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### Capital Punishment Could Be Killed in Morocco

By Abderrahim El Ouali

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### U.S. Federal Case Revives Local Debate

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By Praful Bidwai

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### Persuasion Needed for Death Abolition in Europe Too

By Petar Hadji-Ristic

BERLIN - Some Europeans still need persuading about arguments for abolishing the death penalty -- even though the continent is now virtually a "death penalty-free zone", says the Council of Europe's Secretary General Terry Davis.

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### A Princely Visit Delays Briton's Execution in Pakistan - Again

By Zofeen T. Ebrahim

RAWALPINDI, Pakistan - Sitting on a red plastic stool behind the iron bars that form a caged courtyard outside Cell 74, Mirza Tahir Hussain, though only 36, looks like an old man. His white untrimmed beard, the long salt-and-pepper hair and a slight shuffle in his gait expose a life of constant worry.

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By Tran Dinh Thanh Lam

HO CHI MINH CITY - A 39-year-old woman being held in solitary confinement for six months will not be executed because she has become pregnant, the woman's lawyers confirmed.

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## DEATH PENALTY: Capital Punishment Could Be Killed in Morocco

**Abderrahim El Ouali**

CASABLANCA - A bill that would abolish capital punishment in Morocco is scheduled to be presented to parliament within the few next months, a member of a leading Moroccan political party said.

Deputy of the opposition party Le Front des Forces Démocratiques (FFD) Bouchra Khiari, who is leading the project to end capital punishment, told IPS that the bill "is ready and has been submitted to the general secretariat of the government."

If approved by the government, the bill should then be present before a parliamentary committee and brought later before parliament for a vote.

Other than her group, Khiari is expecting support from other parties such as l'Union Socialiste des Forces Populaires (USFP) and Le Parti du Progrès et du Socialisme (PPS).

The FFD was founded in 1997 by dissident members from the PPS. But this would not affect the position of the PPS towards the abolition project.

"The issue concerns the whole Moroccan society and the whole process of democratisation in the country. We support abolition on that ground, far away from any limited political view," Malika Oulialy, member of the central committee of the PPS, told IPS.

"Abolition goes in the same way with building a democratic society which respects freedom and rights, a society which first respects the right to life," Oulialy concluded.

The FFD will organise a conference about the death penalty in the last week of October. At that time, Khiari said she expected to learn more about which other parties than the USFP and the PPS will support the project or those which may oppose it.

If the abolition of the death penalty is adopted by parliament, Morocco will be a leader among North African states and the Arab Muslim world. Domestically, the law would be one of a number of reforms the country is undertaking.

Since the accession of King Mohamed VI to the throne in 1999, parliament has approved a series of changes, including a new family code that provides more rights for women and a new law of penal proceedings that gives suspects more judicial guarantees.

The abolition project in Morocco is backed by all human rights organisations and was recommended by the Board of Equity and Reconciliation (IER). IER was founded by King Mohamed VI to make reconciliation with victims of human rights violations during the reign of his father King Hassan II from 1961 to 1999.

Capital punishment seems to have no place in today's Morocco, Ahmed Kouza, a member of Amnesty International in Morocco, told IPS. "In the past, the death penalty used to be inflicted on political opponents."

The IER estimates 528 persons were killed during the reign of King Hassan II both in judicial and extra-judicial executions.

The Amnesty member said that criminals should be seen as "pathological cases who should be cured of aggressiveness and later reintegrated to society." The death penalty, Kouza added, "leaves no opportunities for correction and re-integration for inmates into society."

Resistance to the project is expected from some Islamist groups who believe that Shari'a law dictates the death penalty be used in crimes such as murder and adultery. In particular, Le Parti de la Justice et du Développement (PJD), the only government-recognised Islamic party, is expected to fight the bill.

PJD party officials refused several interview requests with IPS. Still, that party only has 42 members in a 325-seat parliament, so the PJD cannot block passage.

"I think that Islamists will oppose the project of death penalty abolition because such an opposition suits completely with their ideological fundamentals," PPS central committee member Oulialy said.

For the PPS central committee member, opposition to the abolition of the death penalty on religious grounds brings up a constitutional problem.

"The constitution says that Morocco is an Islamic country. Therefore, no political party can have a monopoly on religion," she said.

Oulialy, who is Muslim, added, "Islam has prohibited killing. Therefore, there is no contradiction between Islam and a human rights culture."

Abolition is a social claim and "concerns the whole Moroccan society. This is clear in the fact that the abolition demand itself had first emanated from a group of NGOs," Oulialy said.

At the same time as the involvement of political parties in the fight for abolition, civil action is also crucial for the issue to education society.

"It is necessary that civil society will carry on moving. Conferences and other activities should be held to increase public awareness of the issue," she said.

## DEATH PENALTY-US: Federal Case Revives Local Debate

**Haider Rizvi**

NEW YORK - A high-profile murder case in the U.S. state of North Dakota has drawn new battle lines between those who support and those who oppose the death penalty in a state which has not executed anyone in a century.

While many church leaders and human rights activists oppose the re-introduction of capital punishment, some conservative politicians think that it may be necessary to curb serious crimes like murder.

"Violence only promotes violence," said Samuel Aquila, bishop of the Roman Catholic diocese of Fargo, North Dakota, in a statement criticising a federal jury's decision in September to execute a man convicted of committing rape and murder.

The jury sentenced 53-year-old Alfonso Rodriguez to death despite defence lawyers' continued assertion that their client was in dire need of psychological treatment. No one has been executed in North Dakota since 1905, and the last person to be sentenced to death, in 1915, was spared.

Still, Rodriguez's brutal murder of University of North Dakota student Dru Sjodin, 22, shocked this sparsely populated northern state. Her body was found dumped in a ravine in neighbouring Minnesota some five months after she was kidnapped from the parking lot of a shopping mall in Grand Forks, North Dakota, in November 2003.

North Dakota outlawed the death penalty in the 1970s, but the verdict is allowed in federal cases. Rodriguez was charged under federal law because Sjodin was taken across state lines.

Bishop Aquila says he has no doubts about the gruesome nature of the crime Rodriguez had committed, but sentencing him to death is not an acceptable and just form of punishment.

"Responding to this senseless act of violence with another act of violence does not erase the hurt caused by the first act," said the leader of the people of Catholic faith in Fargo, where the federal trial took place.

Like many others, Aquila is critical of conservative politicians who argue that the re-instatement of the death penalty could serve as a deterrent against heinous crimes, such as the one committed by Rodriguez. They have indicated they may be willing to revive death penalty laws that the state has abolished.

"I am open to that discussion," North Dakota's Governor John Hoeven said in interviews with the local media.

"We need to take very strong measures for these violent sexual offences, and we are going to put together laws in place," he told reporters while commenting on the jury's decision on the Rodriguez's case last week.

There has been no legislative debate on the question of death penalty in North Dakota since 1995, when conservative politicians tried to get a bill passed. It failed because a vast majority of North Dakotans chose to side with abolitionists.

In their statements during the trial, Rodriguez's family members cast doubts about his mental condition and his ability to act in an acceptable way in the world that exists outside the prison system.

Rodriguez, who has spent almost half of his life behind bars for repeated sex offences, was released from a prison just a few months before he kidnapped, raped, and eventually killed Sjodin.

"You can't throw a man outside into society who hasn't been there for 28 years and expect him to be successful," Rodriguez's sister Ileana Noyes was quoted by the Associated Press before the jury's decision came out.

A week before the jury's verdict, a prison psychologist testified that Rodriguez had asked to see her in January 2003, when he was still in jail, and told her that he was "frightened" about being released.

At one point, Rodriguez's lawyers told jurors to look at the "whole person" and understand that he was the son of a poor migrant worker, who was poisoned by farm chemicals and sexually abused as a child.

Even the parents of the victim publicly stated that they could have accepted a sentence of life in prison. None of that swayed the jury's decision.

"Whatever would have happened, we would have been equally satisfied," said Allan Sjodin, Dru's father, in reaction to the death sentence. Dru grew up in the small Minnesota town of Pequot Lakes.

North Dakotans and Minnesotans who closely watched the proceedings of the case appeared torn. One vocal Minnesotan said he believed the jury's decision in favour of death penalty was linked to its bias against non-whites.

