

UNITED STATES OF AMERICA

Too young to vote, old enough to be executed

Texas set to kill another child offender

“People change. You know, to take somebody’s life at 17 - you can’t hold a 17-year-old by the same standards as you do me or you... I’ve made poor decisions, everybody does. But experience - you know, life - life is a teacher, and I know even today Napoleon is much better now than he was then.” Rena Beazley, mother of Napoleon Beazley, May 2001¹

Napoleon Beazley’s government is planning to kill him on 15 August 2001 for a murder committed when he was aged 17. If he lived in China, or Yemen, or Kyrgyzstan, or Kenya, or Russia, or Indonesia, or Japan, or Cuba, or Singapore, or Guatemala, or Cameroon, or Syria, or almost any other of the diminishing number of countries that retain the death penalty, Napoleon Beazley would not be confronting this fate. But he lives, and is scheduled to die, in the United States of America, a rogue state as far as capital punishment is concerned. His government believes that it is above the fundamental principle of international law that no one be subjected to the death penalty for a crime, however heinous, committed when he or she was under 18 years old. As a result, the United States leads a tiny number of countries which flout this prohibition. Within the USA, Napoleon Beazley’s home state of Texas – where under 18-year-olds are considered too young to drink, vote, or serve on a jury – is the worst offender.

Of the thousands of judicial executions documented worldwide in the past decade, only 25 have been of prisoners who were under 18 at the time of the crime. Of these 25, more than half - 13 - were carried out in the United States (see appendix). The USA has carried out eight of the last 12 such executions. Around 80 people are on death row in the USA for crimes committed when they were 16 or 17. Thirty-one of them are facing execution in Texas. Too young to serve on a jury, but old enough to be condemned to death by one.

Texas accounts for 53 per cent (nine of 17) of such executions carried out in the USA since the country resumed judicial killing in 1977. Of the 25 worldwide executions of child offenders in the past 10 years, seven were carried out in Texas. Only Iran comes close to this, with six in the same period. In other words, while Texas has less than half of one per cent of the world’s population, it accounts for 28 per cent of the executions of child offenders documented worldwide in the past decade.

¹ Speaking to Amnesty International delegate in Grapeland, Texas, 4 May 2001 (see appendix 1).

US politicians frequently justify their country's resort to judicial killing on the grounds that public opinion supports it. Yet most such officials offer nothing in the way of public education about the human and practical realities of this destructive policy and do not even follow their own philosophy through.² For example, recent opinion polls have indicated majority public support for a moratorium on executions in the USA, but no such moratoria have been forthcoming. In Texas, a February 2001 *Houston Chronicle* poll showed only 25 percent in Harris County and 34 percent statewide support the death penalty for juveniles. In May, the Texas House of Representatives passed a bill that would have raised the death penalty eligibility age to 18, but it failed in the Senate after high-level political intervention.³

Napoleon Beazley, death row, Texas, November 1998
© Mike Moore/The Mirror

While Texas and other US states have pursued the death penalty against children into the 21st century, global progress away from this punishment against has continued. On 17 July 1998, for example, the United Nations adopted the Statute for a permanent International Criminal Court, which will try what are generally considered to be humanity's most serious crimes – genocide, other crimes against humanity and war crimes. The Court will not be able to impose the death penalty, a sign of the degree to which the international community has turned against capital punishment.

Against this backdrop, there is growing domestic and international concern about the fairness and reliability of the US death penalty, and the damage it inflicts upon individuals, families, society and the reputation of a country that claims to be a leading light for human rights. In 1998, for example, the Chairman of the European Parliament Delegation for Relations with the United States wrote to the Governor of Texas: “[W]e are concerned that the almost universal repugnance felt in Europe and elsewhere for the continued application of the death penalty in certain American states may also have economic consequences. Europe is the

² History shows that countries have not waited for public opinion to show majority support for abolition before taking that step, but have relied on leadership. On 9 July 2001, President Vladimir Putin spoke out in favour of abolition in the Russian Federation where there is currently a moratorium on executions. He said that he was aware that public opinion favoured the death penalty, but stressed that state-sponsored cruelty did nothing to fight crime and only engendered further violence. See *Amnesty International welcomes President Putin's commitment to abolish the death penalty* (EUR 46/017/2001, 10 July).

³ The House of Representatives passed House Bill 2048. The bill was subsequently due to be voted on in the Senate as an amendment to a juvenile justice bill. The governor's office reportedly threatened to veto any bill with HB 2048 attached. The juvenile justice bill passed the Senate without an amendment, and HB 2048 died without a Senate vote. Governor Perry subsequently vetoed a bill prohibiting the use of the death penalty against defendants with mental retardation. The bill had passed both houses.

foremost foreign investor in Texas. Many companies, under pressure from shareholders and public opinion to apply ethical business practices, are beginning to consider the possibility of restricting investment in the U.S. to states that do not apply the death penalty.”⁴

In June 2001, nine senior former US diplomats filed an *amicus curiae* (friend of the court) brief with the US Supreme Court which argued that the USA’s use of the death penalty against people with mental retardation “has become manifestly inconsistent with evolving international standards of decency”. Continuing to execute such defendants, the brief asserted, “will strain diplomatic relations with close American allies, provide ammunition to countries with demonstrably worse human rights records, increase US diplomatic isolation, and impair the United States foreign policy interests”.⁵ If this is true of the execution of people with mental retardation, it can be no less true in relation to the execution of child offenders, an illegal practice now virtually unknown outside of the United States and condemned in all corners of the globe.

Some judges have expressed concern. For example, in July Texas District Judge C.C. Cooke, who as a state representative some three decades earlier had helped to craft Texas’ capital legislation, said: “I think the mood is changing in this country and people are realizing there are deficiencies in the system.” He reportedly stated that, while still supporting capital punishment, he himself was concerned about “a lot of flaws” in its application, including inadequate legal representation and racial disparities.⁶

In a speech on 2 July, the 25th anniversary of the Supreme Court decision that allowed executions to resume⁷, US Supreme Court Justice Sandra Day O’Connor said: “After 20 years on the high court, I have to acknowledge that serious questions are being raised about whether the death penalty is being fairly administered in this country.”⁸ As US Senator Russ Feingold pointed out, this statement was from the “same Justice O’Connor who has generally supported the death penalty during her twenty years on the Court. The same Justice O’Connor who has championed states’ rights, including the right to carry out executions. The same Justice O’Connor who joined or wrote key opinions that made it more difficult for defendants facing the death penalty to have their state sentences overturned in federal court. And...the same Justice O’Connor who voted in favour of allowing executions of teenage children who committed

⁴ Letter to George W. Bush, Governor of Texas, 25 June 1998.

⁵ *Ernest Paul McCarver v State of North Carolina*. Brief of *Amici Curiae*. Diplomats Morton Abramowitz, Stephen W. Bosworth, Stuart E. Eizenstat, John C. Kornblum, Phyllis E. Oakley, Thomas R. Pickering, Felix G. Rohatyn, J. Stapleton Roy, and Frank G Wisner in support of Petitioner.

⁶ *Rethinking justice*. Fort Worth Star-Telegram, 24 July 2001.

⁷ *Gregg v Georgia* (1976). See: *USA: Still a lethal lottery - The death penalty 25 years after Gregg v Georgia* (AMR 51/096/2001, 25 June 2001).

⁸ Speech to Minnesota Women Lawyers, Minneapolis, 2 July 2001.

crimes at age 16 or 17.”⁹ Napoleon Beazley is scheduled to become the next victim of that 1989 Supreme Court decision. His execution should be opposed by judges, legislators, the public, the Texas Board of Pardons and Paroles, and Governor Rick Perry.

The federal government, which under international law must ensure that all US jurisdictions adhere to the country’s international human rights obligations, should also intervene.¹⁰ Napoleon Beazley was sentenced to death a few weeks after George W. Bush took office as Governor of Texas. During his five-year term in office, four child offenders were executed in Texas and others sentenced to death. Now leader of his country, President Bush should not repeat his earlier failure to oppose such violations of international law and must make every effort to stop this latest execution.

It is time for Texas and the USA to catch up with international standards of justice and decency. There would be no better place to start than by commuting the death sentence of Napoleon Beazley.

Creating victims in the name of victims’ rights

Amnesty International has the utmost sympathy for the victims of violent crime and their families. Their suffering deserves compassion and justice. Nevertheless, the organization believes that neither are served by the death penalty, a policy which nurtures vengeance, hatred and division, and represents a perpetuation of the violence it seeks to condemn.

Politicians often speak of the “closure” that a retributive execution can bring to the family of the murder victim, despite a lack of evidence that it can guarantee any such thing.

⁹ Statement on the fairness of the administration of the death penalty, Senator Feingold, 10 July 2001. The Court’s 5-4 decision finding that the execution of 16- and 17-year-old offenders was constitutional was *Stanford v Kentucky* in 1989. In 1988, in *Thompson v Oklahoma*, the Court voted 5-4 that the execution of someone who was 15 at the time of the crime was unconstitutional. Only four of the judges found that such an execution would be cruel and unusual in **all** cases. The fifth, Justice O’Connor, agreed with the decision to overturn Thompson’s death sentence, but only because Oklahoma’s death penalty statute set no minimum age limit at which the death penalty could be imposed. She found that the sentencing of a 15-year-old to death under this type of statute failed to meet the standard for special care and deliberation required in all cases.

¹⁰ Under the Vienna Convention on the Law of Treaties, no system of government - unitary, decentralized or federal - can be used to justify a country’s failure to fulfill its international obligations. On 11 May 2000 in Geneva, US Assistant Secretary of State Harold Koh affirmed to the UN Committee Against Torture that “[w]e entirely agree with the Committee’s restatement of this principle of treaty law”.

