

DEATH PENALTY NEWS MARCH 1999

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

PHILIPPINES RESUMES EXECUTIONS

"...let us give [the death penalty] a try to see whether it has a deterring effect"

Serafin Cuevas, Philippine Secretary of Justice quoted by *Agence France Presse*, 12 January 1999

The effort to restore respect for human rights in the Philippines received a blow on 5 February when Leo Echegaray, a convicted child rapist, was executed by lethal injection. His death marked the end of a 23-year de facto moratorium on executions.

Since the reintroduction of the death penalty in law in 1993, the Philippines has gone from an abolitionist position to having one of the highest death sentencing rates in the world. More than 900 people convicted of capital offences are now under sentence of death; in January alone, 51 persons were sentenced to death.

The congressional decision in December 1993 to reintroduce capital punishment for "heinous" crimes was founded on a sense of public frustration at apparently spiralling rates of violent crime. With public faith in the effectiveness of the criminal justice system at a low ebb, the reintroduction of the death penalty was portrayed as a symbol of the authorities' determination to confront criminality.

In September 1994 the Supreme Court confirmed the first death sentence passed under the new law, that of Leo Echegaray. After all appeals lodged by his lawyers from the Free Legal Assistance Group had been rejected, Leo Echegaray's execution date was scheduled for 4 January 1999.

Local and international human rights groups and the Roman Catholic Church had campaigned against the reimposition of the death penalty for many years. In March 1998 a coalition of Philippine non-governmental organizations invited members of the US-based "Journey of Hope" group to help raise awareness of arguments against the death penalty in the country (see **DP News** September 1998).

In late 1998, despite international appeals and a Philippines Senate resolution suggesting that President Joseph Estrada commute Leo Echegaray's sentence or defer the execution for two years to allow a congressional review of the efficacy of the death penalty law, President Estrada refused to grant clemency to Leo Echegaray. The President had been elected earlier in the year on a platform which included combatting crime.

The Supreme Court, in an unexpected move three hours before Leo Echegaray's scheduled execution, ordered a stay of execution in consideration of a bill pending in Congress to review the death penalty law. The stay of execution sparked an emotional, broad-based public outcry, with bomb threats against the Supreme Court and a march through the capital, Manila, calling for Leo Echegaray's immediate execution. The march was led by President Estrada's wife and Leo Echegaray's now 15-year-old rape victim.

It was against this setting that Congress on 19 January voted overwhelmingly not to consider reviewing the death penalty law. The Supreme Court then lifted the stay of execution and a new date of execution was set. On 5 February Leo Echegaray was executed by lethal injection.

Shortly before the execution, 27 Philippine women's organizations issued a joint public statement opposing the death penalty for rape because "the death penalty will not put an end to violence against women and children".

It is feared that this first execution will open the door for further executions of prisoners whose death sentences have been confirmed by the Supreme Court. Three men convicted of armed robbery with

homicide - Dante Piandiong, Archie Bulan and Jesus Morillos -are reportedly scheduled to be executed on 7 April. Eight other men face execution this year.

CUBA EXTENDS SCOPE OF DEATH PENALTY

On 16 February the Cuban National Assembly passed a law to revise the Penal Code, extending the death penalty to include serious involvement in drug trafficking, corruption of minors and armed robbery. The new law follows President Fidel Castro's speech in January when he said that drug traffickers caught in Cuba should face the death penalty.

Cuba maintains the death penalty for a large number of offences. At least five people were reportedly executed in 1998. Since reporting of human rights issues in Cuba is restricted and the authorities do not make statistics on the death penalty public, the true figure may be higher.

At least three men have reportedly been sentenced to death to date in 1999. Sergio Antonio Duarte Scull and Carlos Rafael Pérez Prieto were sentenced in January for killing four foreigners in Cuba and Francisco Portuondo Medina was sentenced to death in March for killing a policeman in 1998. Death sentences are sometimes carried out within weeks of trial judgment.