"A 50-year-old Latino has been sentenced to death for the murder of 22-year-old college co-ed. Is any one surprised?" wrote Benjamin Powers in a letter published by the small-town paper the Winona Daily News.

"Had Miss Sjodin been a 32-year-old prostitute or Mr. Rodriguez been the handsome 30-year-old son of a wealthy businessman, this crime would not have been deemed as notorious," he wrote.

David Elliot, spokesman for the National Coalition Against the Death Penalty, agreed that prejudice could have played a factor in the case.

"We see no evidence that race was a factor in Rodriguez's sentencing," he told IPS in an e-mail interview. "However, it does play a role in the death penalty overall. It is not the race of the perpetrator that matters the most, but rather the race of the victim."

To Powers, what is disturbing about the Sjodin murder case is not the brutality of the crime, but that "our society says some people are more valuable than others."

Elliot shares this observation.

"By and large, people do not get the death penalty for killing blacks and Hispanics," he said. "They get the death penalty in the U.S. for killing whites. With our death penalty system, we send a message that the life of a white victim is worth more than the life of black or Hispanic victim."

Studies in the U.S. show that non-whites are more likely to be sentenced to death for murdering white victims than for non-white victims, according to the Death Penalty Information Centre.

Furthermore, the cost of defending Rodriguez from a death sentence will cost more than imprisoning him. His lawyer said that so far the cost of jailing and defending Rodriguez amounted to nearly one million dollars.

"Believe me, my firm lost money on this case," Richard Ney, a lawyer who defended Rodriguez, told reporters. "If somebody thinks there's a big windfall, they are mistaken."

Nonetheless, Ney said he was determined to fight Rodriguez's case all the way to the appeals court, which, in Elliot's words, "will take years and years and years to work."

However, Ney says he is determined to continue to fight to save Rodriguez's life.

"Our focus should be on the Sjodin family and their loss," he said. "But now it also becomes a focus on the Rodriguez family, and the execution of their son and brother."

Ney will request a new trial, and if his motion is denied, he would begin the appeals process, he said. "Life is worthy of being saved, no matter whose it is," Ney said.

## DEATH PENALTY: Jamaicans Debate Re-introduction

**Michael Deibert**

KINGSTON - Carl McHargh sports twenty-three stab wounds on his body which he received while he was sitting on death row in the Spanish Town District Prison.

In 2004, McHargh was convicted and sentenced to death along with another man, Brian Rankin, for the shooting deaths of two men on the basis of testimony of a single witness.

But the 36-year old he says had met neither his alleged co-conspirator nor the man who accused him, and that the murder of the two men that steamy July night was a crime he did not commit. A court eventually agreed, and McHargh and Rankin were freed in June.

"There's a lot of corruption in our judicial system, the judges, the police, they can be easily bought," says McHargh, an articulate man who had worked as a customs broker until his arrest. "The police did not want to come out with the truth of why this man was killed."

McHargh's case vividly illustrates the complexities of a current debate raging in Jamaica regarding the death penalty, especially because its critics say it is a final and permanent sanction put into the hands of fallible humans and an imperfect system.

Though Jamaica has maintained a moratorium on executions since 1988, the country's spiralling crime rate, which saw a record 1,650 people murdered last year on this island of just under 3 million, has prompted calls from members of both the ruling People's National Party (PNP) and Jamaica Labour Party (JLP) to re-introduce hanging as a form of capital punishment.

With a general election likely in Jamaica this year, JLP leader Bruce

Golding has declared that a government of his party would resume hanging immediately.

A powerful PNP Senator, Trevor Munroe, has called for the death penalty against child murderers, after observing that there were 105 murders of minors in Jamaica in 2005.

In a column last year in the Jamaica Gleaner newspaper, Robert Buddan, a noted lecturer on Caribbean politics at the University of the West Indies in Kingston and a death penalty supporter, said that in a recent UN human development index, Jamaica had slipped 19 places. That was because, he said, security in the country had declined so badly. He posited that, "we must ask which matters more - the human rights of criminals or the human development of law-abiding citizens?"

Jamaica's parliament now is debating whether it will retain or remove the death penalty from the nation's new Charter of Rights Bill, though any definitive action is unlikely until after the election.

"In my experience working in Jamaica, it would be a complete and utter waste of time to say to these young men of violence that, if they kill, the likelihood is that they will be killed by the state, because they don't expect to live long," says Mark Shields, a deputy commissioner for crime for the Jamaica Constabulary Force. "They expect to either die at the hand of a police firearm or at another criminal gang's firearm."

Historically in Jamaica, capital murder, or, first degree murder, meant an automatic death sentence, while non-capital murder, such as manslaughter, was automatic life in prison.

In 2004, lawyers for the Independent Jamaica Council for Human Rights (IJCHR) - formed to fight for the abolition of the death penalty - argued successfully to the country's highest court of appeal, that Jamaica's mandatory death sentences for capital murder were unconstitutional.

Now the rules state that judges can impose a life sentence, while specifying a certain number of years before the convicted can apply for parole. Alternatively, a judge can sentence a prisoner to a term of years of 15 years imprisonment or more.

The number of people on Jamaica's death row subsequently fell from 50 to 8, all of whom now have their sentences or convictions on appeal. The IJCHR is currently working to add a simple "right to life" clause to the new Charter of Rights Bill that would make the death penalty unconstitutional.

"One of our biggest problems is that the crime rate scares people, and when they get scared they ask for protection and they really don't care where it comes from or how it comes," says Carolyn Gomes, director of Jamaicans for Justice, another human rights organisation. "And that is used to justify illegal action by the police."

As an alternative to the death penalty, Gomes and others believe the country should focus on eliminating corruption and improving policing.

Jamaican police numbers suggest that new, more professional policing practices may have begun to put a dent in the island's crime rate. According to the statistics, the number of homicides in violent Western Kingston this year stands at 55, down from 78 the year

before. On the island as a whole, 895 murders have been committed so far this year, down from 1196 at this time a year ago.

The cruel vagaries of death penalty cases in the country, though, are brought into stark relief by the case of McHargh.

One of the slain men was Tahj Burrell, the son of Captain Horace Burrell, a former Jamaican army officer and former president of the Jamaica Football Federation. The other, Jason Eldridge, was the son of a retired Assistant Commissioner of Police.

McHargh willingly gave a statement to police as to his whereabouts on the night of the murder -- he said he was playing pool in the company of a policeman. A few weeks after the killings, a 1 million \$ JA reward was offered for information leading to the arrest of anyone involved in the murder

McHargh was then arrested in September 1999 as police advanced a story that he was jealous of the nature of the relationship Tahj Burrell had with Janice Maxwell, McHargh's former fiancée. This was despite the fact that both McHargh and Maxwell stated that their relationship was friendly and that no romance existed between Burrell and Maxwell.

McHargh spent most of the next seven years in jail. While in prison, another inmate attacked him with a knife, resulting in the scars that now criss-cross his body. Associates of the assailant told McHargh they had received money from a warden to implement a contract formulated outside the prison to kill him, possibly by those seeking to avenge Burrell's killing.

Ordered released on May 31st, McHargh was kept in prison an extra day without explanation in what he says he feared would be another attempt on his life.

"The guys who attacked told me that the job was not finished, because I'm still alive," says McHargh, as he sits in his mother's house in a Kingston suburb, photos of his two children lining the walls. "A lot of people are very concerned. High-ranking policemen from the force that I have met during the years tell me that I should be very careful because I am a target."

He has reason to believe that is true. Rankin, McHargh's co-defendant in the case, was gunned down on the streets of Kingston in September.

## DEATH PENALTY: NGOs, Italy Seek Worldwide Ban

**Sabina Zaccaro**

ROME - In the 13 years since its birth in Italy, the global campaign to abolish the death penalty has convinced more than half the countries in the world of its cause.

For them, however, that is not enough. Their goal is a total worldwide ban on the practise.

To that end, they are pushing the European Union to back an Italian initiative at the United Nations current sessions for a resolution asking all countries to work towards a full, universal moratorium on executions.