Besides, if this were the case, then society is denying “closure” to the vast majority of victims’ relatives in the USA whose loved ones’ murders do not result in an execution.

In an interview on death row last year, Napoleon Beazley said that he had not tried to contact the victim’s family for fear of compounding their suffering: “They’re going through their own pain right now, and I don’t want to add to that. If I could alleviate it, if I could take it away from them, then I would”. Asked what he would say to the victim’s son, he said: “What can you say to somebody in that situation? No words could comfort him, not coming from me anyway. I don’t think I would say anything. I think I would, for once, just listen.”¹¹



Ireland and Rena Beazley hold a photo of their son Napoleon © AI

Those who appeal for clemency in capital cases are often accused of ignoring the murder victims. This has already happened in this case. A local prosecutor has referred to letters urging clemency for Napoleon Beazley as “insulting” to the murder victim’s family, and asserted that such appeals “could not possibly take into account the horror of the dying man” and his family.¹²

Yet it is the state which should acknowledge that it is engaged in creating more grieving relatives – the family of the condemned prisoner. In Napoleon Beazley’s case, these include his mother and father, Rena and Ireland Beazley, his older sister Maria and younger brother Jamal. How will the state seek to grant them “closure” when it kills their loved one?

Article 23 of the International Covenant on Civil and Political Rights (ICCPR) states: “The family is the natural and fundamental group unit of society and is entitled to protection by society and the State”. Article 6 of the Covenant recognizes the existence of the death penalty, but places restrictions on it. One of these is the prohibition against the use of the death penalty for crimes committed by persons below 18 years of age. Amnesty International

¹¹ *Federal appeals court judge J. Michael Luttig never looked favorably upon death row appeals. But since his father was brutally murdered in a carjacking, does the issue now hit too close to home?* Richmond Times-Dispatch, 20 February 2000.

¹² *Let’s not forget the victims.* Tyler Morning Telegraph, 29 June 2001. Responding to international appeals, a Smith County Assistant District Attorney reportedly said that he found it “particularly odious that a German should write that we shouldn’t execute a child. I don’t recall them apologising for Dachau and Auschwitz and all those other places”. Such insults betray not only ignorance, but an implicit acknowledgement that his state is engaged in a shameful human rights violation.

believes therefore that the execution of a child offender not only violates article 6(5) but also article 23 of the ICCPR.

Death on demand?

“On behalf of the family of John Luttig and the Smith County District Attorney’s Office, let me thank you for your verdict of guilty”. Opening statement of prosecutor to jury at sentencing phase of Napoleon Beazley’s trial

John Luttig was shot dead in the garage of his home in Tyler, a town in Smith County in Eastern Texas, on the evening of 19 April 1994. He was shot in the head. The murder occurred in the presence of his wife, Bobbie Luttig, who survived the attack. It was a carjacking murder, with the perpetrators stealing one of the Luttig’s two Mercedes-Benz cars in which the couple had just returned home. The stolen vehicle, damaged in the getaway, was abandoned a short distance from the Luttig home.

Three teenagers from Grapeland, a small community in Houston County about 90 kilometres south of Tyler, were arrested for the crime – Napoleon Beazley, 17, Cedric Coleman, 19, and Donald Coleman, 18. The Coleman brothers were tried under a federal carjacking charge in September 1994, but were not convicted at state level until after Napoleon Beazley’s trial. The state would use the testimony of the Colemans against their younger co-defendant to achieve a death sentence against Beazley. In return, according to recent affidavits signed by the brothers, they would not face the possibility of the death penalty, an alleged agreement denied at the time of Beazley’s trial. Both Cedric and Donald Coleman are serving life sentences. Napoleon Beazley’s trial judge rejected a defence request to move the teenager’s trial away from Smith County because of the substantial local pre-trial publicity on the case.

The trial took place in 1995, the same year that the Human Rights Committee, the expert UN body which monitors countries’ compliance with the International Covenant on Civil and Political Rights (ICCPR), “deplored” the USA’s continuing use of the death penalty against child offenders and stated that the US reservation to article 6 of the ICCPR purporting to exempt the United States from the ban on such use of capital punishment contravened the object and purpose of the treaty and should be withdrawn.¹³ Also in 1995, the USA signed the Convention on the Rights of the Child, thereby binding itself to respect its spirit and intent. Like the ICCPR,

¹³ In General Comment 24 issued in 1994, the Committee wrote - “...provisions in the Covenant that represent customary international law (and *a fortiori* when they have the character of peremptory norms) may not be the subject of reservations. Accordingly, a State may not reserve the right to engage in slavery, to torture, to subject persons to cruel, inhuman or degrading treatment or punishment, to arbitrarily deprive persons of their lives, to arbitrarily arrest and detain persons, to deny freedom of thought, conscience and religion, to presume a person guilty unless he proves his innocence, to execute pregnant women or children....”

the Convention, ratified by all countries except the USA and Somalia, prohibits the use of the death penalty against those who were under 18 at the time of the crime.

In Texas as elsewhere in the USA, the prosecutor (district attorney) in the county where the murder occurred decides whether to seek the death penalty or not. For example, the District Attorney of Houston County has said that, knowing the facts of the case and the background of the defendant, she would not have sought the death penalty against Napoleon Beazley (see appendix). Local prosecutorial discretion accounts for massive geographic disparities in the application of the death penalty in the United States, as well as arbitrariness within local jurisdictions when one person receives a death sentence and another avoids it by plea bargain.¹⁴

Outcomes where one defendant is sentenced to death and another to a prison term for similar crimes or similar levels of culpability in the same crime arguably violate the USA's obligations under the ICCPR, article 6(1) of which states that "[n]o one shall be arbitrarily deprived of his life".¹⁵ The Human Rights Committee has stated that 'arbitrariness' should not be equated to 'against the law', but that it should be interpreted more broadly, to include notions of inappropriateness, injustice and lack of predictability. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions reiterated this in his 1998 report on the USA. Article 26 of the ICCPR which states that "[a]ll persons are equal before the law and are entitled without any discrimination to the equal protection of the law", is particularly pertinent given the extent to which the geographic location of the murder, and the race or economic status of the defendant or victim appear to be key determinants in who is sentenced to death in the USA. A US criminologist recently told the *Houston Chronicle*, "I think it's a class thing. In deciding whether to seek a death sentence, we look at the value of the victims to society".¹⁶

Many district attorneys – who are elected officials – consult with relatives of the murder victim in making the decision as to whether to seek the death penalty, which is a potential source of arbitrariness in capital sentencing.

¹⁴ For example, 62 of the 724 prisoners executed between 1977 and 11 July 2001 were prosecuted in a single county – Harris County, Texas. In Texas, Bowie, Potter and Smith counties have higher per capita death sentencing rates than Harris.

¹⁵ In the 1995 abolitionist decision of the Constitutional Court of South Africa (see below), Justice Ackermann said: "Where the arbitrary and unequal infliction of punishment occurs at the level of a punishment so unique as the death penalty, it strikes me as being cruel and inhuman. For one person to receive the death sentence, where a similarly placed person does not, is, in my assessment of values, cruel to the person receiving it. To allow chance, in this way, to determine the life or death of a person, is to reduce the person to a cypher in a sophisticated judicial lottery. This is to treat the sentenced person as inhuman."

¹⁶ Burk Foster, University of Louisiana-Lafayette, quoted in *Capital punishment deeply rooted in the South*. *Houston Chronicle*, 5 February 2001.

In 1997, two teenagers, Ahmad McAdoo, 18, and Derrick Williams, 17, killed Juan Javier Cotera and Brandon Shaw in a carjacking murder in Austin, Texas. The victims were locked in the boot of Shaw's car, and the vehicle pushed into a lake. The Travis County prosecutor had said that he would seek execution if the case went to trial. The parents of the victims did not want the death penalty for their sons' murderers, and pleaded with the prosecutor not to seek it. The prosecution accepted a plea bargain under which McAdoo and Williams pleaded guilty in order to avoid capital punishment. Both youths were sentenced to life imprisonment. The victims' parents formed the Shaw Cotera Juvenile Violence Consortium at the University of Texas, dedicated to the study of juvenile crime.¹⁷

In 1999, Lee Roy McCray shot and killed Brandy Smith in Houston during a botched carjacking. On the eve of his trial, the prosecutor accepted a guilty plea and a life sentence for McCray. The prosecutor said: "The victim's family felt they wanted closure, and they were willing to accept a plea. And we had a defendant who did not have a violent history".¹⁸

Napoleon Beazley had no prior record, and no history of violence before the Luttig carjacking. In his case, at a pre-trial hearing in January 1995, the defence indicated to the judge that the defendant was willing to plead guilty in return for a sentence of life imprisonment. The prosecutor noted the "substantial contact with the family of the victim" in explaining that the state was unwilling to accept such a deal.

The murder victim, John Luttig, was a senior member of Tyler society, a Korean War veteran and an oil businessman. He was also the father of the Honourable Michael Luttig, a judge on the federal US Court of Appeals for the Fourth Circuit, one of the most conservative federal appeal courts in the country.¹⁹ Is it possible that the identity or status of the murder victim and his family played any role in the prosecutorial decision? It would not be the first time in the USA.

