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The death penalty worldwide: developments in 2004

Abbreviations

EU = European Union

European Convention on Human Rights = European Convention on Human Rights and Fundamental Freedoms

ICCPR = International Covenant on Civil and Political Rights

UN = United Nations

ABOLITION

The world continued to move closer to the universal abolition of capital punishment during 2004. By the end of the year 84 countries had abolished the death penalty for all crimes (see *Table 1*). A further 12 countries had abolished it for all but exceptional crimes, such as wartime crimes. At least 24 countries were abolitionist in practice: they had not carried out any executions for the previous 10 years or more and were either believed to have an established practice of not carrying out executions or had made an international commitment not to do so. Seventy-six other countries and territories retained the death penalty, but not all of them passed death sentences and most did not carry out executions during the year (see below, *Death sentences and executions*).

Regular updates on abolitionist and retentionist countries are posted on the Amnesty International website at www.amnesty.org/deathpenalty

Bhutan

On 20 March the King of Bhutan issued a Royal Decree banning the death penalty. Capital punishment had existed in Bhutanese law since the codification of the *Thrimzhung Chhenmo* (supreme law) in 1953, but the King had the power of commutation. According to information provided by official sources in 1972 to the United Nations (UN), the offences of treason and premeditated murder were punishable by death. The last death sentences recorded by Amnesty International were imposed in 1974 on six people who were tried on treason charges of having plotted to assassinate the King. The King subsequently commuted the sentences.

Greece

In November the Greek parliament approved the ratification of Protocol No. 13 to the European Convention on Human Rights and Fundamental Freedoms (European Convention on Human Rights), thereby abolishing the death penalty for all crimes. Protocol No. 13 is an international treaty providing for the abolition of the death penalty in all circumstances with no exceptions permitted (see below, *International treaties*).

Greece had abolished the death penalty for ordinary crimes in 1993 but retained it under the Military Penal Code for certain serious crimes committed in wartime. The last execution was in 1972.

Samoa

The Crimes (Abolition of Death Penalty) Act 2004 was overwhelmingly approved by the parliament of Samoa on 15 January. Before its adoption, the crimes of murder and treason had been punishable by death. The maximum penalty in Samoa is now life imprisonment, an option previously used by the head of state when commuting death sentences.

Commenting on the action, the Prime Minister of Samoa stated: “The decision to remove the death penalty was made in the interests of Samoa and the Samoan people. In addition, Samoa, as a good international and regional citizen, recognizes overwhelming international and regional opinion which is opposed to the death penalty”. The decision, he said, showed “how seriously” Samoa takes “its international and regional obligations”.

Samoa had not carried out any executions since the country became independent in 1962. The last execution was carried out by the New Zealand authorities in the 1950s.

Senegal

On 10 December, UN Human Rights Day, the Senegalese parliament passed a law abolishing the death penalty for all crimes. The law was adopted by an overwhelming majority. Senegal had not carried out any executions since 1967 but continued to pass death sentences, most recently in July 2004. It is the fourth West African state to abolish the death penalty, following Cape Verde, Guinea-Bissau and Côte d’Ivoire.

Turkey

Turkey prohibited the death penalty for all crimes under its constitution in 2004 and removed the death penalty from its penal code.

On 7 May the Turkish parliament adopted Law No. 5170, removing language from Article 15 of the Constitution that allowed for the death penalty in wartime and adding a statement to Article 38 that “The death penalty. . . shall not be imposed”.

On 14 July the parliament adopted Law No. 5218, removing the death penalty from all articles of the Penal Code and replacing it with life imprisonment.

The Turkish government also indicated its intention to subscribe to international abolitionist treaties by signing the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) and Protocol No. 13 to the European Convention on Human Rights.

In 2002 Turkey had abolished the death penalty except in time of war or imminent threat of war. The last executions were in 1984.

MORATORIA AND SUSPENSIONS OF EXECUTIONS

Kyrgyzstan

President Aksar Akayev announced in January that the moratorium on executions which had been in place since 1998 would be extended for another year. At least 130 prisoners were believed to be under sentence of death.

Tajikistan

On 8 July the *Majlisi Milli* (upper house of parliament) endorsed the law “on the suspension of the application of the death penalty”, and it was signed into force by the President on 15 July. In line with the law, no new death sentences were to be handed down and the articles in the Criminal Code that previously carried the death penalty were made punishable by 25 years’ imprisonment. In practice the moratorium had been in force since 30 April, when President Imomali Rakhmonov announced at a joint session of both chambers of the Tajik parliament that a moratorium would be introduced in Tajikistan in due course, stating that “[m]an, his rights and freedom are great and inviolable values, and the right to life has a special place among them. In fact, the right to life is natural, and nobody has the right to deprive any other person of this right.”