To mark the World Day Against the Death Penalty, Oct. 10, European Commission Vice President Franco Frattini and Terry Davis, Council of Europe Secretary General, will hold a joint press conference Tuesday to praise the efforts of civil society for their support. They also are expected to announce their backing of an international conference against the death penalty to be held in February 2007 in Paris.

Furthermore, the European Parliament's Human Rights Commission, composed of 25 experts from each member state, will meet Tuesday to discuss the Italian initiative. A recommendation from the commission could help the EU reach agreement on whether to support Italy's effort.

"The issue is key to the whole EU Parliament," Luisa Morgantini, president of the parliament's development committee, told IPS. Last week Morgantini sent a letter addressed to high-ranking EU officials and to the foreign affairs ministries of all member states, stressing its support for Italy's initiative.

"The European Union could and should play a major role in promoting this initiative at the UN level," she said, quoting the letter signed by all the EU parliamentary committees. "We hope that the Council of Ministers will give due consideration to our views."

Riccardo Mosca, a spokesman for the European Commission's Justice, Freedom and Security issues, said that while the abolition of the death penalty is a priority for Brussels, it is not likely that the EU will support a moratorium resolution this session.

"At the EU level, there is no resolution draft," Mosca told IPS. He added, however, "The commission would like one day to have a resolution for a universal moratorium."

The news disappointed Elisabetta Zamparutti, a lawyer and coordinator of an annual report on the death penalty by Hands Off Cain, an abolition group. For the past nine years, anti-death penalty organisations like HOC have successfully lobbied the UN Commission on Human Rights to pass a moratorium resolution.

The last one, passed April 2005, states, in part: "The abolition of the death penalty contributes to the enhancement of human dignity and to the progressive development of human rights."

It further asked countries with capital punishment still on the books "to establish a moratorium on executions, with a view to completely abolishing the death penalty."

Earlier this year, at the request of the leftist party Rosa nel Pugno, Italy's government agreed to present a moratorium resolution proposal to the UN General Assembly. A motion to do so had unanimous support in Italy's parliament, achieving an extraordinary convergence of both the majority and the opposition parties.

"I think it is opportune to resume the Italian initiative to end the death penalty, which is a fixed point of our culture and our civilisation" Premier Roman Prodi told Parliament at the time.

It has been thwarted, however, because the government has not yet obtained approval from the other EU members. "Our aim is to present the moratorium together with the European Union, and then try to actively involve other countries not included in the Union,"

Gianni Vernetti, Olive Tree senator and foreign affairs undersecretary, told IPS.

"We have many go-aheads from our European partners, some still have a few uncertainties, but I trust we'll be able to keep to our commitment," Vernetti added.

Hands Off Cain, along with 53 groups which form the World Coalition to Abolish the Death Penalty, believe they have the consensus of parliaments from 92 countries that would co-sponsor such a moratorium resolution at the UN.

Figures released by HOC show that such a resolution would be approved by an overwhelming majority. The group reckons between 95 and 107 countries would vote in favour and between 61 and 68 would oppose it.

The government of Italy was the first to address the issue in 1997 by obtaining UN Commission on Human Rights (now Human Rights Council) approval of a resolution against the death penalty. Since 1999, a statement on the death penalty has been presented jointly with the European Union and has passed the commission every year.

Now, however, unity on the death penalty has begun to fade because some of the oldest EU members do not want to press the issue with influential countries like Saudi Arabia and Iran. Moreover, Poland's new prime minister has stated publicly that he wants to re-instate the death penalty as a means to deter spiralling crime in his country.

The European Commission's Mosca agreed that achieving consensus is a problem. "There are some politicians who have a political agenda that is veering away from the EU. That is no secret."

Belarus, though not an EU member, carried out two executions in 2005, after it had agreed to a moratorium. Though a halt is in place in Russia, that country still has not eliminated death penalty laws, as required for its membership in the Council of Europe.

Since the driving concept of European Union is unanimity, the unravelling of the unity surrounding the issue has become a challenge.

"Such a key and worldwide problem cannot be entrusted to the sole responsibility of European countries," said Zamparutti. "Since there are many countries joining the international campaign every year, it is necessary to avoid defining the issue as a European and Western one and try instead to create alliances with states representative of all continents," she said.

Mosca agreed that European countries cannot go it alone. "It is not within our competence to ask China or Thailand to stop. We don't have the power to ask the U.S. to stop."

Indeed, the biggest potential opposition within the world body is expected to come from two of the world's most frequent executioners -- prominent UN members China and the United States. Both countries are members of the Security Council. Zamparutti believes it is a hurdle, but not a barrier.

"U.S. and China have always rejected the proposal of a moratorium," Zamparutti told IPS, "but, to be honest, they have never pushed other countries on not voting for the resolution. They simply must vote against it because of their internal system."

## DEATH PENALTY-IRAQ: Increase in Executions Condemned

**Srabani Roy**

NEW YORK - International human rights organisations are increasingly worried about the recent rise in executions and people sentenced to death in Iraq.

The United Nations and human rights groups received reports late last month that 10 or more men belonging to the radical Kurdish Islamist group Ansar al-Islam, accused of kidnappings and killings, were executed by hanging in Arbil, a city in Kurdish-controlled northern Iraq.

According to the UN and Amnesty International, these were the first known executions in the Kurdish region since restrictions on the use of capital punishment were lifted there, and the first since 1992. There are other unconfirmed reports of 27 men hanged in Baghdad for attacks against civilians, according to an AI statement in September.

"Death penalty killings are of great concern to us," Zahir Janmohamed, advocacy director for AI's Middle East and North Africa division, told IPS. "They fall under our overall concern about the judicial system and allegations of torture in Iraq."

The UN Secretary-General's Special Representative to Iraq, Ashraf Qazi, issued a statement expressing "deep concern" about the number of people executed and on death row, and urged the Iraqi government to commute all its death penalty sentences and "base its quest for justice on the protection and promotion of the right to life."

Since August 2004, when the then interim Iraqi government reinstated capital punishment, 150 to 200 people have been sentenced to death. Though exact numbers are unavailable, more than 50 people are thought to have been executed since then, according to reports received by the UN.

The UN Commission on Human Rights and other human rights organisations, including AI and Human Rights Watch, universally condemn the death penalty and have called on all governments to abolish capital punishment or at least place a moratorium on death sentences.

When contacted, the Iraq government's mission to the UN said that the government had no official response to Qazi's statement and there were no immediate plans to issue one.

Although Amnesty International does not have a field presence in Iraq due to security concerns, the organisation does monitor human rights abuses in other countries in the region. It also receives reports of violations within the legal system in Iraq, which Janmohamed described as being "very flawed."

The lack of transparency and of access to detention centres in the country have made it very difficult for human rights groups to ascertain precise numbers and conditions for those sentenced to death in Iraq, Janmohamed said. Reports of abuse and executions often emerge several months, sometimes up to six months, after the fact, he added.

During Saddam Hussein's regime mass executions were widespread. The government sentenced its citizens to death for a variety of reasons, ranging from petty crime to political opposition to Hussein's Ba'ath Party.

In 2003, after the U.S.-led invasion of Iraq, the death penalty was suspended. In 2004, however, the interim government reinstated capital punishment for crimes such as murder, rape, kidnapping and drug trafficking. The law also allows execution for crimes such as financing or carrying out terrorist activities.

"Iraq falls under the same pattern as Yemen or Jordan," Janmohamed said. "In Yemen, all the recent executions have been in the name of the war on terror."

According to Amnesty International, in 2005, 24 people were executed in Yemen and 11 in Jordan. Janmohamed speculated that as the Iraqi government felt more pressure from the United States to reign in suspected terrorists, it was sentencing and executing more people, without proper and full due process. It is also unclear how long people are on death row before being executed.

Despite several attempts, IPS was unable to reach anyone from the U.S. State Department for comment on these speculations.

"From the information we're getting, it's dubious that those sentenced to death are getting fair trials," agreed Joe Stork, deputy director of Human Rights Watch's Middle East and North Africa division in Washington D.C., which also monitors the situation in Iraq and other countries in the region. "It's an emergency situation and I assume the government feels perpetrators of violent crime can be curtailed by executions. We certainly don't agree with that."