Elected district attorneys, many of whom regard high-profile capital cases as the surest route to a judgeship, cater to certain bereaved relatives while ignoring and slighting others. Not surprisingly, well-known whites attract prosecutorial interest; poor and obscure blacks do not. Thus, for example, in the Chattahoochee Circuit in Georgia, the district attorney asked the father of the

¹⁷ *From death, spirit to right young lives. Refusing to withdraw into bitterness, Coteras and Shaws work against juvenile violence.* Austin American-Statesman, 7 June 1998.

¹⁸ *Between life and death. Borderline capital cases raise questions of justice.* Houston Chronicle, 5 February 2001.

¹⁹ See USA: *Failing the future - Death penalty developments, March 1998 - March 2000.* AI Index: AMR 51/03/2000, April 2000, page 44.

*white victim, a prominent contractor, if he wanted the death penalty. Upon receiving an affirmative answer, the prosecutor said this was all he needed to know. After obtaining the desired sentence, he was awarded with a \$5,000 campaign contribution in the next judicial election.*²⁰

Throughout Napoleon Beazley's trial, the prosecution sought to compare the murder victim to the defendant. For example, in his opening argument to the jury, one of the prosecutors said:

And I want to say something to you. There were two names mentioned in this indictment. You remember them? Napoleon Beazley and John Luttig. All of us can sit in this courtroom, we can look right over here at this table, and we can see Napoleon Beazley. We can look right over here, and we can see the nice suit that he has on, the tie that he's wearing. We can see it. The evidence in this case is going to show a different Napoleon Beazley than the one sitting over there at the counsel table in that nice suit.... That's what this case is all about. Not about a man sitting over here in a coat and tie and a name on an indictment. It's about a man who can best be described by the neighbours that you'll hear from who knew John Luttig, because he was a man who spent a lot of time in his front yard with his dog... and he would go over, and he would play with the children.... who meticulously took care of his yard... the kind of man who posed no threat to anybody, the kind of man who worked hard all his life, the kind of man who was proud of what he had, was proud of his children, was proud of his wife.

Thus the prosecution encouraged the jury to weigh the life and character of John Luttig against the life and character of Napoleon Beazley. This was cemented by various other references to the good character of John Luttig, including in the victim impact testimony presented by Judge Michael Luttig and other members of his family at the sentencing phase of the trial.²¹ For example, Judge Luttig told the jury that "my dad was an extraordinary man. He was a man of great integrity. He was a man of great discipline". The defence objected that

²⁰ Berger, Vivian. *Payne and suffering - a personal reflection and a victim-centered critique*; 20 Florida State University Law Review 21 (1992).

²¹ The US Supreme Court ruled that such testimony was constitutional in 1991 (*Payne v Tennessee*) only four years after ruling the opposite (*Booth v Maryland*). In *Booth*, the Court had ruled that "such information is irrelevant to a capital sentencing decision, and its admission creates a constitutionally unacceptable risk that the jury may impose the death penalty in an arbitrary and capricious manner". Amnesty International is concerned that the introduction of such testimony since 1991 is another source of arbitrariness and unfairness in the US capital justice system and can serve as a "superaggravator". For example, see *Old habits die hard: The death penalty in Oklahoma* (AMR 51/055/2001, April 2001), pages 81-84.

such testimony went beyond victim impact evidence and into inadmissible evidence of the victim's character, but the judge allowed it.

One of the Grapeland High School teachers, who had known Napoleon Beazley for 12 years and who testified at the sentencing hearing as a character witness, described him as a "model" and "kind" student and agreed that "there is something innately good about Napoleon Beazley". In cross-examining this defence witness, the prosecution asked her a series of questions about if she knew "a person by the name of John Luttig" and if she had "any idea for this jury about what kind of man John Luttig was" and if she knew "what kind of good John Luttig may have had in his remaining years on this planet". Whereas the character of the defendant is relevant to the issue of rehabilitative potential, evidence of the character of the victim is irrelevant to a capital jury's sentencing decision and brings with it the potential for arbitrariness in that decision-making.

Judge Michael Luttig, who had reportedly moved his office and staff from Virginia to Texas for the proceedings, was quoted as saying after the trial: "Individuals must be held accountable at some point for actions such as this. I thought this was an appropriate case for the death penalty."²² Napoleon Beazley's trial lawyer recalls that Judge Luttig's involvement in the case went beyond that of a victim impact witness:

Judge Luttig exercised a tremendous influence over the prosecution of this case... In my opinion, Judge Luttig's status as a federal judge influenced the decision to seek the death penalty for Mr Beazley. In other words, I do not think that the State would have sought the death penalty for Mr Beazley had the victim's son not been a Federal Judge. Due to 'family' influence, I feel that the State would not consider a negotiated plea to a life sentence.... During the trial of both the Coleman brothers and Mr Beazley, Judge Luttig was present at times with his law clerks. On occasion, Judge Luttig actually briefed the State on evidentiary points during the trial. I feel as if Judge Luttig's involvement consisted of basically directing the Smith County District Attorney's Office in the prosecution of the case from investigation through jury selection, trial, punishment evidence and necessary legal research, etc.²³

²² Richmond Times-Dispatch, 20 February 2000, op. cit. Among his former posts, Judge Luttig, who was born in Tyler, was Assistant Counsel at the White House, 1981-1982; law clerk to US Supreme Court Justice Antonin Scalia from 1982 to 1983, when Justice Scalia was a federal appellate judge; and special assistant to US Supreme Court Chief Justice Warren Burger, 1983-1984.

²³ Affidavit of Jeff L. Haas. 30 September 1998.

At the pre-trial hearing in 1995, the prosecution asked for an overnight delay during the jury selection process. The prosecutor stated: “The only reason I make that request is that Judge Luttig has requested an opportunity to go over the [juror] questionnaires with us...”.

Donald Coleman, one of Napoleon Beazley’s two co-defendants, stated in an affidavit in May 1998:

[My lawyer] told me that he socialized with the Luttigs and had to live in the Tyler community. He told me the Luttigs would be upset if I did not testify against Napoleon Beazley and that I should take [the prosecution’s] first plea offer and not make him defend me at trial and drag the Luttig family through it all again after Napoleon’s trial... I decided not to follow [my lawyer’s] advice to accept this offer...

[The prosecutor] came to visit me at the Smith County Jail... [He] told me that Mrs Luttig (John Luttig’s wife) and Judge Luttig were furious that I was not going to testify against Napoleon and that Judge Luttig wanted all three of us (me, Cedric and Napoleon) to die for what happened to his father. [The prosecutor] said he thought he could get Judge Luttig to agree to the idea that the State would not seek the death penalty against me and Cedric, if I would testify against Napoleon.

I saw Judge Luttig talking to the District Attorneys all the time. I even saw him come out of Judge Kent’s office [the trial judge]. I thought that, if Judge Luttig talked to them all the time, Judge Luttig could get my death penalty dropped if I cooperated... So, I agreed to testify against Napoleon in exchange for the State not seeking the death penalty against me in state court.

The federal US District Court for the Eastern District of Texas rejected the claim, raised on appeal, that the prosecution had lost control of the case to the Luttig family as “ludicrous and not supported by any evidence”.²⁴ Amnesty International does not share the District Court’s confidence.

A jury of whose peers, the victim’s or defendant’s?

“What to look for in a juror: You are looking for a strong, stable, individual who believes that Defendants are different from them in kind, rather than degree. You are not looking

²⁴ *Beazley v Director, TDCJ-ID*, 30 September 1999.

for any member of a minority group which may be subject to oppression – they almost always empathize with the accused.”²⁵

While Napoleon Beazley’s Smith County jury was being selected, on the other side of the world the Constitutional Court of South Africa was hearing oral arguments in a case which would herald the abolition of the death penalty in that country as part of its emergence from a history of racism and violence. In the subsequent decision, Chief Justice Chaskalson would write that “[i]t cannot be gainsaid that poverty, race and chance play roles in the outcome of capital cases and in the final decision as to who should live and who should die.”²⁶ A year earlier, a US Supreme Court Justice had said: “Even under the most sophisticated death penalty statutes, race continues to play a major role in determining who shall live and who shall die.”²⁷ In his 1998 report on the death penalty in the USA, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions noted that: “Race, ethnic origin and economic status appear to be key determinants of who will, and who will not, receive a sentence of death.”²⁸ And last year, the Special Rapporteur on Contemporary Forms of Racism wrote that he was concerned at the “discriminatory manner in which the death penalty is applied in the United States of America”.²⁹

John Luttig was white. Napoleon Beazley is African American. At his trial, the two prosecutors³⁰ and two defence lawyers were white, the judge was white, and the black teenager faced an all-white jury. In addition, one of the jurors appears to have been a long-time employee of one of John Luttig’s business partners, which was not revealed during jury selection.

²⁵ *Jury selection in a capital case*. Memorandum written by Dallas County Assistant District Attorney Jon Sparling. The memorandum was incorporated into a training manual distributed to all Dallas County District Attorney’s Office personnel. “Throughout the 1970s, this manual was used in a training program that became progressively more popular, eventually drawing prosecutors from as many as 220 different Texas counties.” *A state of denial. Texas justice and the death penalty*. Texas Defender Service, 2000.

²⁶ *The State v T Makwanyane and M Mchunu*. The case was heard from 15 to 17 February 1995 and the decision issued on 6 June 1995. Jury selection for Napoleon Beazley’s trial took place from 30 January to 20 February and the trial itself began on 27 February and the teenager was sentenced on 17 March.

²⁷ *Callins v Collins*, 1994, Justice Blackmun, dissenting.

²⁸ E/CN.4/1998/68/Add.3, para 148.