USA - EXECUTION OF FOREIGN NATIONALS CONTINUES

Two German nationals have been executed in the US state of **Arizona** despite a request for adjudication lodged by the German government at the International Court of Justice (ICJ) in the Hague. In its application for a hearing at the ICJ, the German government maintained that the brothers Karl and Walter LaGrand were tried and sentenced to death without being advised of their right to consular assistance as required by the Vienna Convention on Consular Relations, which the USA unconditionally ratified in 1969. Article 1 of the Optional Protocol to the Vienna Convention cedes compulsory jurisdiction over disputes arising from the treaty to the ICJ.

The brothers Karl LaGrand, who died by lethal injection on 24 February, and Walter LaGrand who was executed on 3 March by lethal gas, were convicted of murder during an attempted robbery in 1982. Karl LaGrand had originally chosen death by lethal gas. The execution was subsequently stayed by the 9th Circuit Court of Appeals on the grounds that death by lethal gas constituted cruel and unusual punishment in violation of the US Constitution. The US Supreme Court overturned the stay and allowed the execution to proceed. Karl LaGrand ultimately chose execution by lethal injection instead.

The ICJ had intervened earlier in the case of Angel Breard, a national of Paraguay. Despite an unanimous ICJ order that the US government stay that execution pending the Court's decision, Angel Breard was executed in **Virginia** on 14 April 1998 (see **DP News** June 1998). At that time a spokesperson for the Chairman of the US Senate Foreign Relations Committee described the Court's intervention as "an appalling intrusion" into the affairs of the state of Virginia. However, on 3 November 1998 the US government issued a formal apology to Paraguay over its failure to notify Angel Breard of his consular rights which stated: "This...was unquestionably a violation of an obligation owed to the Government of Paraguay...The United States must see to it that foreign nationals in the United States receive the same treatment that we expect for our citizens overseas. We cannot have a double standard."

There are currently over 70 foreign citizens of 26 nationalities under sentence of death in the USA. In reportedly almost all cases the arresting authorities have breached the consular notification requirement under Article 36 of the Vienna Convention.

USA - OTHER NEWS

Illinois - Andrew Kokoraleis was executed by lethal injection on 17 March. He had been sentenced to death in 1987 for rape, aggravated kidnapping and murder. The US Supreme Court on 16 March rejected an appeal to stay the execution which had been brought before it following an emergency stay granted the previous day by Justice Moses Harrison of the Illinois Supreme Court because of doubts about Andrew Kokoraleis' guilt in this case.

Andrew Kokoraleis was executed amid increasing pressure for a moratorium on executions in Illinois

following the recent release from death row of another two condemned prisoners. They were the tenth and eleventh such inmates to be released in Illinois since 1980 after being sentenced to death and later exonerated. On 11 March, one of the two men, Anthony Porter, who had come within two days of execution in September 1998, had his murder conviction finally thrown out by a judge. Several of the 11 men released from death row were convicted in part on the basis of confessions that later proved to be unreliable, the same issue on which the lawyers for Andrew Kokoraleis had appealed to the courts.

Michigan - The Board of Directors of the Michigan Catholic Conference at their quarterly meeting in March issued a statement saying the death penalty should not be reintroduced in the state. The statement quotes from the Catechism of the Catholic Church and adds: "Our century has seen too many people killed in 'improving' society for us to accept lethal means as anything but a failure of human compassion and imagination that solves nothing."

Missouri - Following a personal appeal from Pope John Paul II during his visit to the state capital, St Louis, in January, Governor Mel Carnahan commuted to life imprisonment the death sentence of Darrell Mease, convicted of murdering three people in 1988. The Pope had earlier addressed around 100,000 people at a stadium in the city where he said: "Modern society has the means of protecting itself without definitively denying criminals the chance to reform. I renew the appeal I made most recently at Christmas for a consensus to end the death penalty, which is both cruel and unnecessary."

COUNCIL OF EUROPE RESPONDS TO THREATS TO RESUME EXECUTIONS

Several organs of the Council of Europe have responded firmly to threats by high officials in **Albania** and **Ukraine** to resume executions in defiance of commitments made when the two countries joined the organization.