On 30 November the *Majlisi Namoyandagon* (lower house of parliament) voted in favour of a draft law revising the punishment of five articles of the Criminal Code that had been punishable by death before the moratorium came into force to life imprisonment. The articles were on “premeditated, aggravated murder”, “rape with aggravating circumstances”, “terrorism”, “genocide” and “biocide”. The law had not come into force by the end of the year.

Four prisoners – Rachabmurod Chumayev, Umed Idiyev, Akbar Radzshabov and Mukharam Fatkhulloev – were reportedly executed shortly before the President’s speech in April. The executions of the first two men were reportedly carried out despite requests from the UN Human Rights Committee – that had intervened on the basis of complaints submitted under the first Optional Protocol to the ICCPR – to stay the executions while it considered their cases.

COMMUTATIONS

Malawi

President Bakili Muluzi commuted 79 death sentences on 9 April (Good Friday in the Christian calendar). There have been no executions in Malawi since 1992.

Zambia

In February, President Levy Mwanawasa commuted the death sentences of 44 soldiers who had been sentenced to death for their role in a failed 1997 coup and stated: “For as long as I remain President, I will not execute a death warrant.”

In May, President Mwanawasa commuted the death sentences of 15 prisoners convicted of murder and aggravated robbery. According to presidential press aide Jack Kalala, the 15 death sentences were replaced with sentences ranging from 20 to 50 years' imprisonment to be backdated from the time the prisoners were first sentenced.

Zambian law retains the death penalty for murder, aggravated robbery and treason. The last execution was in 1997.

DEFEAT OF ATTEMPTS AT REINTRODUCTION

Poland

Polish members of parliament narrowly voted on 22 October against reintroducing the death penalty following a series of murders that had attracted public notoriety. President Aleksander Kwasniewski had threatened to veto the proposal if parliament voted to bring back capital punishment seven years after its abolition for all crimes. According to press reports, the proposal by the opposition Law and Justice Party was rejected by the lower house of parliament by a vote of 198 to 194 with 14 abstentions.

Following the vote, a Ministry of Justice spokesperson said that the reintroduction of the death penalty would have "compromised Poland in the international arena".

DEFEAT OF MOVES TO WIDEN SCOPE

Tonga

A bill to introduce the death penalty for possession of illicit drugs was defeated in the Tongan parliament by a vote of 10 to 7 on 27 September. One member of parliament said it was a "nonsense bill" tabled by the government without any strong supporting arguments. Another objected that there was no classification of the drugs whose possession would be punishable by death.

REINSTATEMENT

Iraq

The interim Iraqi government on 8 August officially reinstated the death penalty for crimes including murder, kidnapping, rape and drug trafficking, despite strong opposition from the European Union (EU), whose officials spoke openly against the measure during a visit to Europe by the Iraqi Minister of Foreign Affairs. Although the authorities justified the reinstatement of the death penalty as a response to the deteriorating security situation, there were indications that it was done reluctantly and that some Iraqi officials opposed the measure.

The former Iraqi government had made frequent use of the death penalty. Following the invasion of Iraq by a US-led coalition in March 2003, the death penalty had been suspended by the Coalition Provisional Authority in June 2003.

In November Amnesty International received reports that 10 people had been sentenced to death for “criminal activities”. At year end it was not known whether the sentences had been carried out.

Sri Lanka

The Office of the President announced on 20 November that "the death penalty will be effective from today for rape, murder and narcotics dealings". The statement followed the murder of a High Court judge, Sarath Ambepitiya, and a police officer who was providing security for him, both of whom were shot on 19 November.

A moratorium on executions has been in effect in Sri Lanka since June 1976 when the last execution took place. Successive presidents since then have automatically commuted all death sentences.

In March 1999, amid reports of rising crime, the government announced that death sentences would no longer be automatically commuted when they came before the president, but, following widespread condemnation, this policy was not implemented. At the time, Amnesty International suggested the appointment of a commission to study the apparent rise in criminality in the country and to make recommendations for effective measures that could be taken without resort to the death penalty. In June 2001 the then Minister of Justice indicated his interest in commissioning such a study. Amnesty International made a similar proposal to the Prime Minister and Minister of Interior in March 2003 but did not receive a response.