²⁹ E/CN.4/2000/16

³⁰ In 1998, there were 148 District Attorneys in Texas: 137 (93 per cent) were white and 11 were Latino. None was African American. *The death penalty in black and white: Who lives, who dies, who decides*. Death Penalty Information Center, June 1998. See: www.deathpenaltyinfo.org

Research into the US death penalty over the past two decades has consistently shown a pattern of sentencing anomalies which cannot be explained without reference to racial factors, particularly in relation to the race of the murder victim.³¹ In 1990, the General Accounting Office (an independent agency of the US government) issued a report on death penalty sentencing patterns. After reviewing and evaluating 28 major studies, the report concluded that 82 per cent of the surveys found a correlation between the race of the victim and the likelihood of a death sentence. The finding was “remarkably consistent across data sets, states, data collection methods and analytic techniques. . . [T]he race of victim effect was found at all stages of the criminal justice system process . . .”³²

TEXAS	Black	White
Population	11.5%	71%
Death row	41.6%	34.4%
On death row for crime at age 17	36%	23%

| More than 720 men and women have been executed in the USA since 1977 – in over 80 per cent of cases the original crime had involved a white murder victim. Yet blacks and whites are the victims of murder in almost equal numbers in the USA.

| The population of the USA is approximately 75 per cent white and 12 per cent black. Since 1976, blacks have been six to seven times more likely to be murdered than whites, with the result that blacks and whites are the victims of murder in the USA in about equal numbers. Fifty one per cent of those murdered from 1976 to 1999 were white, and 47 per cent were black. From 1989 to 1999, 48 per cent of murder victims were white and 49.5 per cent were black.³³ Most murders in the USA are intraracial. Between 1976 and 1999, 86 per cent of white murder victims were killed by whites, and 94 per cent of black murder victims were killed by blacks. Of the 705 men and women executed by 1 April 2001, 51.9 per cent were whites convicted of killing whites, 23.3 per cent blacks convicted of killing whites, 1.6 per cent whites convicted of killing blacks and 9.8 per cent were blacks convicted of killing blacks.³⁴

³¹ See *Killing with prejudice: Race and the death penalty in the USA* (AMR 51/52/99, May 1999); *Memorandum to President Clinton: An appeal for human rights leadership as the first federal execution looms* (AMR 51/158/00, November 2000); and *Open letter to the US Attorney General concerning the imminent execution of Juan Raul Garza* (AMR 51/088/2001, 15 June 2001).

³² *Death Penalty Sentencing: Research Indicates Pattern of Racial Disparities*, United States General Accounting Office, Report to Senate and House Committees of the Judiciary, 26 February 1990.

³³ *Homicide trends in the US. Trends by race*. Bureau of Justice Statistics. Of the 492,852 murders in the USA between 1976 and 1999, 252,342 were of whites, 229,829 were of blacks, and 10,681 were of “other”.

³⁴ *Death Row USA, Spring 2001*. NAACP Legal Defense and Educational Fund, Inc.

| According to the Texas Defender Service, “homicide is the eighth leading cause of death among both black Texans (18.7 in 100,000) and Latino Texans (9.6 in 100,000), but is not even among the top ten causes of death for white Texans (4 in 100,000)”.³⁵ Some 249 people had been executed in Texas by 11 July 2001. In 202 cases (81 per cent), the crimes involved white victims. In 57 cases (23 per cent) the defendant was a black convicted of killing a white. None of the 249 people executed have been whites convicted of killing blacks.

TEXAS EXECUTIONS	Black defendant / White victim	White defendant / Black victim
All (249)	23%	0%
Child offenders (9)	33%	0%

| Of the 31 juvenile offenders on death row in Texas in July 2001, 11 (36 per cent) were black, 12 (39 per cent) were Hispanic, seven (23 per cent) were white and one was Asian. In 22 of the 31 cases (71 per cent) the crime involved a white victim. In 15 cases (48 per cent), the defendant was black or Hispanic and the victim was white. In two cases, the defendant was white and the victim Hispanic. In no cases was the defendant white and the victim black.

| Of the nine juvenile offenders executed in Texas since 1977, seven (78 per cent) were for crimes involving white victims and two for Latino victims. Three of the nine (33 per cent) were black defendants convicted of killing white victims. Napoleon Beazley’s execution would make it four out of 10.

| Smith County’s population is about 75 per cent white and 19 per cent black. By July 2001, Smith County accounted for five executions and eight people on death row. In five of these 13 cases the defendant was white; the remaining eight (62 per cent) were black. Ten of these 13 cases (77 per cent) involved white victims. In five cases (38.5 per cent), including that of Napoleon Beazley, the defendant was black and the victim white.

While murders involving white victims appear most likely to result in a death sentence, studies have also shown that when the defendant is black and the victim white, the likelihood of

³⁵ *A state of denial*, op.cit., page 51.

a death sentence is even greater.³⁶ How much greater when the jury selected to determine verdict and sentence itself had not a single African American sitting on it?

The Texas lethal injection chamber, where some 250 people have been killed since 1982, including a third of the child offenders put to death in the world in the past four years.

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On 28 June 1908, an African American teenager, Monk Gibson, who had narrowly avoided being lynched, was hanged in east Texas for the murder of five members of a white family committed when he was 17. Some 2,500 people came to witness the execution. Two months earlier, the Texas Court of Criminal Appeals had rejected an appeal that the selection of an all-white jury for his trial in 1905 had been unfair.³⁷

At Napoleon Beazley's trial 90 years later, the Smith County prosecution removed four African American prospective jurors during the selection process by peremptory challenges, the right to exclude individuals deemed to be unsuitable without giving a reason. In 1986, the US Supreme Court had ruled that jurors could only be removed for "race neutral" reasons. To win an appeal on this issue, the defendant must show that "purposeful discrimination" took place. Proving "purposeful discrimination" is nearly impossible, since prosecutors need only present a vaguely plausible non-racial reason for dismissing potential jurors.

In Napoleon Beazley's trial, for example, the prosecutor – challenged by the defence to explain his use of peremptory strikes against African Americans – stated that he had struck one of the black jurors because 12 years earlier that individual had been charged with driving while intoxicated in Smith County. Although the man in question had been acquitted of the charges, the prosecutor believed that his experience would make him biased against the state. This was despite the fact that during selection questioning, the black juror had said that not only did he harbour no hard feelings towards the state for his prosecution, but that the experience had helped him because he had stopped drinking as a result of the incident.

³⁶ For example, "...blacks who kill whites are sentenced to death at nearly 22 times the rate of blacks who kill blacks, and more than 7 times the rate of whites who kill blacks. In addition, prosecutors seek the death penalty for 70% of black defendants with white victims, but for only 15% of black defendants with black victims, and only 19% of white defendants with black victims." *McCleskey v Kemp*, US Supreme Court (1987), citing study of Georgia's capital sentencing by Professor David Baldus.

³⁷ Victor Streib. *Death penalty for juveniles*. Indiana University Press 1987.

In contrast, a white juror was selected who had been convicted of driving while intoxicated, and had also been arrested and fined within the previous three years for public intoxication. This same juror has been shown since the trial to harbour profound racial prejudice against African Americans. In 1997, a defence investigator went to speak to this juror, who told him that “the state said that we don’t have to say noth’n to nobody”. As he was closing the door, the investigator heard him say “the nigger got what he deserved”. The juror’s wife of 20 years was then contacted by the defence. She stated in an affidavit in 1998:

...the first question the investigator asked me was if I knew of any reason why my husband James could not have been impartial in determining the verdict of the young man. My first thought, and what I told the investigator, was that James is racially prejudiced. I have heard James use many derogatory terms, including the use of the word “nigger” on more occasions than not when he is talking about black people... I cannot say without any doubt that James’ prejudice affected the young man who was on trial. However, I would find it difficult to believe that James could have set his prejudice aside and not let it influence him to some degree.

Would this juror or any of the 11 other white jurors have had their prejudices inflamed by the prosecution’s depiction of the black defendant as an “animal”? Arguing for execution in his closing argument at the punishment phase, one of the prosecutors stated of Napoleon Beazley:

He’s not an adolescent when he gets to Tyler. When he gets to Tyler, he is an armed predator... He’s an armed predator hunting down prey... He then just happened to see the Luttings, stalking his prey, just stalking his prey, which happened to be human beings, and falling in behind them like some animal falling in behind their prey... Because while men like John Luttig is [sic] pulling into his driveway and about to get out with his wife in his garage, the predator is lurking, and he’s out, and he’s ready, and now the prey is stalked, now the prey is cornered, now the prey is in the garage, not on the road, the human prey.... The prey was in there in the garage, out in a minute, jacked up, here we go, a .45 Haskell, up the driveway, shirt off, it’s on, just like the animal about to hunt and comes from behind and gets his prey.

The prosecutor’s message was clear. There are “men like John Luttig” and there are “animals” like Napoleon Beazley. There is a link through history to such dehumanizing language in the state’s use of the death penalty. For example, in September 1952 in the small town of Palestine in East Texas, a short distance from Tyler, a black defendant was on trial for the rape of a 15-year-old white girl. The prosecutor reportedly argued: “This Negro is a lustful animal,

without anything to transform him to any kind of valuable citizen, because he lacks the very fundamental elements of mankind”.³⁸

This is not unique to Texas. At a trial in 1995 in Nevada, the white prosecutor had, in front of an all-white jury, a white judge, two white defence lawyers, and another white prosecutor, referred to the black defendant as “a rabid animal”. The Nevada Supreme Court said that this was “wholly unnecessary” and amounted to prosecutorial misconduct – “such toying with the jurors’ imagination is risky and the responsibility of the prosecutor is to avoid the use of language that might deprive a defendant of a fair trial”.³⁹ During another capital trial in Nevada, one or more white jurors referred to the black defendant as “a gorilla, a baboon, a native tribesman who is not dangerous to his own people but would club or murder anyone outside his territory...”. One of the Nevada Supreme Court Justices wrote: “The use of blatantly racist speech by non-black jurors about a black defendant reflects those jurors’ racist predispositions and denied [the defendant] his right to an impartial jury. Several of the jurors’ expressions epitomize racist stereotypes of African Americans and evidence deep racial prejudice.”⁴⁰

In Texas, before a jury can pass a death sentence, it must unanimously find that the defendant poses a future danger to society (see below). If prosecutors conjure up stereotypical imagery of black defendants, this risks rousing white jurors’ conscious or unconscious fears and increases the likelihood of their finding “future dangerousness”.