However, Ayub Nuri, an Iraqi journalist who works for Hawlati and Awene, two independent Kurdish newspapers, admits that though his paper has not carried out any extensive public opinion surveys, his coverage of the war in various parts Iraq, as well as extensive interviews he's conducted, have convinced him that the majority of people in the country favoured capital punishment. This was particularly true after the fall of Saddam Hussein, when people wanted him killed for his crimes, he said.

But, Nuri believes most people support the death penalty only after suspects are provided a fair trial. Nuri, who is from the Kurdish north, thinks that it is unlikely that the men killed in Arbil -- who he said were "forced to confess on state-sponsored television" -- received a fair trial.

"In Iraq, because the legal system isn't functioning, I don't believe anyone is getting a fair trial," Nuri told IPS, expressing his personal opinion. "And I worry that innocent people are getting executed."

## DEATH PENALTY: 25 Years After Abolition, France Fosters Uncertainty

**Julio Godoy**

PARIS - Although France abolished the death penalty 25 years ago, some of the nation's leading institutions and politicians continue to foster the idea that capital punishment can be applied under special circumstances, especially in time of war or against terrorists.

Worried that a terrorist attack similar to the Madrid train bombings in March 2004 could occur in France, the next month, 47 conservative parliamentarians proposed re-introducing the death penalty. Although the French Parliament ignored the proposal, human rights activists worry that it points up an underlying ambiguity about capital punishment.

Civil society groups in 2005 attempted to use the parliamentary proposal as an opportunity to call for a counter-measure. They asked the government to ratify a key European Convention protocol that would eliminate the possibility of executing prisoners in times of war or against terrorists. That request, too, failed.

Protocol 13 to the European Convention for the Protection of Human Rights and Fundamental Freedoms was adopted by the Council of Europe in May 2002 in Vilnius, Lithuania. Although France signed the protocol at the ceremony, it has failed to ratify it, despite growing international pressure urging the French authorities to do so.

France is one of five countries within the 46-country council which have not ratified this instrument that abolishes the death penalty in time of war or of imminent threat of war. The other four are Italy, Latvia, Poland and Spain.

In October 2005, the French Constitutional Council (CC), the country's highest legislative body, ruled that the ratification of protocol 13 would represent an "irrevocable decision," and would impair the "essential conditions of the practice of national sovereignty" if it were to be applied "in situations endangering the very existence of the Nation." For the same reasons, France has also failed to sign an important optional protocol to an international treaty that would abolish the death penalty in all circumstances.

The country has ratified protocol 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, which abolishes the death penalty in peace time.

Similarly, France has failed to openly support an international campaign by European human rights groups urging the current UN general assembly to adopt a resolution establishing a world wide moratorium on death penalties.

Pierre-Henri Imbert, former general director on human rights at the Council of Europe told IPS, "the French Constitutional Council's rationale cannot be accepted," for it implicitly states that "the death penalty continues to be a conceivable judicial measure in France, even a necessary one depending on the circumstances."

Moreover, the decision from the CC comes in spite of recent polls that show only a minority of the French would agree with them.

According to a survey carried out last month by the French institute for public opinion TNS Sofres, only 42 percent of French citizenry support the re-establishment of the death penalty. In 1981, when the French parliament approved the proposal of then president Francois Mitterrand, of abolishing the capital punishment, 62 percent of the French population defended death penalty as a dissuasive measure against crime.

Following the CC verdict, in January, 2006, President Jacques Chirac called for amending the French constitution, in order to incorporate

the definitive abolition of the death penalty into the charter.

"Such a constitutional amendment would authenticate our adherence to the highest values of human dignity," Chirac said at the time. Ten months later, this authentication of the French adherence to human dignity remains unfulfilled.

Human rights activists and law experts consider this paralysis inexplicable, for France abolished the death penalty on Oct. 9, 1981 and the French penal code does not foresee capital punishment at all. One human rights activist called the reasoning behind the government's refusal to ratify incoherent.

"One single exception, even if only mentioned, would destroy all the arguments advanced for the abolition of the death penalty," Imbert said. "Once abolished, the death penalty leaves the field of juridical possibilities, and cannot be considered as component of national sovereignty," Imbert said.

Neither the International Court of Justice nor international tribunals created to investigate crimes committed during the wars in Yugoslavia and Rwanda have considered the death penalty as possible punishment, even though they are ruling on the most heinous crimes humankind can commit, Imbert added.

The renewed call for decapitation leaves human rights experts and activists convinced that the country's commitment to abolition of the death penalty is fragile. Michel Taube, spokesperson for the World Coalition Against the Death Penalty, said that in the last 25 years since French abolition, numerous parliamentarians have regularly proposed laws to reinstate capital punishment.

"We have to continue educating the citizenry on this matter, emphasising the reasons that led to the abolishment of the death penalty," Taube told IPS.

## RIGHTS-INDIA: Death Penalty Debate Revived

**Praful Bidwai**

NEW DELHI - Even as it confronts terrorism, Indian society stands wracked by deep divisions over whether criminals and their accomplices whose acts cause civilian deaths should be sent to the gallows or not.

The debate is currently focused on former Kashmiri militant Mohammad Afzal, who was sentenced to death by India's highest judicial forum, the Supreme Court, for his alleged role as a conspirator in a terrorist attack on India's Parliament House on Dec. 13, 2001.

Afzal was to be hanged last Friday, but his execution was indefinitely postponed after his family filed a clemency petition. The execution threat will hang grimly over Afzal's head until and unless India's largely ceremonial president, APJ Abdul Kalam, commutes his sentence.

Kalam is fully empowered to do so if the Manmohan Singh government decides that Afzal's life must be spared. But it has come under great political pressure to execute Afzal and it not clear if it can summon up the political will to recommend clemency.

Broadly the division of opinion on whether Afzal should hang or not broadly runs along the Left -Right fault-lines. The leftist parties, which support the Singh government from the outside, oppose Afzal's hanging, as do almost all the parties in Jammu and Kashmir state, who believe that the execution will set back the peace process and fuel militancy.

But the right-wing, ultra-nationalist Bharatiya Janata Party is clamouring for Afzal's execution, as are other conservative groups which believe that terrorism must be exemplarily punished, even at the cost of civil and political rights.

At the social level, the dividing lines are more blurred. Going by media surveys, as many as 78 percent of those polled say Afzal should be hanged. Only 26 percent believe his sentence should be commuted to life imprisonment. In the same sample, 81 percent say "terrorism" deserves the death penalty.

"Public opinion is particularly prejudiced against Afzal because of the way the police publicised his guilt," says Usha Ramanathan, an independent law researcher. "Just a week after the parliament attack, the Delhi police Special Cell unethically broadcast a television interview with Afzal where he allegedly confessed to his role in the crime. This 'confession' has little legal value, but it impressed many people who watched it live," says Ramanathan.

"People forgot", she adds, "that the officer who organised this interview was notorious for killing many people in fake 'encounters' and has since been disgraced. The impression about Afzal's guilt has stuck."

The Indian debate on the death penalty has two components: one specific to Afzal's guilt and appropriate punishment for it; and the other, more generic, on the ethics of capital punishment irrespective of the crime.

The first debate is the more vigorous. Proponents of capital punishment for Afzal hold that the Supreme Court heard his appeal and concluded that he was guilty of murder, criminal conspiracy and waging war against the state, and hence must be hanged.

In its judgment of August 2005, the court pronounced: "The incident, which resulted in heavy casualties, had shaken the entire nation, and the collective conscience of the society will only be satisfied if capital punishment is awarded to the offender. The challenge to the unity, integrity and sovereignty of India by these acts of terrorists and conspirators can only be compensated by giving maximum punishment to the person who is proved to be the conspirator"

Those baying for Afzal's blood say the President has no power to renew the apex court's considered judgment.

Opponents of capital punishment for Afzal cite a number of arguments about the weak evidence against him, as well as the harsh nature of the punishment, with a total finality to it.

They also defend the President's power of pardon under India's Constitution, which was upheld by the court. The court recently clarified that the President is fully entitled to reappraise evidence, open an entire case for scrutiny and reach an independent

conclusion different from the courts'.

