

DEATH PENALTY NEWS

JUNE 1999

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

CALL FOR WORLDWIDE MORATORIUM GAINS MOMENTUM

At its annual session in Geneva, the United Nations Commission on Human Rights this year renewed its call for a worldwide moratorium on executions. Resolution 1999/61, adopted on 28 April, states that the Commission "calls upon all States that still maintain the death penalty...to establish a moratorium on executions, with a view to completely abolishing the death penalty".

The adoption of the resolution reinforced developments elsewhere favouring the advent of a death penalty-free millennium from the year 2000, including the commutation of all death sentences in Russia by President Boris Yeltsin (see page 2).

The language of the moratorium call was the same as in resolution 1998/8, adopted last year by the same Commission (see **DP News** June 1998), but in other respects this year's resolution is stronger. It urges states that still maintain the death penalty not to impose the punishment "for non-violent financial crimes or for non-violent religious practice or expression of conscience"; "not to impose the death penalty on a person suffering from any form of mental disorder or to execute any such person" and "not to execute any person as long as any related legal procedure, at international or at national level, is pending". Such states are also urged "not to enter any new reservations under Article 6 of the International Covenant on Civil and Political Rights which may be contrary to the object and the purpose of the Covenant and to withdraw any such existing reservations, given that article 6 of the Covenant enshrines the minimum rules for the protection of the right to life and the generally accepted standards in this area" - an implicit reference to the USA, which has entered a reservation to the provision of Article 6 of the ICCPR which forbids the use of the death penalty against child offenders. It "requests States that have received a request for extradition on a capital charge to reserve explicitly the right to refuse extradition in the absence of effective assurances from relevant authorities of the requesting State that capital punishment will not be carried out".

This year's resolution attracted more co-sponsors - 72 states as against 65 in 1998. New co-sponsors were Albania, Belarus, Cambodia, El Salvador, Mauritius, Monaco, Sao Tome and Principe and Turkmenistan (one 1998 co-sponsor, Mali, did not co-sponsor this year's resolution). The resolution was adopted by a vote of 30 in favour, 11 against and 12 abstentions. The Congo Republic, Mozambique, Nepal, Niger and Peru did not co-sponsor the resolution but voted in favour.

The resolution welcomed the report on changes in law and practice on the death penalty prepared in accordance with its previous year's request (UN document E/CN.4/1999/52 and Corr.1 and Add.1). This report concludes that "the trend towards abolition continues" and that during the reporting period "no country classified as abolitionist (whether for all or only ordinary crimes) made legal changes to reintroduce the death penalty".

ALL DEATH SENTENCES COMMUTED IN RUSSIA

Acting on the recommendation of the Presidential Clemency Commission Chairman, Anatoly Pristavkin, Russian Federation President Boris Yeltsin has commuted all 716 death sentences outstanding before the Commission. Following a ruling of the Constitutional Court in February, no further death sentences can be imposed until the constitutional requirement for trial by jury in capital cases can be met in all 89 regions of the Federation (see **DP News** March 1999).

President Yeltsin's decision was announced by Minister of Justice Pavel Krashenninikov on 3 June at the opening of the All-Russia Conference on the Abolition of the Death Penalty. The conference, held in

Moscow, was organized by the Russian Presidential Administration and the Council of Europe and was attended by an **AI** delegation.

Council of Europe Secretary General Daniel Tarschys welcomed the decision, calling it "...an important step forward beyond the present moratorium....The next logical step should be to eliminate this penalty from the criminal code". **AI** called on the authorities in the Russian Federation to initiate a Federal Program for Public Education about the death penalty which could be introduced by presidential decree.

Despite the efforts of the government to end the use of the death penalty, executions continue to be carried out in the **Chechen Republic**. On 30 June, Chechen President Aslan Maskhadov stated that 11 people had been executed in the first half of 1999 on drugs-related charges under the provisions of the Chechen Shari'a Criminal Code.

SPECIAL RAPPORTEUR CALLS FOR TIGHTER SAFEGUARDS

In her report to the 1999 session of the UN Commission on Human Rights, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions has called for further specific restrictions on the scope of crimes punishable by death (see **DP News** June 1998). She has stated that the established restrictions stating that the death penalty may be used only for the "most serious crimes" with lethal or other extremely grave consequences "exclude the possibility of imposing death sentences for economic and other so-called victimless offences, or activities of a religious or political nature - including acts of treason, espionage and 'disloyalty'. Similarly, this principle would exclude actions primarily related to prevailing moral values, such as adultery and prostitution, as well as matters of sexual orientation."

The report also states that "the death penalty should under no circumstances be mandatory by law, regardless of the charges involved."

