

# DEATH PENALTY NEWS

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A SUMMARY OF EVENTS ON THE DEATH PENALTY AND MOVES TOWARDS WORLDWIDE ABOLITION

## HONG KONG AND THE GAMBIA ABOLISH DEATH PENALTY FOR ALL CRIMES

**Hong Kong:** Hong Kong abolished the death penalty for all crimes in April 1993, when its Legislative Council voted in favour of the Crimes (Amendment) (No 3) Bill by 40-9, with two abstentions.

The Legislative Council, which advises the executive and approves legislation, adopted a motion in June 1991 urging the government to abolish the death penalty in law. Since November 1966 the several death sentences passed each year had all been commuted (the majority to life imprisonment) by the Governor of Hong Kong.

During the past 27 years of *de facto* abolition, Hong Kong has enjoyed one of the lowest crime rates and one of the highest economic and per capita GDP growth rates in the world.

**The Gambia:** The House of Representatives, The Gambia's parliament, voted to abolish the death penalty for all crimes on 7 April 1993. Since The Gambia became independent from the United Kingdom in 1965, one execution is known to have taken place.

President Jawara, who is Secretary General and leader of the ruling Peoples Progressive Party (PPP), put forward a proposal for the abolition of the death penalty in The Gambia in early 1993. His proposal was endorsed by the Central Committee of the PPP and the Cabinet - all of whose members belong to the PPP - before it was passed to the House of Representatives for approval. According to a statement released by the PPP in March 1993, 26 death sentences for murder and 64 death sentences for treason had been passed since independence. One execution had been carried out "under exceptional circumstances". The statement noted that respect for democratic norms and human rights was not compatible with leaving the death penalty on the statute books.

The abolition of the death penalty in The Gambia only required an act of parliament to amend the criminal code.

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## ITALY: MOVES TOWARDS TOTAL ABOLITION

The majority of the Italian Chamber of Deputies (lower house of parliament) support a bill proposed in collaboration with the Italian Section of AI, which would totally abolish the death penalty in Italy by removing it from the Military Penal Code in Time of War. 114 Senators have signed an analogous bill.

An absolute majority of deputies (554) proposed bill 2265, "Abolition of the Death Penalty from the Military Penal Code in Time of War". The bill, presented by the Honourable Rino Piscitello (La Rete) in collaboration with the Italian Section of AI, and undersigned by representatives of almost all the political forces represented in the Chamber of Deputies, provides for the repeal of any reference to the death penalty in the articles of the Military Penal Code in Time of War, and its substitution with "the maximum penalty provided for by the ordinary penal code". An analogous bill, promoted in the Senate by Senator Gennaro Lopez (Rifondazione Comunista), secured 114 signatures from the representatives of a variety of parliamentary groups. The Senate will debate and vote on the bill once it is approved by the Chamber of Deputies. At the beginning of June the text was under examination by the Justice Committee of the Chamber of Deputies.

The death penalty was abolished in Italy for common criminal offences and military offences committed in peacetime under the 1947 Constitution of the Republic of Italy. The Military Penal Code in Time of War retains the death penalty for a wide range of offences.

## USA: RECENT DEVELOPMENTS

The execution of Darryl Elroy Stewart in Texas on 4 May was the 200th execution to have been carried out in the USA since the death penalty was reinstated in the late 1970s. 15 prisoners have been executed in 1993, as of 14 June. The execution of juvenile offenders and prisoners with strong claims of innocence are among recent issues of concern to AI.

Leonel Herrera was executed in Texas on 12 May for the murder of two police officers in September 1981. In 1992 his lawyers presented newly discovered evidence in support of his claim of innocence but the US Supreme Court dismissed his appeal in January 1993. In this key ruling the Court held that the evidence that Herrera presented in support of his claim of actual innocence did not entitle him to federal habeas relief and severely restricted the possibility that a prisoner sentenced to death in a state court could ever raise such a claim based on newly discovered evidence after the expiration of state time limits for raising such claims (for details see [USA: The case of Leonel Herrera](#), AI Index: AMR 51/54/93).

It has been reported that just before being executed Herrera said "I am innocent, innocent, innocent, and make no mistake about this. I owe society nothing and would like to encourage all those who stood by me to continue the struggle for those who are innocent, especially Mr [Gary] Graham. Something very wrong is taking place here. God bless you all".

