

## DEATH PENALTY NEWS December 2006

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

#### NIGERIA ANNOUNCES COMMUTATIONS

On 1 October the Federal Minister of Justice, Chief Bayo Ojo, announced that 107 death-row inmates would have their sentences commuted to life imprisonment as part of the country's Independence Day celebrations. Around 500 prisoners remain under sentence of death.

There is widespread support within the country for the death penalty which can be imposed both by high courts and, in northern Nigeria, by Islamic *Sharia* state courts, and death sentences continue to be handed down. In 2003, the federal government started a debate about capital punishment by instituting a National Study Group on the Death Penalty. Despite a recommendation by the Study Group to impose a moratorium on executions until the Nigerian justice system could guarantee fair trial and due process, the federal government has not yet decided to do so.

In a report published in January, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions highlighted concerns related to the death penalty including widespread procedural irregularities, the use of torture by the police to extract confessions and a lack of legal representation in capital cases. He stated that the average 20-year stay on death row was unacceptable and deplored the imposition of death by stoning for adultery or sodomy in 12 states, in contravention of Nigerian and international law.

#### FIRST EXECUTIONS IN BAHRAIN IN 10 YEARS

On 21 November King Shaikh Hamad bin 'Issa Al Khalifa of Bahrain approved the death sentences of three people accused of murder. Jasmine Anwar Hussain and Mohammed Hilaluddin, both from Bangladesh, had been convicted of murder in November 2004. Mohammad Hanif Atta Mohammad, a national of Pakistan, was convicted in a separate incident in 2003. All three were convicted of killing Bahraini nationals.

The sentences were upheld on appeal by the Court of Cassation in December 2005 and carried out by firing squad on 11 December.

The death penalty is rarely used in Bahrain. Since 1977 only one execution has been carried out. Issa Ahmad Qambar, a Bahraini, was executed by firing squad in March 1996. He had been found guilty of the premeditated murder of a police officer.

#### DEATH PENALTY STATISTICS

Abolitionist and retentionist countries

Abolitionist for all crimes	88
Abolitionist for ordinary crimes only	11
Abolitionist in practice	29
Totally abolitionist in law or practice	128
<u>Retentionist</u>	69

#### SADDAM HUSSEIN EXECUTED IN IRAQ

The former Iraqi president, Saddam Hussain, was executed by hanging on 30 December. He and two other former officials were sentenced to death in November by the Supreme Iraqi Criminal Tribunal in connection with the killing of 148 people from the village of al-Dujail, north of Baghdad, after a failed assassination attempt against Saddam Hussain while he was visiting al-Dujail in 1982.

The death sentences against Saddam Hussain and the two co-accused were upheld on appeal on 26 December. The other two former officials, Barzan Ibrahim al-Tikriti, Saddam Hussain's half-brother, and 'Awad Hamad al-Bandar al-Sa'dun, former head of the Revolutionary Court, are still awaiting their execution.

#### MORATORIUM IN RUSSIA TO CONTINUE UNTIL 2010

On 15 November 2006, the State Duma (lower house of parliament) voted to postpone until 2010 the introduction of jury trials in Chechnya, the only remaining Russian Federation region without a jury system. This decision has the effect of extending the current moratorium on the death penalty, introduced in 1999 by the Russian Federation Constitutional Court when it banned regular court judges from sentencing people to death until the jury system was introduced everywhere in the Russian Federation.

The right to be tried by jury for capital offences is provided by the Russian Constitution under Art. 20 (2), yet at the time of the Constitutional Court decision, in February 1999, the jury system existed only in nine of the then 89 constituent regions of the Russian Federation. The court ruling followed an appeal by three people, who had been sentenced to death in the absence of a jury, who argued that their constitutional rights had been violated.

As a member of the Council of Europe, Russia was urged by the Council on 30 November to fulfil its obligation, outstanding since February 1999, to ratify Protocol No. 6 to the European Convention on Human Rights concerning the abolition of the death penalty.

### **CHINA PASSES NEW DEATH PENALTY LEGISLATION**

New legislation was enacted on 31 October reverting to the Supreme People's Court the obligation to review and ratify all death penalty verdicts handed down by provincial courts in China (see **DP News** January 2006). The legislation, which come into effect on 1 January 2007, may reduce the number of executions and improve the quality of trials for those facing the death penalty.

However, until the Chinese authorities release full public statistics on death sentences and executions, which remain classified as a state secret, it will be difficult to assess the impact of this reform in reducing the number of executions.