This was the first annual report submitted by Asma Jahangir since she succeeded Bacre Waly Ndiaye as Special Rapporteur in 1998 and the 16th annual report since the mandate of the Special Rapporteur was established by the Commission on Human Rights in 1982. (*Extrajudicial, Summary or Arbitrary Executions: Report of the Special Rapporteur...*, 6 January 1999, UN document E/CN.4/1999/39, paragraph 63)

HANGINGS IN TRINIDAD AND TOBAGO

Nine men were hanged on 4, 5 and 7 June. They were the first executions in Trinidad and Tobago in five years.

The executed men - Dole Chadee, also known as Nankissoon Boodram, Joey Ramiah, Ramkalawan Singh, Joel Ramsingh, Russell Sankeralli, Bhagwandeem Singh, Clive Thomas, Robin Gopaul and Stephen Eversley - were convicted in 1996 of the murder of four members of the Baboolal family in 1994.

The hangings were carried out despite international appeals for commutation of the death sentences.

During the course of legal proceedings, a motion was filed on behalf of the prisoners challenging the constitutionality of hanging as a method of execution. The Judicial Committee of the Privy Council, Trinidad and Tobago's highest appeal court, located in London, heard this motion on 26 May and ruled that although there was "disturbing evidence" of the effects of hanging a person, it was not prohibited by the country's constitution.

The European Union issued a statement on 8 June saying that while it "firmly supports the fight against crime and the determination of the authorities of Trinidad and Tobago to combat it, it does not recognise the death penalty as an effective instrument in preventing crime. The European Union believes that use of the death penalty may on the contrary raise the level of violence in Trinidad and Tobago."

Following the executions Jamaica's Prime Minister is reported as stating that despite international lobbying, Jamaica will likely follow Trinidad and Tobago and hang people sentenced to death after a period of 11 years without executions. Other Caribbean countries, including Barbados, Guyana, St. Lucia and St,

Vincent and the Grenadines have also recently voiced their intention to resume executions (see **DP News** December 1998).

NEWS IN BRIEF

Democratic Republic of Congo

At least 69 people have been executed since April 1999 on the orders of the *Cour d'ordre militaire*, the Military Order Court, following unfair trials. Eleven people found guilty of violent offences, including armed robbery and murder, were reportedly executed on 13 April in Mbuji-Mayi. On 6 May 20 soldiers found guilty of military offences including defection to or complicity with the armed opposition were executed in Lubumbashi, and on 13 May, 15 people found guilty of violent crimes were executed in the capital, Kinshasa. Twenty-three others were executed on 25 May in Kinshasa, some for violent crimes and others for military offences.

The Military Order Court, set up in August 1997 to try soldiers accused of disciplinary and other offences, has increasingly been used for trials of civilians and as a means of political repression, including suppression of non-violent opposition to the government and for charges of sabotaging the economy. Defendants do not have the right of appeal to a higher jurisdiction. In some cases, prisoners sentenced to death have been executed within a few days, or even hours, of their conviction.

The UN Special Rapporteur on the situation of human rights in the Democratic Republic of Congo to the UN Commission on Human Rights in his report on the situation there in February recommended the government immediately cease operations of the military court and restore fair trials. "The death penalty must be abolished, and, in any event, no longer carried out", he said.

El Salvador

The government of El Salvador has appealed to the authorities in Cuba to grant clemency to two of its citizens, Ernesto Cruz León and Otto René Rodríguez Llerera, sentenced to death in Cuba for terrorist activities. President Armando Calderon Sol said El Salvador, which does not have diplomatic relations with Cuba, made the plea through Mexican diplomatic channels. The President was supported in his efforts by the archbishop of the Roman Catholic Church, and a former leader of the Farabundo Marti National Liberation Front (FMLN) guerrilla group, Francisco Jovel, who told a Reuters reporter that "our point of view is that the death penalty does not resolve justice issues."

Lithuania

Lithuania took a further step in the abolition of the death penalty on 22 June when the parliament overwhelmingly voted to ratify Protocol No. 6 to the European Convention on Human Rights. The ratification will become official when the instrument of ratification is deposited with the Council of Europe (see **DP News** December 1998).

Macau

A report carried by China's official Xinhua news agency in April 1999 indicated that China would not restore capital punishment in Macau after it reverts to Chinese rule on 20 December 1999. Xinhua said that the provision abolishing the death penalty can be retained "so long as the legislature of the [post-handover] Macau Special Administrative Region deems it necessary".

Macau's Penal Code prohibits both capital punishment and life imprisonment on the grounds that it contravenes the principle of rehabilitation of convicted criminals.

Nepal

The death penalty was formally abolished for all crimes at the beginning of May when King Birendra gave royal assent to two legislative amendments. Although there is no provision for the death penalty in the Constitution of 1990, the death penalty had been retained for acts of high treason in the Succession to the

Throne Act of 1988. Under the authority of Article 28 of the Constitution, the King has now repealed this provision, replacing the death penalty for treason with a maximum term of 25 years of imprisonment and confiscation of assets.