DEATH SENTENCES AND EXECUTIONS

At least 3,797 people were executed in 25 countries in 2004, and at least 7,395 people were sentenced to death in 64 countries, according to Amnesty International. The true figures were certainly higher.

As in previous years, the vast majority of executions worldwide were carried out in a tiny handful of countries. In 2004, 97 per cent of all known executions took place in China, Iran, the Viet Nam and the USA.

Based on public reports available, Amnesty International estimated that at least 3,400 people were executed in China in 2004, but the true figures were believed to be much higher. Iran executed at least 159 people, and Viet Nam at least 64. There were 59 executions in the USA, down from 65 in 2003. (See Amnesty International, *Death sentences and executions in 2004*, April 2005, AI Index: ACT 50/005/2005. See below, *Table 2*, for historical comparisons.)

RESUMPTIONS OF EXECUTIONS

Afghanistan

Abdullah Shah, a military commander from Paghman, was executed in the Afghan capital, Kabul, around 19 April. He had been convicted of murder in October 2002 in special court proceedings which fell far short of international fair trial standards. Abdullah Shah had no

defence lawyer at his trial, the hearing was held in a closed court and the chief judge in the initial trial was dismissed for accepting bribes. It was the first execution since the establishment of the interim government in late 2001.

Amnesty International urged Afghan President Hamid Karzai to declare a formal moratorium on executions in line with assurances given to the organization in 2003 by his office that he would not approve any judicial executions until the criminal justice system was reformed. Following a public statement by Amnesty International in April condemning the execution of Abdullah Shah, the Presidential chief spokesperson publicly stated that executions would be suspended.

India

The first known execution since the late 1990s took place in August with widespread popular support. Dhananjay Chatterjee was hanged in West Bengal; he had been under sentence of death for 13 years for the rape and murder of a teenage girl. The President of India and the Governor of West Bengal dismissed all mercy petitions despite appeals from Amnesty International and local human rights activists that the evidence against Dhananjay Chatterjee was reportedly circumstantial and that he had already been imprisoned for a long time. In other Indian cases, death sentences have been commuted to life imprisonment on grounds of prolonged detention.

Indonesia

Three people were executed for smuggling heroin into the country. Ayodhya Prasad Chaubey, an Indian national, was executed on 5 August and Saelow Prasert and Namsong Sirilak, both Thai nationals, were executed on 1 October. These were the first executions in Indonesia in over three years. Eight other people, under sentence of death for drug-related offences had their petitions for presidential clemency rejected and, together with two others under sentence of death for murder, were believed to be at imminent risk of execution at year end.

USA – Maryland

Steven Oken was executed on 17 June for a murder committed in 1987. He was the first person to be put to death in the state since 1998 and the first since a moratorium on executions was announced by the then governor, Parris Glendening, in May 2002. Governor Glendening imposed the moratorium pending the outcome of a study that he had commissioned to look into the fairness of the state's death penalty.

On taking office in January 2003, the new governor, Robert Ehrlich, lifted the moratorium, stating that he would review death warrants on a case-by-case basis. Governor Ehrlich rejected clemency for Steven Oken.

INNOCENCE

USA

During 2004 six names were added to the list of US prisoners sentenced to death and later released on grounds of innocence, bringing to 118 the number of such cases since 1973.

- Alan Gell was sentenced to death in North Carolina in 1998 and spent four years on death row before a judge ordered a new trial on the grounds that prosecutors had withheld exculpatory evidence. At his retrial in February 2004 he was acquitted on all counts.
- Gordon Steidl was sentenced to death in Illinois in 1987. His death sentence was overturned in 1999 on grounds of inadequate legal representation at trial and he was resentenced to life imprisonment without the possibility of parole. In 2003 a federal judge overturned the conviction, stating that if all the evidence had been presented at the original trial there was a reasonable probability that he would have been acquitted. Having reinvestigated the case, the authorities decided not to retry it, and Gordon Steidl was released in May 2004.
- Laurence Adams was sentenced to death in Massachusetts in 1974. His death sentence was reduced to life imprisonment by the state supreme court after it found that the state's capital statute was unconstitutional. In May 2004 his conviction was overturned by a federal judge on the grounds that police had withheld evidence. Charges against Laurence Adams were dropped the following month and he was released.
- Dan Bright was sentenced to death in Louisiana in 1996. In 2000, the state Supreme Court found that the evidence was insufficient to support a conviction of first-degree murder and reduced the conviction to one of second-degree murder and the sentence to life imprisonment without the possibility of parole. In May 2004 the Court overturned Dan Bright's conviction on the grounds that the state had withheld information that called into question the credibility of its key witness. Charges were subsequently dismissed and Dan Bright was released.
- Ryan Matthews was sentenced to death in Louisiana in 1999 for a crime committed when he was 17 years old. The evidence against him was dubious and his legal representation poor. In April 2004 a judge ordered a new trial after DNA evidence excluded Matthews. In August 2004 prosecutors dropped all charges against him.
- Ernest Ray Willis was convicted of two arson deaths and sentenced to death in Texas in 1987. In 2004 a federal judge overturned the conviction on the grounds that the state had suppressed evidence favourable to Willis and that his legal representation had been inadequate. The county prosecutor hired an arson specialist to review the original evidence, and the expert concluded that there was no evidence of arson. All charges against Ernest Willis were subsequently dropped and he was released in October.