Gary Graham, a juvenile at the time of his alleged crime, was granted a stay of execution by the Texas Court of Criminal Appeals on 2 June, hours before his execution was scheduled to be carried out. The stay was granted pending a decision by the US Supreme Court in another Texas case, *Johnson v Texas*. This appeal claims that the Texas capital sentencing statute under which the defendant, Dorsie Johnson, was sentenced was unconstitutional in not allowing consideration of youth as a mitigating factor (he was 19 years old at the time of the crime).

The Texas death penalty statute was changed completely in September 1991, to allow for the consideration of any mitigating circumstances to be taken into account. However, the new law has not been applied retroactively to prisoners whose crimes were committed before September 1991. AI is particularly disturbed by the fact that most juvenile offenders on death row in Texas were sentenced under the pre-1991 statute - despite pronouncements by the US Supreme Court in key cases since the 1970s that youth is a factor which must be considered in capital cases. The organisation finds it shocking that executions of juvenile offenders are being scheduled in Texas while the *Johnson* case is pending a decision before the US Supreme Court. The Supreme Court's ruling in the *Johnson* case - expected later this year - could have a vital impact on the cases of juveniles and other young offenders on death row in Texas.

Despite the stay of execution, new evidence relating to Gary Graham's claim of innocence of the crime for which he was sentenced to death, will not be considered. In a dissenting opinion against the decision of the Texas Court of Criminal Appeals not to consider the issue of new evidence, Judge Frank Maloney said: "Where an arguably innocent person, wrongly convicted and sentenced to death, is wholly without a meaningful form in which to present newly discovered claims of innocence, this court should be compelled, as a matter of public policy, to provide sufficient safeguards to insure that state and Federal constitutional protections are given effect." (For details of Gary

Graham's case, see USA: Imminent execution of juvenile offender, AI Index: AMR 51/23/93, and update AI Index: AMR 51/28/93.

AI further two juvenile offenders, Curtis Harris and Frederick Lashley, may soon be executed in Texas and Missouri respectively (USA: Imminent execution of juvenile offenders, AI Index: AMR 51/46/93). Five juvenile offenders have been executed in the USA since the death penalty was reinstated in the late 1970s. At the end of 1992, 34 juvenile offenders were under sentence of death in 13 states (USA: Death penalty developments in 1992, AI Index: AMR 51/25/93).

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## UGANDA: NINE PRISONERS EXECUTED

Nine prisoners were hanged at Luzira Prison near Kampala in March 1993. These were the first executions of prisoners convicted under Uganda's Penal Code since nine prisoners were executed in March 1991.

Although some Ugandan officials argue that use of the death penalty is necessary to show the public that serious crimes against the person will not be tolerated, these executions took place without the authorities announcing the identities of the prisoners.

AI believes that over 40 prisoners are awaiting execution by hanging after being convicted under the Penal Code and over 100 soldiers are at risk of the firing squad after conviction by military trials. In a recent report\*, AI expressed concern that the Ugandan authorities rely on the death penalty as a deterrent against a wide range of crimes, including human rights violations, instead of introducing practical safeguards which would actually deter or prevent extrajudicial executions or rape by soldiers.

AI's report counters a number of arguments advanced by Ugandan officials in support of the death penalty, including the extraordinary argument that those convicted of serious crimes might bribe their way to liberty if they are not executed. AI believes that the government should take steps to improve security rather than execute prisoners for administrative convenience.

\* Uganda: The death penalty a barrier to improving human rights (AI Index: AFR 59/03/93)

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## EGYPT: DEATH PENALTY FOR POLITICALLY MOTIVATED CRIMES

AI-Sharif Hassan Ahmed was hanged in Cairo's Isti'af Prison on 13 June. He had been convicted in December 1992 by a military court of, among other things, membership of an underground "terrorist" organization which calls for the overthrow of the government, planning to assassinate state officials, possession of weapons and theft.

During the past 12 months politically motivated acts of violence by armed opposition groups have escalated sharply in Egypt. The Egyptian Government has reacted by adopting a number of sweeping measures in law and practice. There have been reports of mass arbitrary arrests, torture and the use of long-term administrative detention. Amendments to the Penal Code in July 1992 increased the number of capital offences for crimes carried out by "terrorist" groups.

