the law was prompted by the alleged massive theft of public money by the late President Ferdinand Marcos and his wife, Imelda.

The death penalty was abolished in 1987 in the Philippines when a new constitution was established when former President Corazon Aquino took office. The last execution was in 1973.

TURKEY

For the first time in over nine years the Judicial Commission of the Turkish parliament has approved a death sentence. The case will now be sent to the Turkish Grand National Assembly (TBMM - the parliament) for approval, which requires a simple majority. Execution, which is by hanging, could be carried out immediately the death sentence has been ratified by parliament.

Since October 1984, when the last executions were carried out in Turkey there has been a de facto moratorium on executions, the offences punishable by death were reduced in 1990 from 29 to 13, and in 1991 all existing death sentences were commuted to terms of imprisonment.

If this first execution goes ahead and thus removes the psychological barrier created by nine years of refusing to approve death sentences this could lead to the execution of many others.

GREECE

We have heard unofficially that on Monday 6th December 1993 the Greek Parliament passed a law for the abolition of the death penalty. No details are as yet available but we should have them in time for the next Death Penalty News.

SWAZILAND

On October 1st 1993, to mark his 25th birthday and the 25th anniversary of Swaziland's independence from Britain, King Mswati III commuted all death sentences on prisoners in Swaziland's jails to life imprisonment.

FRANCE

A group of 137 conservative deputies signed a motion calling for the return of capital punishment for murder of children, prison warders or policemen, for murder preceded by torture and for repeated murders. This proposal has not been debated by parliament.

ITALY

The Bill 2265 "Abolition of the Death Penalty from the Military Penal Code in Time of War" was approved by the Chamber of Deputies (the Lower House of Parliament) in July. It is now pending discussion by the joint Defence and Justice Committees of the Senate (the Upper House).

SINGAPORE

At the end of August Singapore's parliament passed a bill which extended the scope of the death penalty to criminals using firearms. Under the Arms Offences (Amendment) Bill any person who fires or tries to fire a gun while committing or attempting to commit a crime will be subject to the death penalty. The bill will become law after presidential assent.

POETRY FROM DEATH ROW.....

These two poems were written by James V. Allridge III, a prisoner aged in his late twenties, on death row in Huntsville, Texas. He wrote them after the executions of fellow death row inmates, brothers Curtis and Danny Harris.

In memory of Curtis Paul Harris executed ***1 July 1993 at 03.39***

Perpetual Injustice

Kill and be killed,
Law of the jungle....
But in a civilized...
society?

One life taken,
Another in return.
Does the healing begin?
A brother still remains.

Now two victimized families
Continuous cycle
An ounce of prevention
Dictates cure.

All said and done?
No?
More waiting in the wings
Victims, both sides.

In memory of Danny Ray Harris, executed 30 July 1993 at 03.34

Till We Meet Again

"First Time This Century!"
The headlines read.
Two brothers killed
Big deal!

"We executed justice!"
The political battle cry.
No! You execute two brothers,
Two black male child.

Families torn apart,
Three male victims in all.
Does the pain end for one family?
Or insult to injury to all?

My friend is gone,
What the hell can I say?
"Lord continue to watch over me"
We'll meet up again some day.

AJIA NO SIKE! (Japanese title)
Capital Punishment in Asia (English Title)
Professor Yoshio Tsujimoto
Isa Tsujimoto

Published by Seibun-do, 514 Waseda Tsurumaki-cho, Sinjyuku-ku, Tokyo, Japan
1993: ISBN Number 4 7923 1310 4 Price: 3,500 Japanese Yen

This book offers information about the death penalty in Asia and discusses among other things its arbitrariness and irrationality, and also the effect of the Second Optional Protocol to the International Convention on Civil and Political Rights. It considers 24 countries: Japan, the People's Republic of China, Taiwan, the Republic of Korea, the Republic of Indonesia, the Republic of the Philippines, India, the Islamic Republic of Pakistan, the People's Republic of Bangladesh, the State of Mongolia, Hongkong, the Democratic People's Republic of Korea, Cambodia, the Republic of Singapore, the Kingdom of Thailand, the State of Brunei, the Socialist Republic of Vietnam, Malaysia, the Union of Myanmar, the Lao People's Democratic Republic, the Democratic Socialist Republic of Sri Lanka, the Kingdom of Nepal, the Kingdom of Bhutan and the Republic of Maldives.

The language of this publication is Japanese.

The Abolition of the Death Penalty in International Law
Professor William Schabas

Death Penalty News December 1993

Published by Grotius Publications Limited, PO Box 115, Cambridge, CB3 9BP, England
1993; ISBN Number: 1 85701 012 4 Price: £48 (US\$ 96)

The first step towards the creation of an international human rights norm abolishing the death penalty was taken in 1948 with the recognition of the "right to life" in Article 3 of the Universal Declaration of Human Rights.

This book traces the emergence and progressive evolution of the international legal norm through an examination of the relevant conventions and case law of both regional and universal application as well as the specific humanitarian agreements.

It explores the different limitations that international law has placed on the imposition of the death penalty and examines the procedural safeguards required by international law when capital punishment is being considered. The eventual emergence of a customary norm completely abolishing the death penalty is also discussed.