CONVICTIONS BASED ON QUESTIONABLE EVIDENCE

USA – Texas

Texas accounted for 23 of the 59 executions carried out in the USA in 2004. Eight people prosecuted in the Texas jurisdiction of Harris County were executed during the year, despite concern around the reliability of forensic evidence processed through the Houston Police Department (HPD) crime laboratory where serious problems had been uncovered in 2003. In October 2004 a judge on the Texas Court of Criminal Appeals said that there should be “a moratorium on all executions in cases where convictions were based on evidence from the HPD crime lab until the reliability of the evidence has been verified”. His was the only dissenting voice when the Court denied death row inmate Dominique Green’s request for a stay of execution on the basis of concern around the accuracy of the HPD’s ballistics work in his case, and the discovery of 280 boxes of mislabelled evidence that could affect thousands of criminal cases. Dominique Green was executed on 26 October. (See also Amnesty International USA: *Dead wrong: The case of Nanon Williams, child offender facing execution on flawed evidence*, January 2004, AI Index: AMR 51/002/2004.)

MOVES TO STRENGTHEN JUDICIAL REVIEW

China

Huang Songyou, Vice-President of the Chinese Supreme People’s Court, stated in October that China is to restore Supreme Court responsibility for approving all death sentences passed in China. Speaking at the annual conference of the China Law Society, Huan Songyou said that this reform had been listed in the legislative plan of the 10th National People’s Congress, which continues until March 2008.

Under China’s Criminal Procedural Law, the Supreme People’s Court should review all cases where a death sentence is passed in China. However, since 1980 the Supreme People’s Court has progressively delegated this authority to lower level courts, which currently review and approve around 90 per cent of death sentences. Under the proposed amendments, the Supreme People’s Court will be required to conduct a mandatory review of all death sentences passed. The reform could mean a reduction of up to one third in the number of executions according to one prominent academic in China, as well as greater consistency in sentencing patterns.

USE AGAINST CHILD OFFENDERS

The use of the death penalty against child offenders – people under 18 years old at the time of the crime – is forbidden under international treaties including the Convention on the Rights of the Child and the ICCPR. In January Amnesty International launched a campaign aimed at ending the use of the death penalty against child offenders throughout the world.

China

Gao Pan, a farmer from Ligu Village, Gaoyang County, Hebei Province, was executed on 8 March for a crime committed on 9 August 2001, before he was 18 years old, despite efforts by his family and his lawyer to have his age verified by the courts. Several prominent Chinese legal scholars and lawyers commented adversely on the case. (For details of the case, see Amnesty International, *Stop Child Executions: Ending the death penalty for child offenders*, September 2004, AI Index: ACT 50/015/2004, pp. 8-9.)

Iran

Three people who were under 18 years old at the time of the crime were executed during this year and others were sentenced to death. Mohammad Zadeh and a young man known as Salman were reportedly executed on 25 January and 12 May respectively. Both had been 17 at the time of the crimes. On 15 August a 16-year-old girl, Atefeh Rajabi, was reportedly publicly hanged in Neka in the northern Iranian province of Mazandaran for “acts incompatible with chastity”. Her co-defendant, an unnamed man, was reportedly sentenced to 100 lashes and released after the sentence was carried out.

In November a 16-year-old child identified in the Tehran daily newspaper *Sharq* only by his first name, Vahid, was reportedly sentenced to death for murder. Earlier in November, the Tehran daily *Hamshahri* reported that eight other youths faced execution, five sentences of which had reportedly been upheld by the Supreme Court. Three of these youths had reportedly committed acts for which they were sentenced to death when they were 15 and 16 years old.