Since the end of 1992, many political cases have been referred to military courts for trial, apparently in order that trials be concluded swiftly. AI is concerned that these trials have been unfair. Between December 1992 and May 1993 at least 22 death sentences were passed by military courts and AI fears that many more death sentences could follow. According to the newspaper al-Ahram (14 June 1993), the execution of Hassan Shahata Badran is expected to be carried out imminently. He was convicted of murdering a state security official in early December 1992.

Death sentences passed by military courts are reportedly subject to review before being referred to the President of the Republic. However, AI fears that these procedures fall short of international standards for fair trial, as guaranteed by Article 14 of the International Covenant on Civil and Political Rights (to which Egypt is a state party), which requires that everyone who is convicted shall have the right to review of his or her conviction and sentence by a higher tribunal. The UN's Economic and Social Council has urged that these rights be

respected in all cases involving the death penalty. For further details of AI's concerns, see [Egypt: Grave human rights abuses amid political violence](#) (AI Index: MDE 12/03/95).

## JAPAN: RESUMES EXECUTIONS

Three prisoners convicted of murder were hanged in Japan in March 1993 - the first executions to have been carried out in over three years. One of the prisoners was suffering from mental illness.

Japan's Justice Minister, Masaharu Gotoda, who was appointed last December, ordered the executions and said that Japan is not yet ready to abolish the death penalty. Several former Ministers of Justice were reportedly reluctant to sign execution papers, including Meghuma Sato who has since publicly called for the abolition of the death penalty.

Abolitionists had hoped that the three year moratorium on executions in Japan meant that the government was taking steps towards the abolition of the death penalty. Since the last execution, in November 1989, the abolitionist movement had gained strength and generated a lively public debate. Abolition is supported by some 180 members of the Diet (Japan's Parliament).

The resumption of executions drew widespread criticism from many sectors of society, including politicians, lawyers, academics and civic groups working against the death penalty. Former Supreme Court judge, Dr Dando Shigemitsu, is reported to have said: "I am greatly shocked. It is regrettable that executions have resumed just at a time when the idea of abolishing capital punishment had finally begun to spread in Japan."

Kondo Seikichi was executed at Sendai Detention Centre on 25 March, and Tachikawa Shujiro and Kawanaka Tetsuo were executed at Osaka Detention House on 26 March. It has learned that Kawanaka Tetsuo was suffering from mental illness prior to his execution. Kawanaka's mental condition had apparently deteriorated in recent months. In response to inquiries from his lawyer, the doctor at Osaka Detention House had said that the prisoner was "on the verge" of becoming schizophrenic and was showing signs of hallucinating. Japanese law forbids the execution of prisoners suffering from psychiatric illness.

Over ninety prisoners are currently on death row in Japan, and over 50 prisoners are under finalized sentences of death.

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## TAIWAN: "MODEL PRISONER" EXECUTED

Liu Huan-jong was executed by shooting on 23 March 1993, in spite of national and international appeals for clemency.

Liu, who admitted killing five people between 1984 and his arrest in 1986, was reported to have become a "model prisoner". According to his lawyer "Liu Huan-jong was prepared to receive the death penalty when he was arrested [in 1986]. But in the seven years he spent in prison, he has become an entirely new man...Executing him now would constitute a blow to all the other prisoners: it would show that repentance does not lead anywhere". Local human rights groups, members of the Taiwanese public and over 20 politicians joined in the campaign to save Liu Huan-jong and AI launched international appeals for clemency. On the day of his execution, the Legislative Yuan (council) was reportedly to pass a motion asking the Executive Yuan to examine the retention of the death penalty.

After his execution, Liu Huan-jong's heart and cornneas were removed, following his reported wish to donate these organs. AI expressed concern to the authorities about the ethical questions surrounding the use of organs from executed prisoners.

Like all prisoners under sentence of death in Taiwan, Liu's feet were permanently shackled. The shackles are not taken off, even during the outdoors exercise periods. This constitutes a major violation of international standards on the protection of the rights of prisoners, which specifically forbid the permanent use of instruments of restraint.

The death penalty is in force in Taiwan for a wide range of offences. Executions are usually by shooting, although lethal injections may now be used. According to a report about Liu Huan-jong's case, shown on [Republic of] China Television News on the day of his execution, recent execution statistics are as follows: 8 executions in 1987; 22 in 1988; 69 in 1989; 78 in 1990; 59 in 1991 and 35 in 1992.