Death penalty trials in China are generally marked by lack of prompt access to lawyers, lack of presumption of innocence, political interference in the judiciary and the failure to exclude evidence extracted under torture.

### **CHILD OFFENDERS EXECUTED IN IRAN**

Another child offender was reportedly executed in Iran on 7 November. Morteza M, whose full surname is unknown, was 18 at the time of his execution. He had been sentenced to death for the murder of his friend which had taken place two years previously.

Iran executed at least three other child offenders in 2006. Majid Segound was 17 years old at the time of his execution in May (see **DP News** May 2006). Another boy named Sattar, aged 17 years, was also allegedly executed in September. In late December, 22-year-old Naser Batmani was hanged in Sanandaj Prison for a murder committed when he was under 18.

### **LIBYA RE-SENTENCES FOREIGN MEDICAL WORKERS TO DEATH**

On 19 December five Bulgarian nurses and a Palestinian doctor, who were charged with knowingly infecting hundreds of children with HIV in al-Fateh Children's hospital in the Libyan city of Benghazi, were sentenced to death for a second time following an unfair trial. Their earlier convictions in May 2004 had been overturned by the Supreme Court in December 2005 after it had noted "irregularities" in their arrest and interrogation. Their second trial began on 11 May 2006.

The health professionals have been in detention since 1999. Since that time, some 57 of the 426 infected children have died from AIDS-related illnesses.

The death sentences have now to be reviewed by the Supreme Court and then approved by the Supreme Council of Judicial Bodies.

### **FIRST DEATH PENALTY RULING BY CARIBBEAN COURT OF JUSTICE**

On 8 November the Caribbean Court of Justice (CCJ), based in Trinidad, ruled that the Barbadian authorities' decision to issue execution warrants for two men convicted of murder shortly after they had initiated proceedings before the Inter-American Commission for Human Rights (IACHR) was a contravention of the right to the protection of the law.

Lennox Boyce and Jeffrey Joseph were sentenced to death in 2001 for a murder committed in April 1999. On 15 September 2004, only a few days after the two men had filed appeals against their sentences to the IACHR, the Barbados Privy Council (BPC) issued execution warrants for the two men. The executions were stayed by the Barbados Court of Appeal.

The Barbadian government appealed this decision to the CCJ, the country's highest court of appeal since its inauguration in April 2005. In its ruling the CCJ said that "the Court held that convicted persons may have a legitimate expectation that the State should await for a reasonable time reports from international bodies".

#### **FOUR EXECUTIONS IN JAPAN**

Four men were hanged in Japan on 25 December, including two men over seventy years of age, just days after Japan's Diet (parliament) closed for the year. Executions in Japan are usually timed to avoid parliamentary scrutiny and minimise publicity. No executions had been carried out since September 2005.

The executed men were: Yoshimitsu Akiyama, 77 and Yoshio Fujinami, 75 in Tokyo, Hiroaki Hidaka, 44 in Hiroshima and Michio Fukuoka, 64 in Osaka. Yoshimitsu Akiyama had been on death row for over 30 years.

Japan's capital punishment regulations allow prisoners to spend decades in solitary confinement and be executed with little or no warning that they are about to die. Their families are not notified until after the hangings have been carried out.

#### **EXECUTIONS IN SAUDI ARABIA**

At least 24 people including three women were executed in Saudi Arabia between October to December. Seventeen of them were reported to have been convicted in connection with drug related offences and seven in connection with murder charges. The 24 included four Saudi Arabians and 19 foreign nationals from countries such as Pakistan, Nigeria and Afghanistan. The nationality of the remaining person was not known. Two of the women were from Pakistan and the third was from Nigeria.

#### **USA NEWS:**

##### **Botched execution in Florida leads to state moratorium**

Angel Nieves Diaz, a native of Puerto Rico who was sentenced to death for a murder committed in 1979, took 34 minutes to die by lethal injection on 13 December. A second dose was required before a doctor, wearing a hood over his face to conceal his identity, signalled that Angel Diaz was dead.

The execution went ahead despite the fact that a key prosecution witness had recanted his trial testimony against Angel Diaz who proclaimed his innocence to the end. Only an hour or so before the execution took place, the Supreme Court rejected Angel Diaz's final appeal which had raised this issue, as well as challenging the constitutionality of Florida's lethal injection procedures.

On 15 December, the governor of Florida, Jeb Bush, halted executions and appointed a panel to evaluate whether death by lethal injection breaches Florida's ban on cruel and unusual punishment. No more death warrants will be signed until the panel reports its findings in March 2007.