A bill to raise the minimum age for the death penalty to 18 was reportedly under consideration during the year.

Pakistan

A decision by the High Court in Lahore on 6 December that the Juvenile Justice System Ordinance (JJSO), promulgated in 2000, should be revoked meant that child offenders could once again be sentenced to death in Pakistan. The decision to revoke the JJSO, which the Lahore High Court reportedly found to be “unreasonable, unconstitutional and impracticable”, will do away with juvenile courts, and children will again be tried under the same procedure as adults. Convictions of juveniles during the time the JJSO was in force between 2000 and December 2004 will not be affected by this judgment, but cases pending in juvenile courts will be transferred to the regular courts.

(Update: The federal government and a non-governmental organization working on child rights have filed appeals against the Lahore High Court judgment. In early 2004 these appeals were pending in the Supreme Court, which on 11 February 2005 stayed the Lahore High Court judgment until a decision is made.)

USA

In January the US Supreme Court agreed to hear an appeal from the state of Missouri in the case of Christopher Simmons, who was 17 years old at the time of the crime. The Missouri Supreme Court had overturned his death sentence in 2003 on the grounds that a national consensus had evolved against executing child offenders since 1989 when the US Supreme Court ruled that the execution of 16- and 17-year-old offenders was allowed under the US Constitution. Executions of child offenders were suspended throughout the country pending the US Supreme Court consideration of the case, entitled *Roper v. Simmons*.

In May, Governor Craig Benson of New Hampshire vetoed a bill, passed by both houses of the state legislature, to raise to 18 the minimum age at which a person could be sentenced to death in the state. Earlier in the year, Governor Mike Rounds of South Dakota and Governor Dave Freudenthal of Wyoming had signed similar bills into law after they had passed both chambers of their states' respective legislatures. As a result of these developments, 19 of the 32 US states whose laws provide for the death penalty excluded its use against people under 18 at the time of the crime at year end.

In July Amnesty International and 16 other Nobel Peace Prize recipients submitted an *amicus curiae* (friend of the court) brief to the US Supreme Court in the case of *Roper v. Simmons* urging that it find the death penalty for child offenders to be unconstitutional. Citing the evolution of international law and practice, the brief recommended that the Court "should consider the opinion of the international community, which has rejected the death penalty for child offenders worldwide".

Oral arguments in the case were heard in October, and the Court was expected to announce its decision in early 2005.

(Update: on 1 March 2005 the US Supreme Court ruled that the use of the death penalty against child offenders contravened the US constitutional prohibition of "cruel and unusual punishments".)

USE AGAINST PREGNANT WOMEN

China

Potentially facing the death penalty on drug charges, Ma Weihua was forced to have an abortion in police custody in February after being detained in January for possession of 1.6kg of heroin. China's Criminal Law forbids the execution of pregnant women, but newspaper reports suggested that her pregnancy was terminated so that she could be put to death "legally" if she was found guilty. Her trial in August was suspended when information about the forced abortion was revealed in court by her lawyer.

Ma Weihua had reportedly wanted to continue with the pregnancy, but the consent form authorizing the operation stated: "Because the patient was uncooperative, Chengguan substation director requested forced implementation." An "investigation" was launched into

the matter, but at year end no details of its progress or conclusions were known. Ma Weihua was eventually sentenced to life imprisonment when her trial resumed in November.

USE AGAINST THE MENTALLY ILL

USA

At least two prisoners with long histories of mental illness were executed during the year.

Charles Singleton, executed in Arkansas on 6 January, had been on death row for almost a quarter of a century and was regularly on anti-psychotic drugs by the early 1990s. In February 2003 the US Court of Appeals for the Eighth Circuit ruled by a vote of six to five that Arkansas officials could forcibly medicate Charles Singleton even if that made him competent for execution.

Kelsey Patterson was executed in Texas on 18 May after Governor Rick Perry rejected a recommendation for clemency from the Texas Board of Pardons and Paroles. He had long suffered from paranoid schizophrenia. In an indication of his delusional thinking, after learning of his execution date Kelsey Patterson wrote rambling letters to various officials referring to a permanent stay of execution that he said he had received on grounds of innocence.

LETHAL INJECTION

USA

In several US states, lawyers for death row inmates facing execution challenged the lawfulness of the state's lethal injection process. The challenges mainly involved one of the chemicals used in lethal injections which, it was claimed, may mask a prisoner's suffering.