The critics point to many loopholes in the prosecution's case. For instance, there is a major discrepancy between the Delhi police's version of the time and place of Afzal's arrest, and the Jammu and Kashmir police records. The police failed to establish Afzal's critical or pivotal role in the conspiracy. Indeed, they did not even identify the five attackers, who were shot dead.

Afzal confessed to having helped the attackers' "leader" Mohammed to come to Delhi from Srinagar and purchase a car used in the attack. But Afzal was not shown to be the mastermind or chief conspirator.

Besides his own testimony, which the Supreme Court says cannot be relied upon, circumstantial evidence of Afzal's involvement in conspiracy hinges on the recovery of explosives from his house, and most crucially, on the records of cellphone calls to the five attackers.

However, the explosives recovery record is not watertight. The police could not explain why they broke into Afzal's house while he was in jail -- when his landlord had the key.

The cellphone record traced several calls from the five men to a particular Delhi number. The police allegedly impounded the instrument from Afzal while arresting him in Srinagar. The instrument had no SIM card. So the only identity mark was its machine number, which is unique to each instrument.

But how did the police discover the machine number? There are only two ways: open the instrument, or dial a code and have the number displayed. But the officer who certified the recovery said on oath that he neither opened nor operated the instrument.

Besides, the testimonies on the date of purchase of the phone with a new SIM card (December 4) and its first recorded operation (November 6) did not match. The evidence is certainly not firm enough to award Afzal the severest possible punishment.

Afzal's personal deposition describes how he was drawn into secessionist militancy, but got disillusioned. He "surrendered" to the Kashmir police but was constantly harassed and subjected to extortion by its Special Task Force. The picture that emerges is that of a person who is not beyond reform.

Equally important is the legal point that during his trial, Afzal was not allowed to have a defence lawyer of his choice and was forced to cross-examine witnesses himself.

"This should itself be considered a strong argument against denying Afzal the benefit of the doubt," says Prashant Bhushan, a Supreme Court lawyer who has taken up a number of pro bono cases, including the Narmada dam litigation. "Absence of an adequate defence opportunity warrants a milder punishment than death. And yet the Supreme Court demanded that Afzal's life should 'become extinct'. This is a total miscarriage of justice."

Those who oppose Afzal's execution say that the Court was driven by excessive anti-terrorism zeal and violated its own stipulation that the death penalty should be awarded in "the rarest of rare cases" -- when a murder is conducted in an extremely brutal, grotesque,

diabolical and revolting manner, or is targeted at a specific community or caste.

"It is as if retribution, rather than a balanced view of prevention and deterrence, guided the Supreme Court," argues Ramanathan. "Retributive punishment is a dubious legal proposition. It also fails to take into account the possibility of reform of the accused."

Afzal's case has triggered two other debates: should clemency be granted when the death penalty will further inflame political discontent in Kashmir; and on the merits of the death penalty.

Most of those who demand that Afzal be hanged also oppose political reconciliation in Kashmir and demand purely military means to tackle the discontent there. Their opponents warn that hanging Afzal would further alienate Kashmiri opinion from the Indian state; the government is duty-bound to consider this while deciding on clemency.

The larger question of the morality or effectiveness of capital punishment is again being debated. India is not among the 129 countries which have stopped awarding the death penalty. The argument against it is reinforced in India by the observation of a former chief justice of India (P.N. Bhagwati), that it is exclusively given to the poor who are unable to defend themselves.

"This makes the death penalty especially repugnant in India", says Bhushan. "It strengthens the argument that it violates the sanctity of human life, is irreversible in its effect and fails to deter heinous crime."

Over the past 60 years only gruesome cases of murder or political assassination, such as that of former prime minister Indira Gandhi in 1984, have attracted capital punishment.

Yet, given the present climate, India is not about to abolish the death penalty. Clearly, a more sane and sober debate will have to take place before conservatives yield ground to liberal opinion.

## DEATH PENALTY: Persuasion Needed for Abolition in Europe Too

**Petar Hadji-Ristic**

BERLIN - Some Europeans still need persuading about arguments for abolishing the death penalty -- even though the continent is now virtually a "death penalty-free zone", says the Council of Europe's Secretary General Terry Davis.

"It is not enough to abolish the death penalty in law. We need to convince people about the reasons. That aspect has been neglected in the past," he said.

In a wide-ranging interview with IPS, the native Briton spoke of his wish to encourage member Russia to formally abolish the death penalty and to continue educating the broader public on why capital punishment is wrong so that countries, notably Poland, do not reverse their stance.

The Council of Europe -- and also the European Union -- now insist on a death penalty ban before allowing in any new members. Only one current member, Russia, has yet to formally abolish capital punishment. Europe's most populous country has had a moratorium on capital punishment since 1990. It joined the Council of Europe in 1996.

Russia is still expected to come into line and translate its moratorium into law.

"We always have a very clear line: you promised to do it, keep your promise. We have waited ten years," Davis said.

The principle of the ban remains an uncompromising condition of membership to the Council of Europe, Davis added, and the doors to the group will stay firmly shut on the republic of Belarus, now the only country in Europe still holding on to the death penalty.

"They have applied to join," said Davis. "We have frozen their application because of this and their standard of human rights generally. It is not high enough."

Moreover, any country in Europe which slips back and reintroduces the death penalty would be thrown out of the council, Davis warned. The secretary general was referring to Poland.

In July, Polish President Lech Kaczynski expressed his support for capital punishment and called for a debate on its restoration in Europe. The League of Polish Families, a junior partner in the government, then announced it would collect half a million signatures demanding the death penalty for paedophile murderers.

Past public opinion polls in Poland have put support for the death penalty as high as 70 percent. But Davis played down the possibility of Poland ever reversing its abolition.

"I do not think they will do anything about it," Davis said. "If they did they would leave the Council of Europe. Every country which has joined the Council of Europe over the last 15 years has promised to abolish the death penalty."

Still, he added, the council has the power to expel members who do not comply. Greece came close to being ousted when a military junta came to power in the 1960s. The country withdrew its membership swiftly and voluntarily to escape the "indignity" of being thrown out, Davis said.

"They jumped before they were pushed," he said.

While Davis appeared tough on member Poland, he took a milder position with the United States and Japan. Both countries actively execute citizens, yet both states enjoy observer status in the Council of Europe.

"It is not a requirement of observer status, though most of our observers have (abolished the death penalty). It is important to distinguish that the death penalty does not apply in some parts of the United States. In both those countries there are very strong campaigns to abolish the death penalty, especially Japan," Davis said.

The United States executed 60 people last year. Around 3,400 prisoners are under sentence of death in that country, according to Amnesty International.

On the other hand, Davis was outspoken in his condemnation of China. The secretary general said he was horrified by long-standing allegations that the middle kingdom has made a lucrative trade by selling harvesting organs from Chinese death-row inmates without their consent.

"I think it's an accepted fact that organs are being removed from bodies of people executed. It's deplorable. It's to be condemned. I do not regard that as civilised," Davis said.

The Chinese authorities denied last month this was happening, even after a BBC undercover investigation exposed the practice.

Amnesty International estimates 1,770 people were executed in China last year, but one Chinese expert believes the true figure could be more than four times higher.

Davis was in Berlin to award the Prix Europa's Television Programme of the Year 2006 prize to the BBC documentary, "How to Plan a Revolution," about the attempt of two young activists to stage another "Orange revolution" in Azerbaijan.

In his address he criticised the European media for failing to bring back pictures of the conflict in Sudan's Darfur region. The public was "largely indifferent because there are no pictures," he said.

A total of 129 countries have abolished the death penalty or are abolitionist in practice, according to Amnesty International. Sixty-eight still have the death penalty in force -- a number too high for Davis.

"The death penalty is morally wrong and barbaric. Killing people is wrong, whether it is the state or the individual who does it," Davis said.

Too often, Davis added, errors occur and an execution becomes an "irretrievable tragedy."

"There have been several cases in a number of countries in Europe, notably in the United Kingdom, where people have been convicted of murders and subsequently found not to have committed those murders and released from prison."

He cited as examples two IRA bombings in Birmingham and Guildford in 1974 in England. Ten innocent people were falsely convicted for the two bombings.

"If there had been the death penalty then, these people would have been executed," he said.