Last year, the Texas Attorney General took the unprecedented step of conceding that the use of race at the sentencing phase of Victor Hugo Saldaño’s 1991 trial had undermined the fairness of the proceedings. The prosecution had introduced testimony of a clinical psychologist, who included race as one of the factors establishing the defendant’s future dangerousness, pointing to the fact that blacks and Hispanics are over-represented in the criminal justice system. The US Supreme Court overturned the death sentence on 5 June 2000. In a statement, the Texas Attorney General said: “[I]t is inappropriate to allow race to be considered as a factor in our criminal justice system... The people of Texas want and deserve a system that affords the same fairness to everyone. I will continue to do everything I can to assure Texans of our commitment to an equitable criminal justice system.”⁴¹

³⁸ *Capital punishment deeply rooted in the South*. Houston Chronicle, 5 February 2001.

³⁹ *Jones v State*, 113 Nev. 454; 937 P.2d 55. (1997).

⁴⁰ *White v State*, Nevada Supreme Court, 1996, Justice Rose dissenting. See *USA: Nevada’s planned killing of Thomas Nevius*, AMR 51/001/2001, March 2001.

⁴¹ Statement by Attorney General John Cornyn, 9 June 2000.

Napoleon Beazley on death row in Ellis Unit, 1998. Before death row was transferred to Livingston and inmates were confined to their cells for 23 hours a day, Beazley was one of a few prisoners assigned to jobs

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As the US Supreme Court stated in 1986: “Because of the range of discretion entrusted to a jury in a capital sentencing hearing there is a unique opportunity for racial prejudice to operate but to remain undetected... [A] juror who believes that blacks are violence prone or morally inferior might well be influenced by that belief... More subtle, less consciously held racial attitudes could also influence a juror’s decision... Fear of blacks, which could easily be stirred up by the violent facts of [the] crime, might incline a juror to favor the death penalty.”⁴² The Smith County prosecutor’s use of dehumanizing language to depict a black defendant to an all-white jury, coupled with the revelation that at least one of those jurors harboured severe undisclosed racial prejudice against blacks, should ring alarm bells in the Attorney General’s office and cause it to oppose the execution of Napoleon Beazley.

As the US Government itself noted last year: “The United States has struggled to overcome the legacies of racism... [I]ssues relating to race, ethnicity and national origin continue to play a negative role in American society. Racial discrimination persists against various groups... The path towards true racial equality has been uneven, and substantial barriers must still be overcome”.⁴³

A few weeks after Napoleon Beazley was sentenced to death in Texas, South Africa’s Constitutional Court ruled that the death penalty violated the new constitution. Justice Mohamed, who was to become his country’s first black Chief Justice, wrote that the constitution represented “a decisive break from, and a ringing rejection of, that part of the past which is disgracefully racist, authoritarian, insular, and repressive and a vigorous identification of and

⁴² *Turner v Murray*, US Supreme Court, 1986. The court held that a capital defendant accused of an interracial crime is entitled to have prospective jurors informed of the race of the victim and questioned on the issue of racial bias. In the same decision, Justice Brennan wrote: “The reality of race relations in this country is such that we simply may not presume impartiality, and the risk of bias runs especially high when members of a community serving on a jury are to be confronted with disturbing evidence of criminal conduct that is often terrifying and abhorrent”. The history of race relations in Smith County, Texas, includes a number of lawsuits brought against a local company, Tyler Pipe Industries, by African American employees alleging racially discriminatory practices. It may be noted that three of the jurors at Napoleon Beazley’s trial were associated with this company; one was married to a Tyler Pipe maintenance mechanic, another was one of the company’s managers; a third was a former inventory control analyst with it.

⁴³ Initial Report of the United States of America to the United Nations Committee on the Elimination of Racial Discrimination, September 2000. Page 2.

commitment to a democratic, universalistic, caring and aspirationally egalitarian ethos”. The death penalty was a part of this past. Justice Mohamed also wrote:

*The death sentence must, in some measure, manifest a philosophy of indefensible despair in its execution, accepting as it must do, that the offender it seeks to punish is so beyond the pale of humanity as to permit of no rehabilitation, no reform, no repentance, no inherent spectre of hope or spirituality... the finality of the death penalty allows for none of these redeeming possibilities. It annihilates the potential for their emergence.*⁴⁴

More than half the countries of the world have, in law or practice, abolished the death penalty *against anyone*. Among the diminishing number that retain it, almost all have abolished its use against children, reflecting the commonly held belief that children – due to their immaturity, impulsiveness, vulnerability to peer pressure, and capacity for rehabilitation – should never be put “beyond the pale”. Texas law remains in the dark ages on this issue, and still allows a capital jury to write off a child’s life.

Based on false testimony? The finding of future dangerousness

“I was told by the [prosecutor] to say everything in a way that would make Napoleon look as bad as it could in front of the jury”. Cedric Coleman, affidavit, July 2001

Before they could pass a death sentence, Napoleon Beazley’s jurors had to reach a unanimous finding that there was “a probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society” – so called “future dangerousness” – and that there was insufficient mitigating evidence to warrant a life sentence.

Napoleon Beazley’s case was unusual in that it did not involve mitigating evidence of deprivation, abuse or mental impairment that characterizes many cases of death row prisoners in the USA, and the majority of condemned child offenders.⁴⁵

⁴⁴ *State v Makwanyane*. Op. cit, J. Mohamed.

⁴⁵ For example, see, *USA: The death penalty and juvenile offenders* (AMR 51/23/91, October 1991); *On the wrong side of history: Children and the death penalty in the USA* (AMR 51/58/98, October 1998); *USA: Killing hope - The Imminent execution of Sean Sellers* (AMR 51/108/98, December 1998); *USA: Shame in the 21st century - Three child offenders scheduled for execution in January 2000* (AMR 51/189/99, December 1999); *USA: Crying out for clemency - The case of Alexander Williams, mentally ill child offender facing execution* (AMR 51/139/00, September 2000).

Instead, trial counsel only presented strong evidence depicting a good child who grew up in a good household with attentive, caring parents. The child became an adolescent who excelled in sports and was so popular that he was elected student government president and was runner-up for the honor of most-popular boy in his high school. The youth had no criminal history whatsoever, and was not known to be assaultive or even physically aggressive. Then, over the course of a year or so prior to the offense, the young man apparently fell into a secret world of smalltime drug-dealing, he began to take some dangerous risks, and his very-promising future crashed in the solitary flashes of a pistol on a night in April 1994.⁴⁶

A stream of mitigation witnesses described a respectful, decent, helpful teenager, whose involvement in the Luttig murder appeared to be aberrational behaviour given the absence of evidence of prior violence or threat of violence attributable to him. Among the witnesses who testified to Napoleon Beazley's good character and potential for rehabilitation were the head teacher of his high school, numerous other teachers, a Lieutenant in the Smith County Sheriff's Department, the District Attorney of Napoleon Beazley's home county (who has also appealed for clemency, see appendix), fellow school pupils, and other members of the community.

For their part, the prosecutors sought to ensure that the jury would reject the character evidence presented by the defence. Indeed, they encouraged the jurors to view it as aggravating rather than mitigating evidence. One of the prosecutors argued:

Where is the mitigation in his background with his family? He comes from a good family. He has no reason to go get a Mercedes Benz. Has all the social skills in the world. Popular guy. Popular guy. What reason does that give to mitigate this crime? That makes his crime all the more horrible. Just think, he didn't have organic brain damage. He didn't have some kind of a head injury.⁴⁷ Doesn't have any kind of a mitigating circumstance. He wasn't intoxicated at the time of this offense. It's just a coldblooded killer who goes 80 miles and kills John Luttig.

⁴⁶ *Beazley v Johnson*. Petition for Writ of Habeas Corpus. In the US District Court for the Eastern District of Texas. 1998.

⁴⁷ The prosecutor's implied respect for mental impairment as a mitigating factor is somewhat ironic given the number of mentally impaired defendants who have been sentenced to death in Texas. In some cases, the mental disability was explicitly argued as aggravating by prosecutors. For example, at Oliver Cruz's 1988 Bexar County trial for the murder of Kelly Donovan, white, his lawyer argued that the defendant's mental retardation should mitigate against a death sentence. The prosecutor argued that the fact that Cruz "may not be very smart" made him more dangerous and therefore deserving of execution. Oliver Cruz, Latino, was executed on 9 August 2000. Cruz's white co-defendant, charged with the same crime, pleaded guilty and testified against Cruz. In return, he avoided the death penalty and received a life sentence.