The drug, pancuronium bromide, is a muscle-paralyzing agent which prevents the lungs working. If the anaesthetic used in the execution failed to provide total unconsciousness, the prisoner would be unable to move and would be aware of his imminent death by asphyxiation or induced cardiac arrest. Courts have so far rejected appeals based on this possibility.

SECRECY

Viet Nam

In a decision signed by the Prime Minister on 5 January, the Vietnamese government made the reporting and dissemination of statistics on the use of the death penalty a "state secret". Amnesty International said that the decision was contrary to international human rights standards and basic rights surrounding freedom of expression and freedom of access to information.

According to official Vietnamese media sources monitored by Amnesty International, at least 88 people, including 12 women, were sentenced to death in 2004, and at least 64 were

executed. The true figures are believed to be much higher. Despite reports that the authorities were considering abolition of the death penalty for economic crimes, two executions for fraud were reported.

JUDICIAL DECISIONS

Belarus

On 11 March the Constitutional Court of Belarus concluded its assessment of the compliance of death penalty provisions in the Belarusian Criminal Code with the Belarusian Constitution and international standards. The Court found that a number of articles of the Criminal Code were inconsistent with the Constitution. The Court ruling made it possible for the head of state and parliament to abolish the death penalty or, as a first step, introduce a moratorium, should the political will exist.

In November 2003 the Belarusian parliament had forwarded a formal request for the assessment to the Constitutional Court. Andrei Nareiko, a member of parliament, had initiated the request for a Constitutional Court assessment, stating that the articles of the Criminal Code providing for the death penalty appeared to be in conflict with Article 24 of the Constitution, which guarantees the right to life and requires the state to protect human life against unlawful injury. Andrei Nareiko based his request on previous decisions by the Hungarian and Lithuanian Constitutional Courts, which had found the death penalty to be contrary to those countries' constitutions.

USA - New York

On 24 June New York state's highest court, the Court of Appeals, ruled in the case of Stephen La Valle that the jury's instructions under the state's death penalty law contravened the state constitution. The court vacated the death sentence of Stephen LaValle because of a constitutional defect in the existing statute which could only be remedied by passage of a new law by the state legislature.

At year end, the state legislature had not acted to rewrite the law. No executions have been carried out in New York since the state reintroduced the death penalty in 1995. It is reported that US\$175 million have been spent on capital prosecutions since 1995.

INTERNATIONAL COURTS

International Court of Justice

On 31 March the International Court of Justice (ICJ), a court established under the UN Charter to decide disputes between states, handed down its judgment following a case brought by Mexico on behalf of its nationals arrested, denied their consular rights and sentenced to death in the USA. The ICJ found that the USA had violated its international obligations to provide consular access under the Vienna Convention on Consular Relations (Vienna

Convention) and that it must provide effective judicial review and reconsideration of the impact of the violations on the cases of the foreign nationals involved.

In its judgment the ICJ noted with “great concern” that an execution date had been set for Osvaldo Torres Aguilera, one of the Mexican nationals named in the lawsuit. Osvaldo Torres’ death sentence was subsequently commuted by the Governor of Oklahoma following an appeal from the President of Mexico and a recommendation for commutation from the state clemency board (see Amnesty International, *USA: Osvaldo Torres, Mexican national denied consular rights, scheduled to die*, April 2004, AI Index: AMR 51/057/2004).

On 10 December the US Supreme Court agreed to hear the appeal of Jose Medellin, a Mexican national on death row in Texas, to determine what effect US courts should give to the ICJ ruling. The case was due to be considered during 2005.

(Update: In a memorandum to the US Attorney General dated 28 February 2005, President George W. Bush affirmed that the USA would comply with the ICJ decision by having state courts review and reconsider the effect of violations of the Vienna Convention in the cases of 51 Mexican nationals on US death rows who were the subject of the ruling. However, the USA subsequently announced its withdrawal from the Vienna Convention's Optional Protocol Concerning the Compulsory Settlement of Disputes, the international legal instrument which empowers the ICJ to interpret and apply the terms of the treaty.)

OFFICIAL STUDIES

Nigeria

The National Study Group on the Death Penalty, set up by President Olusegun Obasanjo in November 2003, published its report in October, recommending the imposition of a moratorium on all executions until the Nigerian justice system could guarantee fair trials and due process. The Federal Government had not imposed a moratorium by the end of the year.

