

DEATH PENALTY NEWS

June 2001

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

COUNCIL OF EUROPE CALLS FOR MORATORIUM IN JAPAN AND USA

The Parliamentary Assembly of the Council of Europe voted on 25 June to call for an immediate moratorium on executions and for improvements in death row conditions in Japan and the USA and that the two countries take the necessary steps to abolish the death penalty.

In its Resolution 1253 (2001), adopted on 25 June, the Parliamentary Assembly also decided to call into question the continuing observer status of Japan and the USA at the Council of Europe should no significant progress in the implementation of this resolution be made by 1 January 2003.

The resolution states that the application of the death penalty "constitutes torture and inhuman and degrading punishment within the meaning of Article 3 of the European Convention on Human Rights".

The Parliamentary Assembly comprises members of parliament from the 43 countries which make up the Council of Europe, the main European inter-governmental organization concerned with human rights. States with observer status at the Council of Europe are Canada, Mexico, the Holy See, Japan and the USA. Japan and the USA were granted observer status in 1996.

The Parliamentary Assembly acted on the basis of a report by Liechtenstein parliamentarian Renate Wohlwend, prepared for the Assembly's Committee on Legal Affairs and Human Rights following Committee fact-finding missions to Japan and the USA earlier in the year (the resolution and the report are available on website www.coe.int).

The report cites items of particular concern regarding the death penalty which in **Japan** includes: secrecy surrounding executions, harsh conditions of detention, and allegations of torture and forced confessions.

In the **USA** the report highlights the execution of child offenders and people suffering from mental illness or retardation, the racially and economically discriminatory application of the death penalty, and the harshness of prison conditions on death row.

Gunnar Jansson, Chair of the Committee on Legal Affairs and Human Rights, went to Japan in February. He visited the Tokyo Detention Centre and had meetings with the Minister of Justice and other government officials, lawyers and members of the Parliamentary League for the Abolition of the Death Penalty. He also met former death row prisoners who had spent a combined total of 55 years in prison before being acquitted.

Renate Wohlwend's visit to the USA in March-April included visits to two prisons, though not a death row, and a meeting with a former death row prisoner as well as government officials and academics.

The Parliamentary Assembly had previously taken strong action to support the abolition of the death penalty in Ukraine, the Russian Federation and other Council of Europe member states (see **DP News** March 1999).

ABOLITION IN CHILE

On 28 May Chilean President Ricardo Lagos signed a law abolishing the death penalty for ordinary crimes and replacing it with life imprisonment. The law, No. 19734, was published in the Official Gazette on 5 June. The death penalty is retained in the Code of Military Justice for crimes committed in time of war.

The decisive step towards abolition was begun in August 2000 when Senator Juan Hamilton introduced a bill to abolish the death penalty. The bill was passed by the Senate in December 2000 and approved by the chamber of Deputies in April 2001 by 66 votes to 37. Under the new law, people convicted of the most serious crimes must

serve at least 40 years in prison.

Although the death penalty had been in place since the 19th century, it was rarely enforced. The last executions, of two police officers convicted of multiple rapes and murder, were in 1985. Since then all death sentences not overturned on appeal, have been commuted to life imprisonment by presidential decree.

REFERENDUM IN IRELAND ON DEATH PENALTY

On 7 June the Irish electorate voted on a bill to remove all references to the death penalty from the country's constitution and replace them with constitutional Amendment 21 which prevents the *Oireachtas* (Houses of Parliament) from enacting "any law providing for the imposition of the death penalty". The result was 62% in favour of removing the death penalty from the constitution and 37% opposed.

The death penalty had been removed from the Irish penal code in 1990; the last execution in Ireland took place in 1954.

SPANISH PRISONER ACQUITTED IN USA

A Spanish citizen who had been under sentence of death in Florida for three years was declared not guilty in a retrial.