The second prosecutor reinforced this line of attack on the defence evidence:

*Tell me where there's a shred of mitigating evidence in this case that reduces this defendant's moral blameworthiness for what he did in that driveway. It's not there. It's not there. He made conscious, individual choices out of a good home life to become an armed predator and a killer rather than what he could have been. And it's no one's fault but his. And it's not your responsibility. It's no one's responsibility but his.*⁴⁸

In addition, in order to ensure that the jury could find that the defendant was a future danger, the prosecution relied upon the testimony of Napoleon Beazley's co-defendants to paint a picture of a dangerous, remorseless, crack cocaine-dealing individual, obsessed with death and gang culture, who was bent on committing a carjacking and unrepentant about it afterwards.⁴⁹

The Coleman's testimony gave Napoleon Beazley's jury essentially the only evidence it would hear about his state of mind immediately before, during, and after the shooting of John Luttig, and his attitude to the crime. Donald Coleman claimed that Beazley had said "I'm going back into Tyler to get me a car. I want to see what it feels like to see somebody die". He asserted that Beazley had said after the shooting that "if anybody said anything that he would kill them". He described Beazley as watching gang-related films like "Boyz in the Hood" and

⁴⁸ Perhaps this reference to "responsibility" was in response to the testimony of one of the Grapeland High School teachers who testified on behalf of Napoleon Beazley. She had spoken of her sense that the wider community must accept some responsibility in the crime of a child: "No child is raised alone. I don't believe any child is raised strictly by their parents. They're raised by a community." Another teacher said: "Realistically I know how a very good – a young person can get involved with the wrong crowd and get into stuff that – before they really knew what was going on". Two of the state's expert witnesses testified that one of the indicators of the teenager's future dangerousness was his possession of firearms. If Napoleon Beazley is executed on 15 August, he will become the ninth person executed in the USA since April 1998 for a crime committed when they were under 18 years old. In every case, the murder victim was shot dead. Given that the death penalty assumes absolute culpability on the part of the defendant, should society not ask itself if it should bear any responsibility for the apparent ease with which these teenagers obtained guns? In Cedric Coleman's July 2001 affidavit, he recalls: "We all had guns back then because the kids our age in Crockett had guns. Crockett is a small town but it is still bigger than Grapeland. The guys from Grapeland would go over to Crockett to see the girls there. Sometimes we ran into the guys from Crockett who would threaten us with their guns and we'd show them our guns. That was it. Nobody I knew ever shot anybody else. It was like showing off your car or something".

⁴⁹ As two Texas professors have written: "The successful application of the label "dangerous" serves to set the defendant aside... Jurors caught up in a situation akin to a moral panic have little choice but to protect society by incapacitating these "dangerous sociopaths". Ambivalence is easily overcome, thus justifying the state's ultimate form of social control – the death penalty". Jon Sorensen and James Marquart, *Future dangerousness and incapacitation*. In, *America's experiment with capital punishment*, James Acker et al (ed). Carolina Academic Press, 1998.

“Menace to Society” and one called “Faces of Death”, a video of people dying. He said that Beazley had put a message on his answering machine after a line from “Boyz in the Hood” – “This is Napoleon Beazley’s Mortuary, we stab ‘em, we bag ‘em”. Donald Coleman said that after Beazley watched the films, he would act out of character. Likewise Cedric Coleman said that Napoleon Beazley had said that he wanted “to see what it’s like to kill somebody” shortly before the crime, and that Beazley had threatened him and his brother if they said anything about the murder to anyone. He recounted an alleged conversation with Napoleon Beazley in which the latter had said that he took his girlfriend to the hospital where he saw a doctor who asked what he, Beazley, was doing with a white girlfriend. According to Coleman, Beazley had said that the doctor “reminded him of the man that he had killed in Tyler and he said that he wanted to kill the doctor too”. Cedric Coleman also said that Beazley had never indicated to him “that he was sorry about what happened to Mr Luttig”.

Napoleon Beazley, Ellis Unit, 1998

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The prosecution’s expert psychological witnesses proceeded to put a stamp of authority on the state’s assertion of Napoleon Beazley’s “future dangerousness”, but in doing so relied largely upon the testimony of the Coleman brothers. In finding that Beazley represented a future risk to society, one of these experts spoke of “an incredible level of coldness, remorselessness, senselessness” and found that there was not “one shred of remorse”. He admitted, however, that if the accuracy of the Coleman’s testimony were called into question, his opinion would be affected and that if the jury did not accept the Coleman testimony, that “would weaken the value of [his] testimony to the jury”. Another of the prosecution’s experts said that he “substantially” believed the Coleman’s statements.

Throughout the proceedings, the state claimed that no sentencing deals had been made with Cedric or Donald Coleman in return for their testimony. The brothers themselves denied that any deals had been struck. Then, in 1998, both Colemans signed affidavits that the state had agreed not to seek the death penalty against either of them if they testified against Napoleon Beazley and that this had been finalized at the time of the Beazley trial. Napoleon Beazley’s trial lawyer recalls:

During Mr Beazley’s trial, there was testimony from Mr Beazley’s co-defendants, Donald and Cedric Coleman. Although both co-defendants denied there was any type of ‘implied deal’ in return for their testimony, I did not believe that then, nor do I believe it now. If there was an implied deal for the Coleman brothers’ testimony, that would have been very important for the jury to know. The only ‘real evidence’ of future dangerousness came from the Coleman brothers’ testimony regarding statements allegedly made by Mr Beazley prior to and

subsequent to the killing of John Luttig. Had the jury been in a position to view the Coleman's testimony in light of a deal, the outcome may have been different, especially in view of Dr Allen's testimony that his opinion would be different if the testimony of the Colemans was inaccurate.⁵⁰

Indeed, the Coleman's affidavits suggest that the jury (and the experts) did not hear an accurate portrayal of Napoleon Beazley's state of mind on which to base its finding of future dangerousness. In particular, the affidavits point to a teenager who was in fact remorseful. This is a critical point, given that research indicates that a defendant's perceived lack of remorse is a highly aggravating factor in the sentencing decisions of capital jurors.⁵¹ Cedric Coleman stated (corrected spelling):

Also after my federal trial a group of Federal agents came in and questioned me over my testimony that I would give in Napoleon's trial. They would ask me questions and when I would respond to the questions, if I gave an answer that they didn't like they would say "that's not what we want you to say" or "we're not going to ask you that". For instance when I was asked if Napoleon meant to shoot anyone and I said "no because he told me he didn't" they said we're not going to ask you that. I feel that he didn't mean to shoot him, and after he told me that he didn't mean to kill the man he began saying that he was going to kill himself. After I talked him out of that he cried all the way home.

Similarly, Donald Coleman's affidavit claims:

Napoleon didn't mean to shoot Mr Luttig. He cried all the way home. He was still crying when he came over to see my brother the next day. That night I believe that Napoleon would have killed himself if my brother didn't get the gun from him. Mr Luttig rushed at Napoleon and the gun went off. Everything got out of hand after that. The FBI agents later told me not to say anything about Napoleon crying and that he didn't mean to shoot Mr Luttig. I went along with them.

In July 2001, the two brothers signed additional affidavits. They asserted that various parts of their trial testimony had been "false". Cedric Coleman stated:

...I was told by the [prosecutor] to say everything in a way that would make Napoleon look as bad as it could in front of the jury. I told [him] the truth about

⁵⁰ Affidavit of Jeff Haas, 30 September 1998.

⁵¹ Stephen P. Garvey, Aggravation and Mitigation in Capital Cases: What do Jurors Think?, 98 Colum. L. Rev. 1538, 1563 (1998).

how things really happened. Depending on what we were talking about [he] would either say that he didn't want the jury to know that information about Napoleon or he would make me change the way I said something so Napoleon looked worse... [The prosecutor] actually threatened me by telling if I didn't testify the way he wanted he would make sure my brother got the death penalty.

I [testified] that Napoleon told me that he wanted to kill the doctor... This was false... The truth is that Napoleon told me the doctor reminded him of Mr Luttig and that seeing the doctor made him visualize that night. Napoleon was very upset when he was telling me this. Napoleon was saying he felt bad about what happened. I told [the prosecutor] this but he didn't want me to testify about it.

My...testimony that, prior to killing Mr Luttig, Napoleon said he "wanted to feel what it was like to kill someone" was false. The way Napoleon's comment about "killing someone" really came out was when I was talking to Napoleon two or three days after we got back to Grapeland. We were at his mom's house. Napoleon was saying things about how he had made a big mistake shooting Mr Luttig and that he was going to kill himself. Napoleon was saying this in a depressing way. I was asking him what he was thinking about when he ran up to the house and Mr Luttig got shot. It was like he couldn't really explain it even to himself. That's when he said "I guess I was just tripping and wanted to see what it was like to shoot somebody". [The prosecutor] wanted me to change when Napoleon said that and [he] wanted me to testify like Napoleon was angry when he said it. [The prosecutor] and I both know that the way I testified would have given the wrong impression about what was really said by Napoleon and when.

...you could tell Napoleon was sorry for what he did... [The District Attorney] told me that wasn't what he wanted the jury to hear and [he] made it clear to me that if I testified differently at Napoleon's trial that he would not give Donald and me the deal.

For his part, Donald Coleman's 2001 affidavit says:

What I said...about Napoleon saying, when we went back to Tyler before the offense, that he wanted to hurt someone or see what it was like for someone to die is completely false. I never have heard Napoleon say anything like this. However, I knew that if I did not go along with Napoleon saying something like this, [the prosecutor] could say that I went back on our agreement and I might face the death penalty.

The jury's finding of future dangerousness has also been called into question by the fact that Napoleon Beazley has been a model prisoner. Before death row was recently moved from Ellis Unit in Huntsville to its new location in Terrell Unit, Livingston, and all prisoners were confined to their cells for 23 hours a day, Napoleon Beazley was one of a few prisoners assigned to jobs within the prison. At the trial the state's experts had testified that Beazley would pose a threat of violence in prison. It seems they were wrong.