INTERGOVERNMENTAL ORGANIZATIONS

UN Commission on Human Rights

The UN Commission on Human Rights again adopted a resolution calling for a worldwide moratorium on executions. Resolution 2004/67 on “The question of the death penalty” was adopted on 21 April at the Commission’s annual session in Geneva. It was the eighth such resolution since 1997.

As in previous years, the resolution called upon all states that still maintain the death penalty “to abolish the death penalty completely and, in the meantime, to establish a moratorium on executions”. It also urged states that still maintain the death penalty not to impose it for crimes committed by people below 18 years of age, not to impose it “on a person suffering from any form of mental disorder or to execute any such person”, and to observe other agreed UN safeguards and restrictions on the death penalty.

Resolution 2004/67, backed by the EU, was co-sponsored by 76 countries, one more than in 2003 and the highest number ever. Iraq, Kiribati, Samoa and the Solomon Islands co-sponsored the resolution for the first time.

The resolution was adopted by a recorded vote of 29 countries in favour and 19 against, with five abstentions - a better margin than in 2003, when there were 24 countries in favour, 18 against and 10 abstentions. Bhutan and Gabon voted for the resolution for the first time. South Korea, which had voted against in 2003, abstained this time.

As in previous years, a group of countries submitted a statement dissociating themselves from the resolution. The statement of dissociation was signed by 64 countries, one more than in 2003 and the highest number yet.

ACTIONS BY PROFESSIONALS

Doctors

In September, 20 medical experts from eight countries with outstanding credentials in child and adolescent psychology, psychiatry and social development sent an open letter to the heads of government of China, Pakistan, the Democratic Republic of the Congo, the Philippines, Iran, Sudan and the USA urging them to stop using the death penalty against children. "Although adolescents generally know the difference between right and wrong, they can suffer from diminished capacities to reason logically, to control their impulses, to think through the future consequences of their actions, and to resist the negative influences and persuasion of other", the letter said. "They should face punishment for criminal actions, but the sanctions which can be imposed on mentally competent adolescent offenders should not be the same as those faced by adults found guilty of the same offences." The sending of the letter was announced by Amnesty International as part of the organization's campaign against child executions (see above, *Use against child offenders*).

Lawyers

In October Amnesty International released a declaration signed by 798 lawyers urging the US government to ensure that the USA respect its international obligation not to execute child offenders and calling on the legislatures of US states whose laws still allowed the execution of child offenders to raise the minimum age to 18. The declaration recognized that "the Inter-American Commission on Human Rights has held that the prohibition of executing child offenders is a rule of customary international law and a norm of *jus cogens*" and concluded that "the use of the death penalty against child offenders in any circumstances violates international law".

INTERNATIONAL TREATIES

The community of nations has adopted four international treaties providing for the abolition of the death penalty. One is of worldwide scope; the other three are regional.

The *Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty* and the *Protocol to the American Convention on Human Rights to Abolish the Death Penalty* provide for the total abolition of the death penalty but allow states parties to retain it in wartime if they make a reservation to that effect at the time of ratifying or acceding to these protocols. *Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) concerning the abolition of the death penalty* provides for the abolition of the death penalty in peacetime. *Protocol No. 13 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) concerning the abolition of the death penalty in all circumstances* provides for the abolition of the death penalty in all circumstances, including time of war or of imminent threat of war. Any state party to the ICCPR, the American Convention on Human Rights or the European Convention on Human Rights can become a party to the respective protocols.

The **Czech Republic, Estonia and San Marino** ratified the **Second Optional Protocol to the ICCPR** in 2004. **Turkey** signed the protocol, indicating the government's intention to ratify it at a later date. At year end 54 countries were parties to the Protocol and eight others had signed it.

There were no new signatures or ratifications of the **Protocol to the American Convention on Human Rights to Abolish the Death Penalty** during 2004. At year end eight countries had ratified the Protocol and one other had signed it.

Serbia and Montenegro ratified **Protocol No. 6 to the European Convention on Human Rights** in 2004. **Monaco** signed the Protocol. At year end 44 countries had ratified the Protocol and two others had signed it.

Austria, the Czech Republic, Estonia, Finland, Germany, Iceland, Lithuania, Macedonia and Serbia and Montenegro ratified **Protocol No. 13 to the European Convention on Human Rights** in 2004. **Monaco and Turkey** signed the Protocol. At year end 29 countries had ratified the Protocol and 14 others had signed it.