Oman

The Sultanate of Oman has expanded the scope of the death penalty for drug-related crimes to include offences previously punishable by imprisonment, according to reports in April by the official Omani News Agency.

Pakistan

In early May, 14-year-old Mohammad Saleem was re-arrested in Karachi on murder charges, four months after being sentenced to death by a military court and acquitted for want of evidence (see **DP News** December 1998). The boy was re-arrested under order of the country's Supreme Court to re-try those convicted and sentenced by the military courts which were abolished by the Supreme Court as unconstitutional in February.

Around 50 children are currently under sentence of death in Pakistan

Saudi Arabia

Thirty-three people are known to have been executed between January and May this year, more than the total in all of 1998. Thirteen executions were for drug-related offences and follow the government's announcement in March that it had arrested more than 4,000 people on suspicion of drug smuggling.

Sri Lanka

On 13 March the office of President Chandrika Bandaranaike Kumaratunga announced that death sentences will no longer be automatically commuted when they come before the President. A press release from the President's office stated that "death sentences imposed by the court in cases of murder and drug trafficking will be carried out....if in accordance with the relevant constitutional and statutory procedure the judge who heard the case, the Attorney General and the Minister of Justice unanimously recommend the execution of such sentence".

The policy change is part of a larger review of the President's prerogative of granting remissions of sentences imposed by the courts and has aroused fears that the country may be moving towards resuming executions after 23 years.

United Kingdom

The Crime and Disorder Act 1998, which removed the death penalty for the only remaining civilian crimes of treason and piracy, was signed into law in July 1998. Five offences remained under the military code until the Human Rights Act 1998 came into force in November 1998. This removed the death penalty for military offences in all circumstances in both war and peacetime thus making the country abolitionist for all crimes.

USA

Massachusetts

A bill to reintroduce the death penalty was defeated by a seven-vote margin in the state House of Representatives on 29 March despite strong support from Governor Paul Cellucci. In October 1997 a similar bill had been defeated when the vote was tied.

Nebraska

On 20 May the state legislature became the first in the United States to pass a bill calling for a two-year moratorium on executions in its state. According to Associated Press reports, the moratorium was proposed by state Senator Kermit Breashear, who is a death penalty supporter, as an amendment to a bill proposed by state Senator Ernie Chambers which would have abolished the death penalty in Nebraska. The

moratorium was to allow a study to be made as to whether the death penalty was being applied fairly in the state and, while death sentences could still have been handed down, none would have been carried out. However, on 27 May, Governor Mike Johanns, a supporter of capital punishment, vetoed the bill stating that "the death penalty is the law of Nebraska. We have an obligation to enforce that law."

New York

The Committee on Psychiatric Medicine of the Medical Society of the State of New York on 11 June unanimously passed a resolution requesting the Society to call for abolition of capital punishment in the state of New York and to instruct the state delegation to the House of Delegates of the American Medical Association to introduce a resolution calling for the abolition of capital punishment in the USA.

American Samoa

Governor Tauese Sunia has refused to sign legislation proposing lethal injection as the means of execution in the island. Although the Samoan Penal Code allows the death penalty for murder there have been no executions since the 1920s. Governor Tauese was quoted in the University of Hawaii's *Pacific Islands Report* as saying: "I am against killing people. It doesn't correct the crime that was committed and the taking of a life at any time doesn't make it right."

BOOK REVIEW

La pena di morte nel mondo, Rapporto 1999 (The Death Penalty Worldwide, 1999 Report), by Hands Off Cain, edited by Elisabetta Zamparutti, Marsilio Editori spa, Venezia, Italy, 1998, in Italian, ISBN 88-317-7271-6. A country-by-country report on the state of the death penalty with information on each country's constitution, judicial and legislative system, religion and government.

Bulgaria signed the Second Optional Protocol to the International Covenant on Civil and Political Rights on 11 March 1999 and the United Kingdom signed the Protocol on 31 March 1999 bringing the total of countries which have signed but not ratified the Protocol to five.

Bulgaria and Cyprus signed Protocol No.6 to the European Convention on Human Rights on 7 May 1999, and Georgia signed it on 17 June 1999 bringing the total of countries which have signed but not ratified the Protocol to six. Latvia ratified Protocol No. 6 on 7 May 1999 and the United Kingdom ratified the Protocol on 27 May 1999 bringing the total of states parties to 32.

DEATH PENALTY STATISTICS

Abolitionist and Retentionist Countries
(30 June 1999)

Abolitionist for all crimes	68
Abolitionist for ordinary crimes	14
Abolitionist de facto	23
Retentionist	90