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UNITED STATES OF AMERICA

Too flawed to fix

Time for courage on the death penalty

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On 31 January 2000, Governor George Ryan of Illinois took a courageous step. He announced a moratorium on executions in his state because of its “shameful record of convicting innocent people and putting them on death row”. The cases of 13 such people had come to light in Illinois since 1987. They included Anthony Porter, whose wrongful conviction was uncovered, not by the system, but by a group of students who happened to take up his case as a university project. Anthony Porter was released in 1999 after more than 16 years on death row for a crime he did not commit. He had come within 48 hours of execution in 1998.

On 15 April 2002, the 14-member Commission on Capital Punishment appointed by Governor Ryan in March 2000 to review the death penalty system in Illinois, published its report. It is a thorough publication, which makes 85 recommendations for reform, ranging from videotaping police interrogations, to placing local prosecutors’ decisions to seek the death penalty under state-level review, to reducing the number of crimes punishable by death. In its preamble to the report, the Commission explains: “Because capital punishment is presently lawful in Illinois and because it appears to have the support of a majority of Illinois citizens, our deliberations have concentrated primarily on these reforms and other proposals, rather than on the merits of capital punishment.”

“Only at the close of our work did we consider that question”, the preamble continues, and goes on to reveal that a “majority of the Commission would favor that the death penalty be abolished in Illinois.” The report concludes with similar food for thought: “The Commission was unanimous in the belief that no system, given human nature and frailties, could ever be devised or constructed that would work perfectly and guarantee absolutely that no innocent person is ever again sentenced to death.”

On 15 April, Governor Ryan accepted the Commission’s report and called on the Illinois legislature to act on its proposals. The Governor has already said that he will review the cases of all those on death row in the state (currently 161 people) before he leaves office in January 2003. Amnesty International believes that the best way for him to continue what he started two years ago would be to commute all of these death sentences. His moratorium decision has had a profound impact beyond the borders of Illinois, causing people and politicians around the United States to question the fairness and reliability of a system in which there has all too often

been something approaching blind faith. It was a decision that showed the sort of leadership that has been sadly lacking in a country that finds itself on the wrong side of history on the death penalty.

Meanwhile, the Illinois legislature should take the Commission's conclusion to heart, and work to abolish an irrevocable punishment that is too flawed to fix. Legislators should never forget that it was sheer chance that the state did not kill Anthony Porter for a crime he did not commit. They should recognize that the only guarantee against that happening to anyone else in the future is for the state to permanently retire its executioners.

But this is not an issue confined to Illinois. Indeed Anthony Porter is only one of 100 people to be released from the country's death rows since 1973 after evidence of their innocence emerged. Others have been sent to their deaths despite serious doubts about their guilt. The State of Missouri is currently seeking an execution date for Joseph Amrine. All three of his original accusers, on which his conviction rests, now admit that they lied when they testified that Amrine was the murderer. Presented with such evidence, a number of the jurors from the original trial have stated their belief that they convicted the wrong man. In South Carolina, the state intends to kill Richard Johnson on 3 May 2002, despite the fact that another person has confessed to the murder since his trial. A South Carolina Supreme Court justice has said that "to deny Johnson a new trial in the face of a confession by someone who was admittedly present when the murder was committed would constitute a denial of fundamental fairness shocking to the universal sense of justice."

The universal sense of justice and decency will be similarly outraged if Christopher Simmons and Aaron Patterson are killed by the state, as they are due to be, in Missouri and Texas on 1 May and 28 August 2002 respectively. Both were 17 at the time of their crimes. The US leads a tiny handful of countries still willing to flout the international legal prohibition on the use of the death penalty for the crimes of children. It also continues to execute the mentally impaired and those afforded inadequate representation, in contravention of international safeguards.

With 10 people already scheduled to be lethally injected in Texas in May and June, this year will likely see the 800th execution in the USA since judicial killing resumed there in 1977. Each person executed was sentenced under a system characterized by arbitrariness and discrimination. Another 3,700 condemned men and women await execution. Each, together with his or her family, is daily subjected to a cruelty that has been abolished in law or practice by 111 countries. The USA's determination to cling to the wreckage of this degrading policy starkly gives the lie to its claim to be a progressive force for human rights.

Governors and legislators in the United States should build on the example set by Governor Ryan on this fundamental human rights issue. They should summon up the courage to lead their respective jurisdictions away from the death penalty and into the modern world.

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