(Up-to-date lists of states parties and other signatories of international treaties on the death penalty are available on the Amnesty International website at www.amnesty.org/deathpenalty. For a printed list, see Amnesty International, *Ratifications of international treaties to abolish the death penalty (1 January 2005)*, January 2005, AI Index: ACT 50/003/2005.)

EVENTS

World Congress against the Death Penalty

Abolitionists from around the world met in Montreal from 6 to 8 October at the Second World Congress against the Death Penalty. The Congress was organised by the abolitionist organizations *Ensemble contre la peine de mort* (Together against the Death Penalty) and Penal Reform International in collaboration with Amnesty International-Canada and other

Canadian groups. It followed the First World Congress against the Death Penalty, held in Strasbourg in 2001.

The Congress heard eloquent testimonies from relatives of murder victims and former death row prisoners. There were statements by UN officials, governmental representatives, members of various professions and celebrities.

In a final declaration, the Congress reaffirmed that executions fail to address the pain and suffering of victims of crime. The Congress welcomed the fact that “more and more victims’ families are now working against the death penalty” and called on all countries “to develop appropriate mechanisms to address their needs”.

World Day against the Death Penalty

The annual World Day against the Death Penalty, organized by the World Coalition against the Death Penalty, took place on 10 October with events in over 20 countries including Burundi, Cameroon, Japan, Lebanon, Malaysia, Morocco, Rwanda and the Philippines. Events included film showings, religious ceremonies, press conferences, public debates and the collection of hundreds of signatures on petitions calling for an end to the use of the death penalty against child offenders in the Philippines and the USA.

Cities for Life

Cities for Life, organized by the Italian organization the Community of Sant' Egidio, was celebrated on 30 November with the illumination of public buildings in over 250 cities and towns across the world. Mexico City and Atlanta were among the cities that took part in the event for the first time in 2004.

**TABLE 1: ABOLITIONIST COUNTRIES AT YEAR END,
1981-2004**

Year	No. countries abolitionist for all crimes	No. countries abolitionist in law or practice
1981	27	63
1982	28	63
1983	28	64
1984	28	64
1985	29	64
1986	31	66
1987	35	69
1988	35	80
1989	39	84
1990	46	88
1991	46	83
1992	50	84
1993	53	90
1994	54	96
1995	59	102
1996	60	101
1997	64	103
1998	70	106
1999	73	109

Year	No. countries abolitionist for all crimes	No. countries abolitionist in law or practice
2000	75	109
2001	76	112
2002	78	112
2003	79	118
2004	84	120

TABLE 2: RECORDED WORLDWIDE EXECUTIONS BY YEAR, 1980-2004

(NA = figures not available)

Year	No. countries carrying out executions	No. executions recorded	No. countries with over 100 executions	% of all recorded executions in countries with over 100 executions
1980	29	1229	NA	NA
1981	34	3278	NA	NA
1982	42	1609	NA	NA
1983	39	1399	NA	NA
1984	40	1513	4	78%
1985	44	1125	3	66%
1986	39	743	3	56%
1987	39	769	3	59%
1988	35	1903	3	83%
1989	34	2229	3	85%
1990	26	2029	4	84%
1991	32	2086	2	89%
1992	35	1708	2	82%
1993	32	1831	1	77%
1994	37	2331	3	87%
1995	41	3276	3	85%
1996	39	4272	4	92%
1997	40	2607	3	82%
1998	37	2258	2	72%

Year	No. countries carrying out executions	No. executions recorded	No. countries with over 100 executions	% of all recorded executions in countries with over 100 executions
1999	31	1813	4	80%
2000	28	1457	2	77%
2001	31	3048	2	86%
2002	31	1526	2	77%
2003	28	1146	2	73%
2004	25	3797*	2	94%*

*The higher number of executions in 2004 and the higher concentration of executions in the "top executing" countries reflect a change in the method used to calculate the number of executions in China. Before 2004, annual figures for China were based on newspaper reports of executions monitored by Amnesty International. In 2003, for example, Amnesty International recorded 726 executions but said that the true figures were believed to be much higher. In contrast, the figure of at least 3,400 executions carried out in 2004 is an estimate based on a sampling of Internet-based reports of trials, both during "peaks" in executions around public holidays and during "normal" periods when the rate of reported executions remained steady.

Amnesty International believes that the estimated figure for China still represents only the tip of an iceberg. In March 2004 a delegate at the National People's Congress said that "nearly 10,000" people are executed per year in China.