Joaquin José Martínez, now 30 years old, was sentenced to death in 1997 after being convicted of a double murder committed in 1995, but the sentence was overturned last year by the Supreme Court of Florida because of irregularities in the trial. An audio tape of alleged incriminating statements by Martínez, which was used at the first trial, was ruled inadmissible at the retrial because it was inaudible. The new jury, however, heard evidence that the transcript of the inaudible tape had been prepared by the victim's father, who was the manager of the sheriff's office evidence room at the time of the murder and who had offered a \$10,000 reward in the case.

At a new trial concluded on 5 June the jury unanimously acquitted Joaquin José Martínez after deciding that the evidence against him was insufficient. The Spanish Prime Minister, Jose Maria Aznar, welcomed the verdict, saying: "I'm very happy that this Spaniard was declared not guilty. I've always been against the death penalty and I always will be."

The case had roused great concern in Spain where the family of Joaquin José Martínez had mobilized public opinion and raised funds to hire a defense lawyer. A petition with 30,000 signatures had been sent to the governor and district attorney of Florida, and both King Juan Carlos of Spain and Pope John Paul II had requested commutation of the sentence.

Joaquin José Martínez's return to Spain coincided with the first visit to Europe by US President George W Bush who was greeted by anti-death penalty protests in the Spanish capital, Madrid.

Joaquin José Martínez is the 21st prisoner in Florida and the 96th on death row in the USA to have been exonerated since 1973. For every five prisoners executed in Florida two other death row inmates have been acquitted.

Two other Spaniards, both convicted of murder, remain under sentence of death in Florida: Pablo Ibar, whose family has since hired the same lawyer who defended Joaquin José Martínez, and Julio Mora who suffers from mental illness.

FIRST US FEDERAL EXECUTIONS IN 38 YEARS

On 11 June at Terre Haute Indiana, Timothy McVeigh was put to death by lethal injection for the 1995 bombing of a federal building in Oklahoma City which killed 168 people including many children.

While Timothy McVeigh's case attracted worldwide media coverage, the execution of Juan Raul Garza, a US citizen of Mexican descent, at the same prison on 19 June occurred with little publicity despite serious concerns about the evidence introduced at his trial and racial and geographic disparities in federal death sentencing.

Juan Raul Garza was sentenced to death in Texas in 1993 for the killing of three men in the course of a marijuana-trafficking enterprise.

CHINA STEPS UP EXECUTIONS

Another national "strike hard" campaign to crack down on crime was announced in Beijing on 11 April when 89 people were executed on that day alone. Previous anti-crime crackdowns have resulted in a dramatic increase in the number of people sentenced to death and a large number of suspected miscarriages of justice.

There have been reports that over 300 people have been sentenced to death since the start of the campaign

and more than 1000 people executed so far this year. This increase in executions coincided with the Chinese government again blocking debate of its human rights record at the United Nations Commission on Human Rights meeting in Geneva in April.

During the 1990s Amnesty International recorded at least 27,599 death sentences and 18,194 executions in China. Even though only a fraction of death sentences and executions carried out in China are publicly recorded, the figures based on this limited record still far exceed those of the rest of the world combined.

FIRST WORLD CONGRESS AGAINST THE DEATH PENALTY The first World Congress against the Death Penalty was held in Strasbourg, France on 21-23 June. Organised by *Ensemble contre la peine de mort* (Together against the death penalty) it was hosted by the Council of Europe and attended by former death row prisoners from the USA and Japan as well as members of the European Parliament, the French National Assembly and numerous non-governmental organizations.

An appeal for a worldwide moratorium on the death penalty with the goal of universal abolition was signed by 15 heads of parliament.

UN COMMISSION ADOPTS DEATH PENALTY RESOLUTION

The UN Commission on Human Rights held its 57th session in Geneva in April. The European Union again tabled a resolution on the death penalty, similar to that adopted last year (see **DP News** June 2000) calling for a worldwide moratorium on executions and adherence to international safeguards in capital cases. This year's resolution included paragraphs urging all states that still maintain the death penalty "not to impose the death penalty on a person suffering from any form of mental disorder or to execute any such person" and requesting the Secretary-General to submit to the Commission a yearly supplement to his quinquennial report on capital punishment "paying special attention to the imposition of the death penalty against persons younger than 18 years of age at the time of the offence".