In Albania the Prime Minister reportedly stated in December 1998 that in his opinion the death penalty "must be applied in Albania", and other officials reportedly suggested that the Council of Europe would not oblige Albania to abstain from using the death penalty. In Ukraine, President Leonid Kuchma reportedly said in a media interview on 23 November 1998, while commenting on the trial of Anatoly Onuprienko, accused of murdering 52 people: "As a human being I cannot see any punishment for him other than death."

On 18 January the Bureau of the Parliamentary Assembly of the Council of Europe adopted a declaration, according to a Council of Europe news release, in which it "recalled that today in Europe capital punishment has been abandoned as being incompatible with the evolution in the concept of human dignity and human rights, in particular the rights to life and to protection against inhuman treatment" and warned that "any step back on this commitment would have serious consequences for Albania's membership of the Council of Europe."

On 20 January Council of Europe Secretary General Daniel Tarschys stated in reply to questions at a journalists' briefing: "The Council of Europe firmly expects Albania to refrain from ever using the death penalty again." He went on to say that compliance with its commitment on the death penalty "is a very serious concern for Council of Europe bodies, in particular the Parliamentary Assembly. ... Abolition of the death penalty is indeed the litmus test for belonging to a civilized European family of states."

Meeting on 27 January, the Parliamentary Assembly - the parliamentary body of the Council of Europe - adopted resolution 1179 (1999) on the Honouring of Obligations and Commitments by Ukraine. In the resolution the Assembly "firmly declares" that the Ukrainian delegation will be suspended if any further executions take place. Suspension from the Assembly is one of a series of steps which can ultimately lead to the expulsion of a state from the Council of Europe (see **DP News** March 1998).

NEWS IN BRIEF

China - At least 13 Uighurs were executed in Ili prefecture in Xinjiang Uighur Autonomous Region (XUAR) in January and February for alleged "terrorist activities". One of those executed was Abdushukur Nurallah, a teacher, who was reportedly sentenced to death after a secret trial on 16 January for alleged "separatist activity". The XUAR is the only region of the People's Republic of China where political prisoners are known to have been executed in recent years.

Iran - Despite reportedly executing nearly 2,000 people for drug offences in the past 10 years, the problem of drug trafficking has not been resolved, the official news agency IRNA reported in February. It quoted President Mohammad Khatami's representative on drug issues, Mahmoud Alizadeh Tabatabai, as saying: "Executing drug smugglers is not a suitable way to fight drugs and our 10-year experience shows that this has not been a solution."

Iran is a major route for the trafficking of drugs from Asia to the Arab states and Europe.

Palestinian Authority - On 26 February Colonel Ahmad 'Atiya Abu Mustafa was executed by firing squad. A military court had sentenced him to death only hours earlier for "causing public disorder". The trial was not announced publicly beforehand and reportedly lasted for only one hour. There was no right of appeal of his sentence to a higher court.

Russian Federation - The Constitutional Court ruled on 2 February that death sentences may no longer be imposed by the courts until the constitutional requirement for trial by jury in capital cases can be met in all 89 regions of the Federation. Following the ruling, even the nine regions where jury trials are currently available will be banned from passing new death sentences in order to preserve the principle of equality before the law.

Book Review - Women and the Death Penalty in the United States, 1900-1998 by Kathleen O'Shea, Praeger Publishers, Westport, USA, 1998, ISBN 0-275-95952-X. A historical review of penal codes in various US states and the personal stories of women who have been executed or who are currently on death row.

INTERNATIONAL TREATIES

Bulgaria signed the Second Optional Protocol to the International Covenant on Civil and Political Rights on 11 March 1999. **Georgia** acceded to the protocol on 22 March 1999, bringing the total number of states parties to 37.

Lithuania signed Protocol No. 6 to the European Convention on Human Rights on 18 January 1999 and the **United Kingdom** signed the protocol on 27 January 1999.