Moreover, there is no evidence that fear of a death sentence acts as a deterrent to crime.

"It is ineffective," he argued. "We know that from statistical evidence comparing different states in the United States of America where some states have it and some do not."

Last year at least 2,148 people were executed worldwide. Human rights groups estimate that currently around 20,000 people are condemned to death.

## DEATH PENALTY-PAKISTAN: A Princely Visit Delays Briton's Execution - Again

**Zofeen T. Ebrahim**

RAWALPINDI, Pakistan - Sitting on a red plastic stool behind the iron bars that form a caged courtyard outside Cell 74, Mirza Tahir Hussain, though only 36, looks like an old man. His white untrimmed beard, the long salt-and-pepper hair and a slight shuffle in his gait expose a life of constant worry.

His stress comes from living 18 years with a death sentence over his head for the murder of a taxi driver, which Tahir says was committed in self-defence. Though he was found innocent in criminal court, the native of Leeds, England was sentenced to die by a ruling of the religious Federal Shariat Court in 1988.

Tahir's execution has been postponed four times now. The latest reprieve was announced last week in the wake of mounting international pressure from the highest authorities in the United Kingdom and the European Union. The most recent plea came from Charles, the Prince of Wales, who is scheduled to arrive in Pakistan with his wife Oct. 29 for a six-day visit.

Tahir was scheduled to be hanged Nov. 1, three days after Prince Charles was due to arrive. Pressure had been put on the prince by some British parliamentarians to cancel the trip. The prince's spokesman said in a statement that the heir to the British throne expressed his concern for Tahir's fate in a letter to Prime Minister Shaukat Aziz and called for Tahir's immediate release.

Prince Charles' letter joins earlier pleas on Tahir's behalf. British Prime Minister Tony Blair raised the issue with General Pervez Musharraf when the Pakistani president visited London last month. Blair told the House of Commons Oct. 18 that he had raised the issue "constantly with Pakistani authorities" and called on Musharraf to pardon to the Briton.

Instead, Pakistani authorities appear to have simply postponed the hanging. He is now scheduled to be executed Dec. 31. Pakistani authorities denied the decision to extend the stay of execution was a result of foreign pressure. Nor, they add, does the reprieve show of weakening on the part of the president. Instead, it is meant to give relatives time to reach a mutually acceptable compromise, they said. Under Pakistani law, if relatives of the murdered man agree, the accused can go free.

Away from the political maelstrom, Tahir takes it all in his stride as he sits on the stool outside his four-by-three-metre cell and talks with this reporter who has been smuggled in as a family member. During the interview, during the Holy Month of Ramadan, neither Tahir nor the interviewer knew of the president's decision to postpone the execution.

"We're powerless in our choice of death. And it does not matter how we die. What matters is that we have prepared ourselves to face our Creator by our good deeds and if He will be pleased with us or not," says Tahir, with no inkling of irony in his voice.

He is only one prisoner among the 5,000-plus inmates in the Adiala Jail, which was built to accommodate 2,000 prisoners. He is also the only one who is not wearing the rust-coloured shalwar kameeze jail uniform. Instead, he wears white, the colour of purity. It is a concession the guards have made only for him.

"The jail authorities have been very kind and let me wear white. I love white, especially while praying during Ramadan." he says. He speaks politely and gently. He keeps his dignity in spite of his surroundings.

He has come a long way from the raw 18-year-old who, when he first heard the court order, felt as if the "earth had suddenly been pulled away from underneath my feet and that I seemed to be falling into an abyss."

Now, he appears calm, accepting his plight. "I have been preparing for my death," he says. Tahir adds that he has always been religiously inclined, and it is this unwavering faith in God that has helped ward off his fears.

Though formal education for him stopped with the shot of a gun when he was 18, Tahir continues to learn. He bides his time reading the Quran and assimilating the philosophy of his favourite poet Allama Iqbal. He has learnt 15 of the 30 chapters of the Quran by heart, "although I think I'm beginning to forget and need to review them."

Asked if he has ever prayed to God that he die a natural death before he can be taken to the gallows, he does not answer directly, replying, "It does not matter how you die for this sojourn is a mere transit."

Still, he knows well the execution procedure. During his 18-year ordeal, he has lived in two prisons, Kot Lakhpat in Lahore and now in Adiala. In that time, he estimates he has seen more than 50 prisonmates go to the gallows.

"Just two days before you are to be executed, you are taken away and put in a different cell, near the gallows. Right before the execution you are asked to take a bath and pray. The execution always takes place in the thick of the night," he explains calmly, almost without emotion.

He knew most of the executed well, for "we were after all in the same boat." It's depressing, he says, to bid them the final goodbye. Some leave in a dignified manner, others resist and create a ruckus, while some become eerily quiet.

In August, another month during which he had been scheduled to die, he had written a letter to the taxi driver's family begging forgiveness. Two years ago, he met the deceased's uncle Sohbat Khan in the Lahore prison and personally asked for his mercy. So far the family has demanded just one thing -- his death.

Tahir says he can understand their anger. They have suffered these long years just as he has.

That burden -- the fact that he has ended another man's life -- weighs heavily on him. He cannot change the past, he says,

adding that it had to happen, as it was ordained by God.

Still, if the victim's family did accept the settlement of blood money, it would ease President Musharraf's political dilemma. One would think that the Pakistani people would be slightly vexed that so much attention was being paid to a British Muslim, when scores of Pakistanis also languish in jails all over the country.

Yet Tahir has managed to retain public sympathy, probably because of the compelling circumstances of the case. Tahir was 18 and visiting his homeland for the first time by himself when he was held up by the taxi driver. Tahir fought back, the driver's gun went off, killing the driver. Tahir, panicked, drove the taxi to the police station to report the incident.

Because Musharraf refused earlier clemency pleas, political analysts believe that if he pardoned Tahir now, it would be seen as bowing to Western international pressure. In his seven-year rule, the president has not once granted clemency to anyone on death row.

Rights activists, however, maintain that appeals for his release should not be granted because Western pressure has been applied, but rather on humanitarian grounds.

For the moment, Musharraf appears to cope with the case by simply moving the execution date each time the deadline approaches.

While each delay brings temporary relief for Tahir's family, it also brings a torment that the nightmare never will end. His brother Amjad Hussain, who has spent 18 years mobilising support, says that with each new date they all die a little.

Constant reprieves are "just not good enough," Amjad says. "He has spent enough years in prison."

Amjad's goal is to persuade Musharraf to commute the sentence to life imprisonment, which typically means spending 11 to 14 years behind bars. Because Tahir already has served 18 years, he would be eligible to be freed, Amjad says.

The years in prison, the constant mental stress and the preparation for his execution have not left Tahir unmarked. In addition to the premature aging, Tahir may well suffer from a sense of alienation, post-traumatic stress syndrome or paranoid tendencies, according to psychologist Asha Bedar.

Tahir has not experienced life or seen what the outside world looks like for half his life. He has learnt what he has by reading books of scholars and the Quran. By choice, he neither reads contemporary literature nor watches TV, "for the filth it churns out." Instead, he tries hard to live with the sin of having killed someone.

Still, Tahir does not appear to have lost hope: He still plans ahead to a life outside of prison.

When asked where he would like to settle if he were to be released, Tahir answers, "If my family agrees, I'd like to stay in Pakistan and look for a way to support myself, although I'm really not qualified."

## DEATH PENALTY: Pregnant Woman Escapes Execution in Vietnam

**Tran Dinh Thanh Lam**

HO CHI MINH CITY - A 39-year-old woman being held in solitary confinement for six months will not be executed because she has become pregnant, the woman's lawyers confirmed.

"We can say for sure that according to Vietnam's current law, Nguyen Thi Oanh will escape the death penalty," Pham Hong Hai, director of the law firm Pham Hong Hai & Associates, told IPS. Hai's firm represents Oanh.

On Apr. 28 the Supreme Court of Vietnam sentenced Oanh to stand before a firing squad for smuggling one billion dong (62,500 U.S. dollars) worth of heroin from the mountainous border province of Hoa Binh to the capital, Hanoi.