Conclusion - Time for clemency

*"America's continued practice of executing juvenile offenders has alarming implications for our society's visions of morality, crime and punishment, conformance to international law and indeed childhood itself. When we execute juvenile offenders, we ignore what we know about the ways in which children and adolescents are different from adults"*⁵²

The murder for which Napoleon Beazley is scheduled to die was a terrible act of violence with tragic consequences. Those who have suffered as a result deserve compassion, respect and justice. These objectives cannot be furthered by killing Napoleon Beazley. No insight will be gained into juvenile violence. Another grieving family will be created, this time by the state.

The planned killing of Napoleon Beazley is illegal under international law. The USA maintains that it has reserved the right to ignore this ban. In so doing it has sabotaged its own claims to be a progressive force for human rights. While rest of the world has agreed that rehabilitation must win out over punishment as the overriding objective in responding to the crimes of children, Texas is set to execute a young offender whose rehabilitative potential was testified to by a stream of trial witnesses. His record in prison would appear to justify the confidence they placed in him.

Beyond the illegality of the execution, and the fact that it flies in the face of conventional wisdom relating to the treatment of young offenders, the case of Napoleon Beazley raises the sort of issues which continue to generate substantial domestic concern about the fairness and reliability of the US capital justice system.

Was the state's decision to seek the death penalty in any way influenced by the identity and status of the victim? Did private vengeance steal into the proceedings against Napoleon Beazley? Did prejudice taint the decision by 12 white jurors to vote to execute an African American teenager accused of the high-profile murder of a senior member of the local white community? Did the state's aggravating evidence represent a true picture of the defendant, or an embellished portrait painted by co-defendants out to save themselves from execution?

⁵² *Old enough to kill, old enough to die.* By Steven A. Drizen and Stephen K. Harper. San Francisco Chronicle, 16 April 2000.

Whether or not the scales of justice were tipped against Napoleon Beazley from the start, his execution does not have to be a foregone conclusion. The courts may have ruled in the state's favour all the way through the process, including in their rejection of the international prohibition on the execution, but the power of executive clemency exists precisely to compensate for the rigidities of the judicial system. The Texas Board of Pardons and Paroles should recommend to Governor Perry that he commute Napoleon Beazley's death sentence on humanitarian grounds and in the interests of justice, decency and the reputation of the State of Texas and the USA as a whole. If no such recommendation is forthcoming, the governor should grant a reprieve and call upon the Board to reconsider. Prosecutors and legislators in Texas, as well as the federal administration, should support this outcome.

Napoleon Beazley, Ellis Unit, Texas, November 1998.
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Appendix 1. Extracts from an interview with Rena Beazley⁵³

I had never really thought about the death penalty... I know that's the case [with other people]. Now that they know us – the local people know us and they knew Napoleon – it's changed them, it's got a lot of people thinking. When this happened, people were coming from every direction saying "that could have been my child", you know, "that could have been me".

Until then, I'd never thought I'd visit a prison, let alone death row... Napoleon helps me to handle it... I feel as though, if he sees me falling apart... I'm not going to allow that... I have to be strong for him. As long as he's OK, I'm OK... One day at a time. And that's the way we are. One day at a time.

Jamal [Napoleon's younger brother], he's seventeen now, he can go a while without seeing Napoleon, whereas I can't. I missed last week's visit [to death row] and Napoleon was like "I knew you'd be here" – I saw him yesterday – "I know you can't stay away from me that long". I'm like, "You sure think highly of yourself!" But it's true. Two weeks is the most. I'm irritable if I can't see him. And I don't know why, once I'm there and I see him I'm fine. And I can turn and come back home. You know, I just need to see him.... If he's killed..... I don't want to focus on that. I'm trying to hold on to the hope, because he's still here and anything can happen, anything can happen.

I've had people ask me if I would attend the execution if it gets to that. Well, yes, I have to, that choice was made for me. I didn't make it, it was made for me. How can I not go? The way I see it is if the closest person to you is in hospital dying with cancer, and the doctors call you and say you need to get here, you do it, you go. I don't have a choice. I wish I did, but I don't. I was there when he got here, and I'll be there... if that's the case, I'll be there. If Napoleon says when the time comes that he doesn't want it, then I'll be outside, as close as I can get.

Napoleon doesn't deserve to die. I know there's got to be punishment, but death for a 17-year-old? People change. I've changed. If you do a list today and five years from now you go back and look at that sheet of your thoughts, your whatever, you will even wonder if that was you that put that on that paper. People change. To take a child, to take somebody's life at 17, you can't hold a 17-year-old by the same standards as you do me or you. I've made poor decisions, everybody does. But experience, you know, life – life is a teacher. And I know even today Napoleon is much better now than he was then.

What happened that night, I don't know what happened, I'm not sure Napoleon knows what happened. He got caught up in this. I don't know whether it was peer pressure, but he just got caught up in it. And it happened. And it's sad that it happened. But I don't think he should be put to death for it. I don't feel that if he's put to death, it's going to – the [Luttig] family say it's going to bring closure, but in reality, in reality....

I think it's sad that there's so much hatred here in the United States.. I'm thinking that hopefully that other countries will maybe force the United States to change its ways. I feel as though

⁵³ An AI delegate met with Rena Beazley, Napoleon's mother, in Grapeland, Texas, on 4 May 2001.

one day it will change – it might be too late for us, I pray that it isn't – but I feel that one day it's going to change, it's going to change. I just feel it will change.

Appendix 2. Text of clemency letter from Houston County District Attorney

Members of the Texas Board of Pardons and Paroles
8610 Shoal Creek Boulevard
Austin, Texas 78757

July 20, 2001

Attn: Executive Clemency Section

Dear Members,

I am writing in support of commutation of Napoleon Beazley's death sentence to life in prison.

I have been a strong advocate for the death penalty my entire adult life and have made decisions regarding the death penalty during my tenure as District Attorney. Based on my knowledge of Napoleon Beazley as a person, as well as my knowledge of the facts of his criminal offense, I would not have sought the death penalty had this case been filed in Houston County. Although it is not my habit to testify on behalf of defendants during a criminal trial, I did so during Mr Beazley's trial. My reasons for testifying are the same as my reasons for corresponding with you today.

I have know Napoleon Beazley for over ten (10) years as I have lived in the small community where he was raised and have known his family my entire life. This young man was raised with a focus on honesty, respect, hard work and being a contributing member of society. He was a good son and loved by his family who had high hopes for his future. He was respected by his teachers and fellow students and had plans to enter the United States Armed Forces when he graduated from High School. There is no reasonable explanation for what Mr Beazley did in Smith County, Texas. I was shocked when I learned the facts of the case. I do not condone what he did and believe he should be punished, but I do not believe he should suffer the ultimate punishment as his prior record is without blemish and there is no indication he would be a continuing threat to society.

I am further concerned the decision to seek the death penalty in this case was based, in part, on the fact the victim's son was a federal judge. Certainly, if my own father was murdered I would want everyone involved to be executed - that is a decision based on emotion, not legal precedence, and I'm sure the victim's son took every opportunity to encourage the prosecutor to seek the death penalty. I do not believe death is the correct sentence in this case as Mr Beazley had no prior record nor did he exhibit behavior indicating he would be a continuing threat to society.

Bottom line, Mr Beazley is a young, black man from a small community who could have done great things in his life because he was charming, smart, respectful and a genuinely good kid. He was a fool to be influenced by his co-defendants and a fool to act like a common street thug in this one instance. He made a terrible mistake this one time, but I hope you will consider his background, his remorse for the sorrow he has brought to the victim's family as well as his own

and the fact this is an isolated incident and commute his sentence to life in prison.

Thank you for your time and consideration,

Sincerely,
Cindy Maria Garner, District Attorney

Appendix 3. Juvenile death sentences and executions in Texas

Prisoner	Age at crime	Race	Race of victim(s)	County of prosecution	Age, July 2001
Steven Alvarado	17	H	H/H	El Paso	26
Randy Arroyo	17	H	H	Bexar	21
Mark Arthur	17	W	H	Harris	21
Mauro Barraza	17	H	W	Tarrant	29
Napoleon Beazley	17	B	W	Smith	24
Johnnie Bernal	17	H	W	Harris	24
Edward Capetillo	17	H	W/W	Harris	24
Raymond Cobb	17	W	W/W	Walker	25
John Dewberry	17	W	W	Jefferson	24
Justin Dickens	17	W	W	Randall	25
Anthony Dixon	17	B	W	Harris	24
Derek Guillen	17	H	W	Bell	20
Eddie Johnson	17	B	W	Tarrant	21
Anzel Jones	17	B	W	Lamar	23
TJ Jones	17	B	W	Gregg	24
Leo Little	17	W	H	Bexar	21
Michael Lopez	17	H	W	Harris	20
Miguel Martinez	17	H	W/H/H	Webb	27
Gerald Mitchell	17	B	W	Harris	33
Jose Monterrubio	17	H	H	Cameron	24
Toronto Patterson	17	B	B/B/B	Dallas	23
Efrian Perez	17	H	W/W	Harris	25
Whitney Reeves	17	W	W/W	Jefferson	19

Robert Springsteen	17	W	W	Travis	26
Christopher Solomon	17	B	W	Bowie	21
Oswaldo Soriano	17	H	W	Randall	26
Son Vu Khai Tran	17	A	A/H	Harris	21
Raul Villareal	17	H	W/W	Harris	25
Bruce Williams	17	B	A	Dallas	19
Nanon Williams	17	B	B	Harris	26
Geno Wilson	17	B	W	Harris	20