DEATH PENALTY NEWS INDEX 1998

COUNTRY		
DATESUBJECT		
Afghanistan	6/98	Execution by crushing
Azerbaijan	3/98	Abolishes death penalty
Bahamas	12/98	Two men executed while petitions pending
Bosnia	9/98	Court ruling abolishes death penalty in peacetime

Bulgaria	12/98	Total abolition
Canada	12/98	Total abolition
China	6/98 9/98	Prisoners tortured to confess Death sentences and executions - confirmed statistics for 1997
Egypt	6/98	Four men executed
El Salvador	9/98	European Parliament calls on authorities not to extend scope of death penalty
Equatorial Guinea	6/98	15 men sentenced to death
Estonia	3/98	Abolishes death penalty
Ethiopia	6/98	Resumes executions
Guatemala	3/98	First lethal injection execution "botched"
Guyana	12/98	Move to block international appeals
Japan	9/98 12/98	71-year-old woman sentenced to death; three men executed Three men executed
Kyrgyzstan	12/98	Moratorium declared
Lebanon	6/98	Two public executions in Tabarja
Lithuania	12/98	Total abolition

Myanmar	6/98	Six men sentenced to death
Pakistan	6/98 12/98	"A murder of justice" 13-year-old boy sentenced to death
Palestinian Authority	9/98	First executions
Philippines	9/98	"Journey of Hope" in connection with Leo Echegaray
Russia	9/98	Official statement that the Federation will abolish the death penalty by April 1999
Rwanda	6/98	Executions for 1994 genocide
Sierra Leone	12/98	24 soldiers executed by firing squad
Singapore	6/98	Two men executed; scope of death penalty extended
South Korea	3/98	23 executed
Tajikistan	9/98	New criminal code reduces number of crimes carrying possible death sentence
Trinidad and Tobago	6/98 12/98	Government announces withdrawal from American Convention on Human Rights Appeal by UN Special Rapporteur
Turkmenistan	12/98	Moratorium declared
United Kingdom	3/98 6/98 9/98	Murder conviction of hanged man quashed House of Commons votes to incorporate into national law Protocol No. 6 to the European Convention on Human Rights Derek Bentley's conviction quashed Revised Criminal Justice Bill removes treason and piracy

		as capital crimes
Ukraine	3/98	Council of Europe Assembly stops short of suspension
USA	3/98	Iowa - legislature will not debate or vote on reinstatement of death penalty
	6/98	Texas - executes first woman since 1860s
		Virginia - international law defied
		Utah - Inter-American Commission on Human Rights finds racial bias
		Kentucky - death row prisoners allowed to seek racial review of their case
	12/98	Texas - two juvenile offenders executed
		Illinois - National Conference on Wrongful Convictions and the Death Penalty held in Chicago
		Texas - Canadian receives stay of execution
		Virginia - executes prisoner for crime committed as a juvenile
		South Carolina - executed prisoner becomes 500th person to be executed in USA since 1977
Uzbekistan	12/98	Parliament removes death penalty for "unnatural sex"
Yemen	9/98	Presidential decree provides death penalty for leading a band of kidnappers or looting property
Book Reviews	3/98	<u>Question of the Death Penalty: Report of the Secretary General...</u> ; UN document No. E/CN.4/1998/82
		<u>Divided Passions: Public Opinions on Abortion and the Death Penalty</u> by Kimberly Cook
		<u>Death at Midnight: The Confession of an Executioner</u> by Donald A Cabana

	9/98	<p><u>Zur Aktualität der Todesstrafe ...</u> by Christian Boulanger, Vera Heyes, Philip Hanfling</p> <p><u>Victims of Justice: The True Story of Two Innocent Men Condemned to Die and a Prosecutin Out of Control</u> by Thomas Frisbie and Randy Garrett</p>
European Union	9/98	New policy to promote abolition
International Criminal Court	9/98	Excludes death penalty
UN	6/98 9/98	<p>Developments at the United Nations Special Rapporteur calls for laws to protect mentally retarded; attacks use of death penalty in USA; Special Rapporteur Reports on Iraq</p> <p>Death penalty excluded from text of draft convention on disappearances</p>