Five months later, however, Nguyen Hong Bach, another lawyer at Pham Hong Hai & Associates, informed the court that Oanh was pregnant and asked to have her death sentence reconsidered.

Doctors confirmed on Sep. 25 that Oanh, who was being held in solitary confinement, was 11 weeks pregnant. At that time, her husband was serving a jail sentence at another prison in another province for heroin smuggling.

The case, seen as unique in Vietnam, has stirred the public's attention. Hai hinted of "the possibility that she was raped." Others suspect a Machiavellian scheme on Oanh's part, saying she created life to avoid death, and that she bribed the guards.

"There is no way a woman under death penalty can get pregnant, unless some prison guards were directly or indirectly involved," Commander Nguyen Quoc Trinh, deputy director of Ha Nam Prison, told IPS. Regardless of how she became pregnant, the fact that she is has saved her life.

On Oct. 12, police expelled two officers who guarded Oanh and arrested them for "abuse of power." At the same time, the police said the father of Oanh's unborn baby was a young prisoner in charge of cleaning Oanh's cell and delivering her food.

According to Commander Trinh, prison life in Vietnam is harsh, and vigilance should be high on death row. "All provisions are set to prevent evasion and rape," Trinh said, adding that condemned prisoners are kept in solitary cells no larger than nine square metres.

Death row inmates are allowed to meet with family members once a month. They only have daily contact with "volunteers," inmates with short prison terms and good behaviour who are in charge of cleaning cells and distributing food.

"In principle, only a prisoner of the same sex (as the death row inmate) could become a volunteer. Prison guards will examine whatever the volunteer is carrying before letting him enter the cell. They also must keep their eyes on what's going on in the cell," Trinh said. It would be impossible for Oanh to become pregnant unless the guards cooperated in some way, he added.

Reliable sources say the People's Court of Hoa Binh has already asked the Supreme Court to help solve Oanh's case, while Hoa Binh Police continue to investigate how Oanh became pregnant.

Police said Oanh confessed she had "seduced" the young inmate. The young prisoner, in turn, confessed he "felt sorry for Oanh and wanted to console her." The two also said they had sex many times, police reported.

Not everyone is satisfied with the police's official explanation. Hai, one of Oanh's lawyer's, said she may have been forced to make such a confession.

"The law in Vietnam has no article regulating the case (of female prisoner getting pregnant to evade death penalty)," Hai told IPS. "If she said she was raped, the 'author' (of the crime) would be condemned; but if she said she had agreed (to having sex) the law could do nothing against him."

When asked whether he believes Oanh was raped, her other lawyer, Bach, said he was "more interested in the outcome of Oanh's pregnancy than in the reason of it."

According to Vietnamese law, the death sentence cannot be applied to pregnant women or women with children under the age of three at the time of crime or the trial.

Under the nation's rules, the baby will be delivered in the prison health centre and will be allowed to stay with its mother until age three, after breast-feeding has finished. After that, the mother can decide whether to keep the child with her or have the child looked after outside, according to German press reports.

Trafficking more than 600 grams of heroin in Vietnam is punishable by death or life imprisonment. The death penalty for drug-related offences was introduced in December 1992, because the country saw it as a necessity to combat crime.

The United Nations and other human rights organisations, however, criticise Vietnam's justice system, claiming it is corrupt and falls short in fairness. They urge the government to stop executing people on drugs charges. Some rights groups say if a country insists on capital punishment, it must be issued only in cases of murder or treason. At least one-third of all death sentences recorded by Amnesty International are for drug-related crimes.

Vietnamese media also reported that Oanh is not the only woman to escape the death penalty through pregnancy. VietnamNet on Oct. 13 reported that Tran Thi Huong, another female on death row, in Chi Hoa prison, had her sentence commuted from death to life in prison after delivering a child in June.

Initial investigations found that a male prisoner in the cell next to Huong transferred his sperm into a phial and handed it to her through a valve between their two cells.

Nguyen Thanh Minh, a law expert in Ho Chi Minh City, commented: "Huong's success may have inspired Oanh, or at least someone who tipped her off."

Minh told IPS, "Oanh waited for almost three months (so as to be certain of her pregnancy) before asking her sister to announce it to her lawyer; and the latter only needs to submit his petition. Decidedly, everything has been planned beforehand."

Dr. Nguyen Thi Ngoc Phuong, former director of Tu Du Hospital and a renowned social activist, told IPS that it was the first time he had heard of women intentionally getting pregnant to avoid death.

"I'm not interested in finding out whether these women have planned their scheme or not. I'm interested in what the law is going to do to these unfortunate women," Dr. Phuong said.

## News from International NGOs

### TRAVEL BAN ON OUTLAWED VIETNAMESE BUDDHIST CRITICISED

The Observatory for the Protection of Human Rights Defenders, a joint programme of the World Organisation Against Torture (OMCT) and the International Federation for Human Rights (FIDH), express their deep concern regarding the situation of Mr. Thich Quang Do, Deputy Leader of the outlawed Unified Buddhist Church of Vietnam (UBCV), FIDH said in a press release Oct. 31. Indeed, on September 21, 2006, the Norwegian Rafto Foundation announced that Mr. Thich Quang Do will receive the 2006 Professor Thorolf Rafto Memorial Prize for his contribution to the movement for religious freedom and human rights in the country and as a "symbol for the growing democracy movement in Vietnam".

## UN COMMITTEE ASKED TO REMIND SRI LANKA OF INTERNATIONAL OBLIGATIONS

As the United Nations Human Rights Committee (HRC) began its eighty-eighth session, the International Federation for Human Rights (FIDH) urged it Sep. 17 to strongly condemn the recent decision of the Supreme Court of Sri Lanka, holding that the international human rights instruments are without application at the national level, and to stress that Sri Lanka is bound to honour its international obligations. Indeed, the Supreme Court judgment in itself represents a clear violation of Sri Lanka's obligations under international human rights law. On 15 September 2006, in the case of Singarasa, Sri Lanka's Supreme Court, composed of a panel of five judges including the Chief Justice, stated that, "the [ICCPR] does not have internal effect and the rights under the ICCPR are not rights under the law of Sri Lanka". The Court further held that Sri Lanka's accession to the Optional Protocol to the ICCPR, which permits individuals to submit complaints directly to the Human Rights Committee, was unconstitutional and that consequently individuals "cannot seek to 'vindicate and enforce' [their] rights through the [HRC]".

## HUMAN RIGHTS PRECARIOUS IN GEORGIA

Since the coming into power of Mr. Mikhail Saakashvili at the favor of the so-called "roses' revolution", local and international organisations observe regular deterioration of fundamental freedoms. The violations of rights and freedoms are encouraged by a very personalised and authoritarian sense of power from the President, says FIDH in a note on rights situation in Georgia. The first consequences of it are the excessive use of violence et and the impunity by law-enforcement bodies, repression and harassment against journalists, human right defenders, etc... This also contributed to conflictual situations at both internal (minorities and separatist regions of Abkhazia and South Ossetia) and external (recent break of diplomatic relations with Russia) levels. This new escalation of internal and external tension can provoke a serious deterioration of the situation of civilian population of Georgia and lies within the on-going aggravation of a general human rights situation.

## CALL FOR THE FULL ABOLITION OF THE DEATH PENALTY IN KYRGYZSTAN

The International Helsinki Federation for Human Rights (IHF) and a coalition of Kyrgyz human rights groups called upon the authorities of Kyrgyzstan Oct. 30 to abolish the death penalty for all crimes as soon as possible. While the adoption of a permanent moratorium in Kyrgyzstan in 1998 was a positive development and a move in the right direction, the IHF and a coalition of Kyrgyz human rights groups consider that, six years later, efforts to fully abolish the death penalty are stalling. The organisations urge the Kyrgyz authorities to take immediate steps in view of the full abolition of the death penalty in this Central Asian republic. They said: Our organisations promote the inclusion of the abolition of the death penalty in the package of constitutional reforms announced by the president and the minister of justice. Despite the moratorium, death sentences are still being pronounced, although they are not executed. The unofficial number of prisoners on death row is as high as 180 and the continuous uncertainty which they face is aggravated by the extremely harsh prison conditions in which they live.