Executed in Texas:

Prisoner	Age at crime	Race	Race of victim(s)	County of prosecution	Executed	Age at execution
Charles Rumbaugh	17	W	W	Potter	1985	28
Jay Pinkerton	17	W	WW	Nueces/Potter	1986	24
Johnny Garrett	17	W	W	Potter	1992	28
Curtis Harris	17	B	W	Brazos	1993	31
Ruben Cantu	17	H	H	Bexar	1993	26
Joseph Cannon	17	W	W	Bexar	1998	38
Robert Carter	17	B	H	Harris	1998	34
Glen McGinnis	17	B	W	Montgomery	2000	27
Gary Graham	17	B	W	Harris	2000	39

A = Asian
 B = Black
 H = Hispanic
 W = White

Appendix 4. International ban on execution of child offenders - selected chronology

- , 1949 - Fourth Geneva Convention adopted. Article 68.4 states that “the death penalty may not be pronounced against a protected person who was under eighteen of age at the time of the offence.”
- , 1955 - USA ratifies the Fourth Geneva Convention without reservation to article 68.4, thereby agreeing that in the event of war or other armed conflict in which the US may become involved, it will protect all civilian children in occupied countries from the death penalty.
- , 1977 - the USA signs the International Covenant on Civil and Political Rights (ICCPR) and the American Convention on Human Rights (ACHR), thereby binding itself in good faith not to do anything which would defeat the object and purpose of the treaties, pending a decision on whether to ratify them (Vienna Convention on the Law of Treaties (1979), article 18a). Both the ICCPR and the ACHR forbid the use of the death penalty against those under 18 at the time of the crime (ICCPR, article 6.5; ACHR, article 4.5).
- , 1984 - UN adopts, by consensus, the Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty. Safeguard 6 states that “persons below 18 at the time of the commission of the crime shall not be sentenced to death...”.
- , 1987 - the Inter-American Commission on Human Rights declares that the USA violated Article 1 of the American Declaration of the Rights and Duties of Man when Texas executed James Terry Roach and Jay Pinkerton in 1986 for crimes committed when they were 17 years old. The Commission referred to the “emerging” principle of customary international law prohibiting the execution of child offenders.
- , 1989 - the UN Convention on the Rights of the Child (CRC) is adopted by the UN General Assembly. Article 37 reiterates the ban on the execution of people who were under 18 years old at the time of the crime.
- , 1992 - the USA ratifies the International Covenant on Civil and Political Rights (ICCPR) with a reservation purporting to exempt it from article 6(5)’s prohibition on the use of the death penalty against under 18-year-olds. Yet Article 4 of the ICCPR states that there can be no derogation from article 6, even in times of emergency. Eleven countries formally object to the US reservation.
- , 1994 - Yemen, one of only six countries known to have executed a child offender in the 1990s, abolishes the death penalty for those under 18 at the time of the crime.
- , 1995 - Napoleon Beazley sentenced to death in Texas.
- , 1995 - the UN Human Rights Committee, the expert body which monitors countries’ compliance with the ICCPR, rules that the US reservation violates the object and purpose of the treaty and should be withdrawn. The Committee “deplores” the USA’s continuing use of the death penalty against child offenders.
- , 1995 - the USA signs the Convention on the Rights of the Child, thereby binding itself to respect its terms in good faith.
- , 1997 - China abolishes the death penalty for those under 18 at the time of the crime, to be in compliance with its obligations under the CRC, which it ratified in 1992.

1998 - UN Special Rapporteur on extrajudicial, summary or arbitrary executions, in the report of his 1997 mission to the USA, reiterates that the US reservation to the ICCPR should be considered void and that the use of the death penalty against child offenders violates international law.

1999 - 10th anniversary of the Convention on the Rights of the Child. The treaty has been ratified by 191 countries, all but the USA and the collapsed state of Somalia.

1999 - Montana becomes the 15th retentionist US state to forbid the use of the death penalty against those who were under 18 at the time of the crime. Given that 12 states forbid the death penalty altogether, this means that 27 US states, more than half, are now in compliance with the global ban. Children are also ineligible for the death penalty under US federal and military capital statutes.

1999 - the UN Sub-Commission on the Promotion and Protection of Human Rights “condemns unequivocally the imposition and execution of the death penalty on those aged under 18 at the time of the commission of the offence” and calls on countries which still allow such use of capital punishment to stop.

1999 - The UN High Commissioner for Human Rights appeals to the US Government and Virginia state authorities to prevent the scheduled execution of Douglas Christopher Thomas and to “reaffirm the customary international law ban on the use of the death penalty on juvenile offenders”.

1999 - the US Government files a brief in the US Supreme Court urging the Court not to consider the claim of Nevada inmate Michael Domingues, sentenced to death for a crime committed when he was 16, that his sentence violates international law. The Court subsequently refuses to consider the Domingues appeal.

2000 - Pakistan’s Juvenile Justice System Ordinance, signed by the country’s President on 1 July, abolishes the death penalty for people under 18 at the time of the crime. Pakistan is one of five countries reported to have executed a child offender since 1994.

2000 - In June, Gary Graham becomes the fourth child offender executed in the USA in six months. The UN High Commissioner for Human Rights expresses “deep regret” at the execution. The Special Rapporteur on extrajudicial, summary or arbitrary executions said that the execution was “evidence of disregard for the growing international movement for abolition of the death penalty”.

2000 - the UN Sub-Commission on the Promotion and Protection of Human Rights affirms that “the imposition of the death penalty on those aged under 18 at the time of the commission of the offence is contrary to customary international law”. The Sub-Commission repeats its unequivocal condemnation of such use of the death penalty and calls upon countries that retain the death penalty for child offenders to abolish it as soon as possible and, “in the meantime, to remind their judges that the imposition of the death penalty against such offenders is in violation of international law.

2001 - The UN Commission on Human Rights calls upon all retentionist states to comply fully with their obligations under the ICCPR and the CRC, including not to impose the death penalty for crimes committed by persons below eighteen years of age. It calls on countries to withdraw any reservations they have lodged to article 6 of the ICCPR given that this article “enshrines the minimum rules for the protection of the right to life and the

generally accepted standards in this area". The Commission also welcomes the Sub-Commission's resolution of 2000, above.

Appendix 5: Reported executions of child offenders worldwide, 1991 - 2001

Country	Name of prisoner	Age at crime (C), sentence (S), or execution (E)	Date of execution
Dem. Rep. Congo	Kasongo	14 (C/E)	15 January 2000
Iran	Male (name unknown)	16 (E)	29 September 1992
	Male (name unknown)	17 (E)	29 September 1992
	Male (name unknown)	17 (E)	29 September 1992
	Ebrahim Qorbanzadeh	17 (E)	24 October 1999
	Ali Ayedeh	13 (S)	14 October 2000
	Mehrdad Youssefi	16 (C)	29 May 2001
Nigeria	Chiebore Onuoha	15/17 (C/E)	31 July 1997
Pakistan	Name unknown	17 (E)	15 November 1992
	Shamun Masih	14 (C)	30 September 1997
Saudi Arabia	Sadeq Mal-Allah	17 (S)	3 September 1992
USA	Johnny Garrett (Texas)	17 (C)	11 February 1992
	Curtis Harris (Texas)	17 (C)	1 July 1993
	Frederick Lashley (Missouri)	17 (C)	28 July 1993
	Ruben Cantu (Texas)	17 (C)	24 August 1993
	Christopher Burger (Georgia)	17 (C)	7 December 1993
	Joseph Cannon (Texas)	17 (C)	22 April 1998
	Robert Carter (Texas)	17 (C)	18 May 1998
	Dwayne Wright (Virginia)	17 (C)	14 October 1998
	Sean Sellers (Oklahoma)	16 (C)	4 February 1999
	Chris Thomas (Virginia)	17 (C)	10 January 2000
	Steve Roach (Virginia)	17 (C)	13 January 2000
	Glen McGinnis (Texas)	17 (C)	25 January 2000
	Gary Graham (Texas)	17 (C)	22 June 2000
Yemen	Nasser Munir Nasser al'Kirbi	13 (E)	21 July 1993

NOTES

- In 1994 Yemen abolished the death penalty for people under 18 at the time of the crime.
- In July 2000 in Pakistan, the Juvenile Justice System Ordinance was promulgated, banning the death penalty for anyone under 18 at the time of the crime. However, around 50 such individuals are believed to remain on death row.
- In 2001 in Democratic Republic of Congo, the death sentences of five children were commuted.
- Saudi Arabia became a State Party to the Convention on the Rights of the Child in 1996. In January 2001, the Committee of the Rights of the Child noted that the definition of the child is unclear under Saudi law and that the age of majority is not defined. The Committee expressed its serious concern that "there is a possibility that the death penalty may be imposed for offences committed by persons who were under 18 years at the time the offence was committed".⁵⁴ Amnesty International received a report of a 16-year-old who was sentenced to death in 1996, but was saved from execution because his mother paid blood money to the relatives of the murder victim. The organization does not know of any executions of child offenders that have taken place since Saudi Arabia ratified the CRC.

⁵⁴ CRC/C/15/Add.148

- In 2000, at the 52nd Session of the Sub-Commission on the Promotion and Protection of Human Rights, Nigeria denied that Chidiebere Onuoha (sic), executed in 1997, had been under 18 at the time of the offence. The delegate stated that in cases where juveniles had been convicted of capital offences, the death sentences had been commuted to terms of imprisonment.⁵⁵

⁵⁵ E/CN.4/Sub.2/2000/SR.6