## **SAUDI ARABIA: UPSURGE IN PUBLIC EXECUTIONS**

One hundred and five prisoners were publicly executed in Saudi Arabia from June 1992 to 15 May 1993 for criminal or sexual offences. This is the second highest number of executions ever recorded by AI in Saudi Arabia during a one-year period.

AI is concerned that prisoners were sentenced to death after unfair trials. There is no bar association in Saudi Arabia and defence lawyers are not formally present during trials. Defendants may be convicted on the sole basis of "confessions" - which AI believes may be obtained under duress, as torture and ill-treatment are known to be commonly used against suspects.

AI is concerned that Saudi Arabia has in recent years introduced legislation increasing the number of capital offences, in contravention of UN General Assembly resolution 32/61 (1977). Furthermore, some offences punishable by death - including the offence of apostasy - are clearly not "intentional crimes with lethal or other extremely grave consequences", in violation of Safeguard 1 of the UN Economic and Social Council (1984/50).

Executions in Saudi Arabia are carried out in public and the usual method is beheading with a sword. For details of AI's concerns, see [Saudi Arabia: An upsurge in public executions](#) (AI Index: MDE 23/04/93).

Public executions in Saudi Arabia

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## **AUSTRIA AND ECUADOR RATIFY SECOND OPTIONAL PROTOCOL**

Ecuador acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, on 23 February 1993 and Austria ratified the protocol on 2 March. Seventeen countries have now ratified the protocol.

## BOOK REVIEWS

### **HANGMAN: FROM KETCH TO PIERREPOINT - 300 YEARS OF EXECUTION, Brian Bailzy**

(True Crime, an imprint of Virgin Publishing Ltd, 352 Leadbroke Grove, London W10 5AF, England, 1993. ISBN number: 0-86369-623-6)

In *Hangman* Brian Bailzy investigates the role and personalities of former British executioners, including William Marwood, inventor of the "long drop", and Albert Pierrepoint, the last state executioner.

### **IN SPITE OF INNOCENCE: ERRONEOUS CONVICTIONS IN CAPITAL CASES, Michael L Radziet, Hugo Adam Bedau, Constance E Putnam**

(Northwestern University Press, Boston, Massachusetts 02115, US, 1992. ISBN number: 1-55553-142-3)

*In Spite of Innocence* examines the ordeal of 400 Americans wrongly convicted of crimes punishable by death, detailing the mistaken identities, perjured witnesses and negligent police work that led to 400 erroneous convictions in the USA from 1900 to 1991. Some of the people whose cases are examined in this book were actually executed; most spent years in prison, many on death row.

This book demonstrates how easily safeguards against mistaken convictions can fail. The authors argue that the only way to eliminate such errors in capital cases is to abolish the death penalty.

### **LA PEINE DE MORT AU SEUIL DU TROISIEME MILLENAIRE, Robert Cario**

(Editions Erès, 19 Rue Gustave-Courbet, 31400 Toulouse, France, 1993. ISBN number 2-86586-234-8)

*La Peine de mort...* is a collection of essays from a diverse range of professionals including psychiatrists, criminologists, lawyers, psychologists and various professors.

Essay topics include religious and philosophical arguments about the death penalty; the experience of abolition or reinstatement of capital punishment in particular countries, including Hungary and the USA; the use of the death penalty against minors and the mentally ill, drug-traffickers and terrorists.

### **THE EXECUTION PROTOCOL, Stephen Trombley**

(Random House, Vauxhall Bridge Road, London, UK, 1993. ISBN number: 0-517-59113-8)

The book and documentary film of the same title offer a detailed and shocking insight into the history and present practice of state-sanctioned killing. For over a year, Stephen Trombley immersed himself in the world of the death penalty industry, with unprecedented access to the execution team and condemned inmates at Missouri's Potosi Correctional Centre, and manufacturers of execution equipment.

### **AGAINST THE DEATH PENALTY, Victor Kogan-Yasny (in Russian)**

(Moscow, 1992. ISBN number: 5-7333-0379-4)

This pamphlet includes a history of the death penalty in the former USSR, arguments for its abolition and a translation of "Prospects for Abolition of the Death Penalty" (AI Index: EUR 46/20/91).