

DEATH PENALTY NEWS

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

THREE MILLION MORATORIUM SIGNATURES PRESENTED AT UN

On 18 December 2000 in New York, Kofi Annan, the Secretary-General of the United Nations, was presented with a petition for a moratorium on the death penalty signed by 3,213,974 people around the world. In accepting the petition, Mr Annan said: "The forfeiture of life is too absolute, too irreversible, for one human being to inflict it on another, even when backed by legal process. Let the states that still use the death penalty stay their hand lest in time to come they look back with remorse knowing it is too late to redeem their grievous mistake."

The petition, in the form of a leather-bound book, was presented by representatives of the three organizations which organized the moratorium appeal: the Community of Sant'Egidio, the Rome-based interfaith group which promotes peace and alleviation of suffering; Moratorium 2000, founded in the United States by Sister Helen Prejean, the author of the book *Dead Man Walking*; and Amnesty International.

The signers of the moratorium appeal came from 146 countries and all the world's religions. Among the signatories are Tenzin Gyatso, the Dalai Lama; George Carey, the Archbishop of Canterbury; Peter Benenson, the founder of Amnesty International; Nobel Prize laureates including Gunter Grass and Elie Wiesel; heads of state, parliamentarians, distinguished members of the professions and celebrities.

A rally took place in Dag Hammarskjold Plaza outside the United Nations with a theatre troop acting out excerpts from the play *The Exonerated*, due to be performed on Broadway in January. Speakers included Susan Sarandon (who played Sister Helen Prejean in the film of *Dead Man Walking*) and William Nieves (an exonerated death row inmate) as well as Mario Marazziti, Sister Helen Prejean and Paul Hoffman (see below).

In Rome the Colosseum was lit up to coincide with the presentation ceremony.

The photograph below shows the UN Secretary-General Kofi Annan being presented with the signatures on the petition for a moratorium on the death penalty by Mario Marazziti of the Community of Sant'Egidio, Sister Helen Prejean of Moratorium 2000 and Paul Hoffman, a member of the International Executive Committee of Amnesty International.

Pakistan Bans Juvenile Executions

The government of Pakistan on 1 July 2000 issued Juvenile Justice System Ordinance 2000 which prohibits the death penalty for anyone aged below 18 at the time of the alleged offence. This comes exactly 10 years after Pakistan ratified the United Nations Convention on the Rights of the Child (CRC) which makes it obligatory for states parties to ban the death penalty for juvenile offenders in domestic legislation.

Legislation relating to juveniles had remained dormant for many years in Pakistan as no government took steps to officially notify it in the gazette whereby a piece of legislation becomes legally binding. However, the Pakistan Law Commission has confirmed that Juvenile Justice System Ordinance 2000 was officially notified on 1 July and came into force on that date.

Around 50 people who were below the age of 18 at the time of the offence still remain under sentence of death in Pakistan.

Guatemala Ruling on International Law

On 14 November the Constitutional Court of Guatemala repealed the death sentences imposed in 1998 on five members of a band of kidnappers. In giving its decision the court ruled that in matters of human rights, international law prevails over national legislation. The acceptance in Guatemala of this important principle in international law sets a significant precedent for future sentencing.

Article 4(2) of the American Convention on Human Rights, which Guatemala ratified in 1978, prohibits member states from extending the death penalty to crimes other than those already included in national legislation at the time of ratification. Nevertheless, in March 1995 the Guatemalan Congress approved Decree 14-95 which extended the death penalty to kidnapping. This decree has now been invalidated by the Constitutional Court's ruling making illegal the execution of people accused of kidnapping.

Philippines President Commutes Death Sentences

On 26 December, President Joseph Estrada commuted to life imprisonment the death sentences of 13 of the 120 prisoners in the Philippines whose death sentences had already been confirmed by the Supreme Court. The President had earlier announced that he is considering further commutations of the approximately 1400 death sentences handed down since the death penalty was restored in late 1993.

Presidential Press Secretary Ricardo Puno stated at a press briefing on 12 December that the President would support a Congressional review to repeal Republic Act 7659 which allows the death penalty, but no hearings on the death penalty have yet been scheduled. The death penalty was suspended under the 1987 Constitution but in 1993 a law was passed re-imposing it to apply for "heinous" crimes.

Seven men have been executed by lethal injection since executions resumed in February 1999 after a period of 23 years. In March 2000 President Estrada announced a temporary moratorium on executions to mark the Jubilee year of the Roman Catholic Church.

Anti-Death Penalty Conference Held in USA

More than 1000 death penalty opponents gathered in San Francisco, California on 16 - 19 November 2000 to devise future strategies for fighting the death penalty in the United States. The conference was attended by murder victims' families who are opposed to capital punishment and former prisoners freed from death row as well as Senator Russ Feingold of Wisconsin who is the author of a bill in Congress calling for a nationwide moratorium on the death penalty. Many conference delegates were optimistic that public opinion is beginning to doubt the wisdom of combatting crime with executions.

No one illustrated this optimism more than Governor George Ryan of Illinois, who in a moving speech mapping out his journey from ardent supporter of the death penalty to signing the order declaring a moratorium on executions in his state said: "I supported the death penalty, I voted for the death penalty but when I was the last person between the prisoner and his execution, I might as well have been pulling the switch, and no human being should be asked to do that".