#### **Moratorium in California**

On 15 December, US District Judge Jeremy Fogel issued an opinion that suspended executions in California, citing the "pervasive lack of professionalism" in the implementation of California's lethal injection protocols, a "deeply disturbing" fact "given that the State is taking a human life." On 18 December, Governor Arnold Schwarzenegger directed his administration to correct the deficiencies in these protocols to ensure that California's death penalty procedure is constitutional.

#### **INTERNATIONAL EVENTS: WORLD DAY AND CITIES FOR LIFE**

The theme for the fourth **World Day against the Death Penalty** on 10 October was "The death penalty as a failure of justice". Five cases were selected to represent this failure: an innocent man executed in China, a victim of discrimination in Saudi Arabia, a child offender in Iran, a mentally disabled prisoner in the USA and a woman deprived of a fair trial and due process of law in Nigeria.

Hundreds of events were staged in 40 countries around the world in protest against the death penalty, and an online petition remains open for signature on <http://www.worldcoalition.org>

The fifth **Cities for Life** event, initiated by the lay religious community of Sant'Egidio based in Rome, was commemorated on 30 November in more than 500 cities around the world. To show opposition to the death penalty, monuments have been illuminated in 34 capitals and 598 cities in 51 countries including Alananarivo in Madagascar, Bishkek in Kyrgyzstan, San Juan in Puerto Rico and Bukavu in the Democratic Republic of Congo. (see photos on page5)

## NEWS IN BRIEF

**Georgia** - On 27 December 2006 President Mikheil Saakashvili signed a constitutional amendment regarding the complete abolition of the death penalty. Georgia had already abolished the death penalty in 1997 but the Constitution still stated that "until its complete abolition the death penalty can be envisaged by organic law for especially serious crimes against life. Only the Supreme Court has the right to impose this punishment". This reservation has now been deleted and replaced with the wording "The death sentence has been abolished".

**Kyrgyzstan** - On 9 November, Kyrgyzstan's President Kurmanbek Bakiyev signed a new constitution in which provisions for the death penalty have been removed. It now remains for the criminal code and criminal procedural code to be revised to exclude the death penalty in line with the new constitution, for existing death sentences to be commuted to terms of imprisonment and for Kyrgyzstan to make an international commitment not to use the death penalty by ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR). A moratorium has been in place since 1998.

**Montenegro** - On 23 October the Republic of Montenegro ratified the Second Optional Protocol to the ICCPR which prohibits the use of the death penalty. The country had been part of the state of Serbia and Montenegro but following a referendum held on 21 May, when 55.4% of voters were in favour of independence from Serbia, Montenegro formally declared its independence on 3 June. It was recognized as a United Nations member state on 28 June.

**Pakistan** In mid-November President Pervez Musharraf used his powers under the constitution to commute the death sentence of dual United Kingdom and Pakistan citizen Mirza Tahir Hussein who had been in detention for 18 years in Pakistan (see **DPNews** September 2006). Mirza Tahir Hussein, who had already served the equivalent of a life sentence in Pakistan, was flown back to the UK and reunited with his family.

**South Africa** - The Constitutional Court ruled on 30 November that the orders made under its 1995 judgement *S v Makwanyane*, in which the death penalty was found to be unconstitutional, had now been fully complied with by the government.

At the time of the judgement in 1995 it was estimated that between 300 and 400 people were on death row in South Africa. In May 2005 the Constitutional Court issued a supervisory order on the government to complete the substitution of the last remaining 62 death sentences with alternative sentences without further delay. This process was finally completed in July 2006.

### International Treaties

Since the beginning of 2006, the **Second Optional Protocol to the International Covenant on Civil and Political Rights** has been ratified by Turkey (2 March), Moldova (20 September) Andorra (22 September).

Philippines signed the Protocol on 20 September and Argentina on 20 December.

**Protocol No. 13 to the European Convention on Human Rights** was ratified by Netherlands on 10 February, Turkey on 20 February and Luxembourg on 21 March.

Armenia signed the Protocol on 19 May.

Updated lists of signatures and ratifications are available on: [www.amnesty.org/pages/deathpenalty-treaties-eng](http://www.amnesty.org/pages/deathpenalty-treaties-eng)

*Caption*

© AI AI supporters in Co Donegal Ireland on 10 October World Day Against the Death Penalty

*Caption*

©Human Rights Centre "Citizens Against Corruption" Some of the participants at the Cities for Life event in Bishkek Kyrgyzstan on 30 November

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