The resolution was adopted on 25 April by 27 votes to 18 with seven abstentions and one country absent.

NEWS IN BRIEF

Bangladesh - Two men were hanged in February and March, marking a resumption of executions after a break of more than three and a half years. Firoze Mia, who was convicted of murdering four people including two children, was hanged at Dhaka Central Jail on 15 February. On 1 March, Motaleb Hawlader was hanged in Jessore Jail in Barisal District for the murder of his wife.

Democratic Republic of Congo - Nanasi Kisala, a child soldier who was sentenced to death at the age of 17 by the *Cour d'Ordre Militaire* (military tribunal) at Mbandaka on 27 April, has been transferred to the capital city Kinshasa's central prison to the block reserved for prisoners condemned to death. Five other child soldiers imprisoned with him had their death sentences commuted to life imprisonment.

India - On 10 May the Supreme Court dismissed a petition seeking review of its previous judgment upholding the death sentence against Ram Deo Chauhan who was convicted in Assam in 1998 of murder. There is strong evidence that Ram Deo Chauhan was 15 at the time of the crime in 1992 but the case was not heard by a juvenile court. According to India's Juvenile Justice Act, those under 16 at the time the crime is committed cannot be sentenced to death and should be tried in a juvenile court. Despite this, the Supreme Court stood by its comment in dismissing a previous appeal last year that "the awarding of a lesser sentence only on the ground of the appellant being a youth at the time of occurrence cannot be considered as a mitigating circumstance".

Indonesia - The first known executions in six years took place on 19 May when Gerson Pandie and Fredik Soru, both 34 years old, were executed by firing squad in a forest east of Kupang, the capital of West Timor. They had been sentenced to death for a multiple murder in 1989.

Iran - Mehrdad Yousefi, aged 18 years, was hanged in a prison in western Iran on 29 May. According to IRNA, the state news agency, he was convicted of stabbing a man to death two years ago when he was just 16 years old.

Iran has executed at least seven people since 1990 who were under the age of 18 at the time the crime was committed, second only to the USA which has executed 14 child offenders in the same period. The execution of child offenders is prohibited under international human rights standards.

Singapore - In a result which may reflect an unexpected trend in Singapore society, a recent Internet poll by the non-governmental organization *Think Centre* has shown that 68.5% of 1,135 respondents in Singapore oppose the death penalty. Singapore has the world's highest execution rate relative to its population with 340 people executed in the past 10 years, mostly for drug offences, out of a population of 3.2 million. The death penalty is mandatory for murder, treason, drug trafficking and some firearm offences.

USA - The International Court of Justice (ICJ) in the Hague, Netherlands, on 27 June ruled for the first time that its provisional orders are binding on countries and that the USA was wrong to ignore the court's order to delay the execution of German citizen Walter LaGrand who was executed in Arizona in March 1999. His brother, Karl LaGrand, had been executed in February 1999 (see **DP News** March 1999).

The ICJ also ruled that the USA had broken international law by not informing Karl and Walter LaGrand of their right to consular representation under the Vienna Convention on Consular Relations, which the USA had ratified in 1969, following their arrest for murder in 1982. The USA has apologised to Germany, which brought the case to the ICJ.

INTERNATIONAL TREATIES

Bosnia-Herzegovina ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights on 16 March 2001 bringing the total of countries which have ratified the Protocol to 45.

DEATH PENALTY STATISTICS

Abolitionist and Retentionist Countries (June 2001)

Abolitionist for all crimes : 75

Abolitionist for ordinary crimes : 14

Abolitionist in practice : 20

Retentionist : 86