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USA: New Mexico abolishes the death penalty

19 March 2009

AI Index: AMR 51/039/2009

From an international human rights perspective, there is no reason the United States should be behind the rest of the world on this issue.

Governor Bill Richardson, New Mexico, 18 March 2009

On the evening of 18 March 2009, the Governor of New Mexico, Bill Richardson, signed into law a bill abolishing the death penalty in his state. New Mexico becomes the 15th abolitionist state in the USA.¹

Amnesty International applauds New Mexico's decision to end its use of the death penalty, and urges government officials and legislators in other jurisdictions in the USA to reflect upon and follow New Mexico's example. The death penalty is a cruel, destructive, unnecessary and outdated punishment that should be eradicated from the statute books and permanently confined to the history books.

In a statement, Governor Richardson explained that throughout his adult life he had been a supporter of the death penalty, but that in recent years he had come to the conclusion that its irrevocable nature rendered it an untenable punishment in an imperfect justice system:

“I do not have confidence in the criminal justice system as it currently operates to be the final arbiter when it comes to who lives and who dies for their crime. If the State is going to undertake this awesome responsibility, the system to impose this ultimate penalty must be perfect and can never be wrong. But the reality is the system is not perfect – far from it. The system is inherently defective. DNA testing has proved that. Innocent people have been put on death row all across the country. Even with advances in DNA and other forensic evidence technologies, we can't be 100-per cent sure that only the truly guilty are convicted of capital crimes. Evidence, including DNA evidence, can be manipulated. Prosecutors can still abuse their powers. We cannot ensure competent defense counsel for all defendants”

New Mexico's abolitionist bill, replacing the death penalty with life imprisonment without the possibility of parole, had passed the state Senate on 13 March 2009 by a vote of 24-18. The lower House of Representatives had earlier passed the legislation by 40 votes to 28. The Governor then had until the end of 18 March to sign or veto the bill.

¹ The other 14 are: Alaska, Hawaii, Iowa, Maine, Massachusetts, Michigan, Minnesota, New Jersey, New York, North Dakota, Rhode Island, Vermont, West Virginia, and Wisconsin. The District of Columbia is also abolitionist. The remaining 35 states have the death penalty, as does the federal government and the US military.

After the bill was passed by the legislature, Governor Richardson invited New Mexicans to contact his office with their views on the legislation. In a news release issued on 17 March, he revealed that he had received opinions from a total of 9,413 constituents, with 7,169 (76 per cent) for repeal of the death penalty and 2,244 (24 per cent) against. The news release did not provide information about appeals coming from outside New Mexico or the USA. It did reveal that the Governor had met with “more than 100 New Mexicans” in his office on 16 March, many of whom had concerns, either for or against, abolition of the death penalty. Those he met included the parents of a police officer killed in 2006. The man charged with the murder could have faced the death penalty.

In his statement explaining his decision to sign the abolitionist bill into law, Governor Richardson said that “I have believed the death penalty can serve as a deterrent to some who might consider murdering a law enforcement officer, a corrections officer, a witness to a crime or kidnapping and murdering a child. However, people continue to commit terrible crimes even in the face of the death penalty...”

There are two men on New Mexico’s death row, and the state has carried out one execution since judicial killing resumed in the USA in 1977. Terry Clark was put to death by lethal injection on 6 November 2001, in the state’s first and only execution since 1960. He had given up his appeals.²

New Mexico becomes the second state in the USA in the past two years to legislate to abolish the death penalty, following New Jersey in 2007 (which was the first US jurisdiction to pass such a bill into law since 1965). These moves can be seen as part of a general softening in support for the death penalty in the USA in recent years. An erosion of the public’s belief in the deterrence value of the death penalty, an increased awareness of the frequency of wrongful convictions in capital cases, and a greater confidence that public safety can be guaranteed by life prison terms rather than death sentences have all contributed to the waning of enthusiasm for capital punishment.³

In 2008, US Supreme Court Justice John Paul Stevens, who has served on the Court since 1975, wrote in ruling on a capital case that his experience had led him to the conclusion that “the imposition of the death penalty represents the pointless and needless extinction of life with only marginal contributions to any discernible social or public purposes. A penalty with such negligible returns to the State is patently excessive and cruel and unusual punishment”. On the risk of wrongful conviction in capital cases, Justice Stevens pointed out that the risk of executing the innocent “can be entirely eliminated” by abolishing the death penalty.⁴ More than 120 people have been released from death rows on grounds of innocence since 1975. They include four men sentenced to death in New Mexico in 1974 and exonerated two years later. Many others among the 120 had spent more than a decade on death row. In his statement, Governor Richardson said:

² See Amnesty International Urgent Action, 4 October 2001, <http://www.amnesty.org/en/library/info/AMR51/147/2001/en>, and update, <http://www.amnesty.org/en/library/info/AMR51/162/2001/en>.

³ See, for example, USA: The experiment that failed – A reflection on 30 years of executions, January 2007, <http://www.amnesty.org/en/library/info/AMR51/011/2007/en>.

⁴ *Baze v. Rees*, US Supreme Court, 16 April 2008, Justice Stevens, concurring in judgment.

“In a society which values individual life and liberty above all else, where justice and not vengeance is the singular guiding principle of our system of criminal law, the potential for wrongful conviction and, God forbid, execution of an innocent person stands as anathema to our very sensibilities as human beings.”

Amnesty International opposes the death penalty in all cases, unconditionally. To end the death penalty is to abandon a destructive, diversionary and divisive public policy that is not consistent with widely held values. It not only runs the risk of irrevocable error, it is also costly, in social and psychological terms as well as to the public purse (a fact which is drawing increasing public concern in the USA in the current economic climate). It has not been proved to have a special deterrent effect. It tends to be applied in a discriminatory way, on grounds of race and class (Governor Richardson said that “it bothers me greatly that minorities are overrepresented in the prison population and on death row”). It denies the possibility of reconciliation and rehabilitation. It promotes simplistic responses to complex human problems, rather than pursuing explanations that could inform positive strategies. It prolongs the suffering of the murder victim’s family, and extends that suffering to the loved ones of the condemned prisoner. It diverts human and financial resources that could be better used to work against violent crime and assist those affected by it. It is a symptom of a culture of violence, not a solution to it. It is an affront to human dignity.

There have been 1,156 executions in the USA since judicial killing resumed there in 1977, including 20 executions in the USA so far in 2009. A majority of US executions occur in a small number of states. Texas alone accounts for 435 of the USA’s executions since 1977, four times as many as any other state. Texas, Virginia, and Oklahoma together account for more than half of the country’s executions since resumption.

Meanwhile, the global trend towards abolition of the death penalty is clear. Today, 138 countries are abolitionist in law or practice. Governor Richardson recognized the USA’s increasingly isolated position on this human rights issue:

“From an international human rights perspective, there is no reason the United States should be behind the rest of the world on this issue. Many of the countries that continue to support and use the death penalty are also the most repressive nations in the world. That’s not something to be proud of.”

Amnesty International calls on the US federal government and authorities in the 35 states in the USA which still have the death penalty to work against this punishment with a view to abolition. Pending abolition, the relevant authorities should prevent any further executions, in line with the UN General Assembly’s call for such a worldwide moratorium on executions.

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