European Conference of Ministers

The 50th anniversary of the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) was celebrated by a conference of ministers from around 50 European states in Rome on 4 November. Among other concerns, the ministers referred to the recommendation first adopted by the Parliamentary Assembly of the Council of Europe in 1994 calling for the creation of a further protocol to the European Convention on Human Rights which would provide for the abolition of the death penalty in time of war as well as in time of peace.

To this end, the conference passed resolution 11B on the abolition of the death penalty which ... "invites: (i) the member States which still have the death penalty in respect of acts committed in time of war or of imminent threat of war, to consider its abolition; (ii) the Committee of Ministers to consider the feasibility of a new additional protocol to the Convention which would exclude the possibility of maintaining the death penalty in respect of acts committed in time of war or of imminent threat of war."

European Union Proclaims Charter of Fundamental Rights

The European Council, meeting in Nice on 7-9 December, issued a joint proclamation with the European Parliament and Commission of the first Charter of Fundamental Rights which combines in a single text the civil, political, economic, social and human rights which hitherto have been laid down in various international and national sources. Article 2 of the Charter states: "1. Everyone has the right to life. 2. No one shall be condemned to the death penalty, or executed."

NEWS IN BRIEF

Malaysia - Two men convicted of drug trafficking in 1988 were executed in Malaysia on 27 November. The executions were the first to take place in four years.

Japan - Three men were hanged on 30 November, the first executions for nearly a year. Fujiwara Kiyotaka, Takahi Miyawaki and Kunikatsu Ohishi were all convicted of murder between 1972 and 1989.

Thirty-nine people have been executed since the lifting of a four-year de facto moratorium on the death penalty in Japan in 1993 and 110 remain under sentence of death.

India - The South Asia Human Rights Documentation Center (SAHRDC) has made a submission to the National Commission for the Review of the Working of the Constitution which is examining the constitution of India. SAHRDC is calling for a wider public debate on the provisions of the constitution and suspension of the death penalty until the government is able to rectify gross problems of unfairness within the system.

Kyrgyzstan - The President of Kyrgyzstan on 14 November decreed that the moratorium on executions, in place since 1998, should be extended for another year until December 2001. However, death sentences continue to be handed down. **AI** has received information on eight men who have been sentenced to death since 1998 but as the practice of the death penalty is regarded as a state secret in Kyrgyzstan it is believed that the number of people sentenced to death may be much higher.

Canada - The annual Canadian crime rate figures for 1999, published by Statistics Canada, show that crime rates, including homicide, have dropped yet again. The 1999 figure of 1.76 homicides for every 100,000 people, a decline of 4.7% from 1998, was the lowest since 1967. The peak rate of 3.09 homicides per 100,000 population occurred in 1975, the year before Canada abolished the death penalty for murder.

USA News - The International Court of Justice in The Hague opened a hearing on 13 November brought by Germany against the USA with regard to the execution of two German citizens in Arizona in 1999. Brothers Walter and Karl LeGrand were convicted of a fatal stabbing in 1982. Gerhard Westdickenburg, the German official prosecuting the case, claimed the USA violated Article 36 of the Vienna Convention on Consular Relations guaranteeing consular access to foreigners overseas. He called for reparations to be made to discourage the United States from further violations of the Vienna Convention.

James Thessin, acting legal adviser for the US State Department publicly apologized to the Court for failing to notify the German Consulate in the US of the brothers' detention until 10 years after their arrest but said that granting reparations would twist the intent of the law on consular access.

In a similar case in **Texas**, Miguel Flores, a Mexican national, was executed on 9 November for a murder committed in 1989. The state authorities failed to notify Miguel Flores of his right to contact the Mexican consulate, in violation of Article 36 of the Vienna Convention on Consular Relations. Mexican officials have since declared that they would have advised Miguel Flores of his legal rights upon arrest, ensured that he was represented by competent lawyers and assisted in the presentation of mitigating evidence at the sentencing phase of his trial.

Louisiana - Two innocent men were released from prison after spending 13 years on death row. Michael Graham and Albert Burrell were convicted of murder in 1987 despite a weak case "which should never have been brought to the grand jury" as the state Public Prosecutor, Dan Grady, recently acknowledged. The state Attorney General's office, which dismissed the charges against the two men, cited a "total lack of credible evidence".

According to reports by the Associated Press, recent DNA tests proved that blood found at the victims' home did not belong to either Albert Burrell or Michael Graham. The trial attorneys appointed to defend Albert Burrell were later disbarred for other reasons.

Since 1973, 93 inmates have been released from death row in the US after evidence of their innocence emerged, with a record 16 inmates released from death

row in the past two years. One prisoner, Frank Lee Smith from **Florida**, who died of cancer in January 2000, was posthumously cleared by DNA evidence later in the year.

INTERNATIONAL TREATIES

Poland ratified Protocol No. 6 to the European Convention on Human Rights on 30 October 2000 bringing the total of countries which have ratified the Protocol to 39.

DEATH PENALTY STATISTICS

Abolitionist and Retentionist Countries (December 2000)

Abolitionist for all crimes	75
Abolitionist for ordinary crimes	13
Abolitionist in practice	20
Retentionist	87

BOOKS

2000 - A Watershed Year of Change, published by the Death Penalty Information Center in Washington DC, USA, is available online at: <http://www.deathpenaltyinfo.org/yrendrpt00.html>