## BELARUS HUMAN RIGHTS DEFENDER CONDEMNED TO TWO YEARS IN PRISON

On 23 October, the court of the Leninski district of Minsk found Katsiaryna Sadouskaya guilty of insulting President Alyaksandr Lukashenka, and condemned the 60-year-old woman to two years in a minimum-security penal colony. She was also ordered to pay the amount of 4 million rubles (about 1,500 Euro) as compensation to district court judges, for alleged insults and threats (articles 391 and 389 of the Criminal Code), said the International Helsinki Federation for Human Rights (IHF). The ground for finding Ms. Sadouskaya guilty of insulting the president (article 368.2 of the Criminal Code) was a letter of 21 January, 2006, which was found in her home during a search. The letter was never sent. In it, Ms. Sadouskaya was calling for the mental examination of Alyaksandr Lukashenka, for the boycott of the presidential elections and was accusing the Russian secret services of supporting the Belarusian regime. IHF and the Belarusian Helsinki Committee (BHC) denounce the extensive use of criminal libel in Belarus and reject the prosecution for such offences based on writings never made public.

## TURKEY PURSUING A MINORITY POLICY OF SYSTEMATIC NEGATION

Despite some positive developments in the past few years, Turkey's protection of minority groups continues to fall seriously short of European and other international standards, says the International Helsinki Federation for Human Rights (IHF) in a report released in October. Since the early 20th century, Turkey has practiced a policy of "Turkification," a form of cultural assimilation that fails to recognize individuals' rights to ethnic, national, and religious self-identification and that aims at forced assimilation with a Turkish identity. It encompasses several strategies whose rationale violates, in one way or another, internationally guaranteed standards for minority rights. These strategies still include: denying formal recognition of minority groups; hindering their access to the media; limiting their political participation; violating their freedom of expression (especially in their own language); impeding their freedom of religion; refraining from facilitating their freedom of movement and to choose their place of residence; and practicing or tolerating various other forms of direct and indirect discrimination.

[http://www.ihf-hr.org/documents/doc\\_summary.php?sec\\_id=3&d\\_id=4318](http://www.ihf-hr.org/documents/doc_summary.php?sec_id=3&d_id=4318)

## WORLD PRESS REVIEW - October 06

### DAGGERS DRAWN OVER DEATH PENALTY IN BOTSWANA

Botswana's leading human rights organisation has criticised the government for upholding the death penalty, rejecting comments by foreign minister Komati Merafhe that the policy is backed by public demand. IRIN reported from Gaborone on Oct. 30: In a statement the Botswana Centre for Human Rights (Ditshwanelo) said there were flaws in the country's legal system and the rendering of justice – particularly for the poor - which undermined the use of capital punishment. "That there is a lack of skilled personnel in Botswana's pro deo [legal aid] system has been recognised frequently ...

Ditshwanelo believes that the serious problems afflicting the pro deo system [primarily poor legal representation] of this country are indeed a testament to the inappropriateness of the death penalty in Botswana," the organisation said. Merafhe, however, defended the government's determination to keep capital punishment on the statute books. "When you take one's life, you forfeit the right to retain yours. People outside Botswana are opposed to the death penalty. I have had delegations which sought me to persuade the government to abolish the death penalty. I have told them categorically that it is sovereign matter for Botswana," he told a press conference earlier this month (October).

## **DEATH PENALTY - KARUGARAMA CONSULTS UNIVERSITY OF RWANDA**

In the ongoing debate on the scrapping of death penalty from Rwandan legal provisions, the Minister of Justice, Tharcisse Karugarama, on October 20 held a consultative meeting with National University of Rwanda (NUR) community to seek their views on the issue. Reported The New Times of Kigali on Oct. 22. The minister noted that Rwanda's major pillars - notably unity and reconciliation, promotion of good governance, and respect of human rights - ask for the death penalty to be erased from Rwanda's penal code. "Death penalty puts life to an end, yet there are instances when a judge can erroneously condemn a person to death and the truth comes out that the person is not guilty when execution has already occurred," the minister said.

Although the minister had in his introductory speech lauded the university community as "think tanks" and "illuminating light for Rwandans", he was later disappointed by some of the reactions from the audience, prompting him to say they were devoid of intellectual analysis. "Though Rwanda faced a genocide that left inner wounds, it is time we moved from emotions to reality. This will play a big role in the reconciling and healing process," Karugarama said. "The removal of death penalty is not betrayal but it is the drive to practical sense and non-contradictory."

NUR is the fourth group the minister and his entourage has met over the issue after the media fraternity, Political Party Forum and grassroots leaders. Although the turnout was relatively low, those present wondered whether the abolition of death penalty will have a retroactive effect on an estimated 800 prisoners so far condemned. The scrapping of death penalty was first endorsed by the RPF politburo a fortnight ago, and later supported by the forum of political parties. So far, 121 countries worldwide have scrapped the penalty, six of them in Africa.

## **JUDGES SHOULD NOT CALL FOR THE DEATH PENALTY**

South Africa's Mail and Guardian carried a comment Oct. 17 saying: The claim that the Constitution contains a criminal's bill of rights has been often made by the "law and order" lobby. These spokespeople emphasise order above law, as if the denial of due process to accused persons will curb the crime wave. There is a nostalgia in the land for a return to the jackboot of apartheid policing: assault an accused, extract the confession and procure a conviction. It's so simple. This approach may increase conviction rates and help the national mood in the short run. I am not defending police incompetence or government inaction, but reminding readers that a return to a brutal past will not curb crime. Better policing, the proper deployment of modern forensic techniques by the police service, a determined campaign to make townships liveable residential areas, public works programmes and economic policy that takes the poor as the priority (rather than adheres to the trickle-down approach of Gear), among others, are more viable options that should be pursued.

## **DEATH PENALTY IN INDIA'S MATTOO CASE SOUGHT**

The 'Justice For Priyadarshini Mattoo' group that led the public outcry in the Priyadarshini Mattoo case early this year has now appealed for death penalty to convict Santosh Kumar Singh, the Hindu reported Oct. 30. Speaking about the campaign, Aditya Raj Kaul said: "We at 'Justice For Priyadarshini Mattoo' firmly believe

that the Priyadarshini Mattoo case fits into the category of rarest of the rare and hence the guilty should be awarded the death penalty." "Though there are philosophical reasons for being against death penalty, we think death penalty should be struck upon the culprit so that spoilt brats of power know that they are not above the law. It will set precedence and act as a deterrent," he added.

Many Non-Government Organisations, student bodies and civil rights groups too have come out in support of the Mattoo family and campaigners to demand death sentence for the convict. United Students, a Delhi University-based students group that had campaigned for the cause said that death penalty should be given but it will be a shame if social activists, who support the banning of death penalty all the time, come and file a clemency petition for Santosh Kumar Singh. "Life imprisonment could be a harsh punishment too but knowing our legal system, some loophole or the other can be created to bail a person out of prison," said member United Students and a law student Dhruv Suri. Priyadarshini Mattoo's family had previously expressed its satisfaction with the High Court's judgement and had demanded strongest punishment for the criminal.

## **BANGLADESH MILITANTS ASK FOR ISLAMIC TRIALS IN DEATH PENALTY CASES**

Two Islamic militants facing death sentences in Bangladesh over deadly bomb blasts failed to meet a weekend deadline for appeals, but instead asked the Supreme Court for trials under Islamic law, an official said Sunday (Oct. 1), according to Haveeru Daily of the Maledives. "In their long letters, they said they did not recognise any satanic laws or man-made courts. They want Islamic laws to hear their case. Their letters are full of quotes from the holy Koran on the need for Islamic laws," said deputy inspector general of prisons Shamsul Haider Siddiqui. Siddiqui forwarded the letters to the court on Sunday. Shaikh Abdur Rahman and Siddiqui Islam, the leader and second in-command of the banned Jamayetul Mujahideen Bangladesh, were sentenced to death in May for their roles in a bombing campaign to press for Islamic law that left 28 people dead, including four militants.

## **HR ACTIVISTS DEMAND ABOLITION OF DEATH PENALTY**

Human rights activists have demanded the elimination of death penalty while legal experts and Ulema have opposed the demand, the News International of Pakistan reported from Lahore. Chairperson Human Rights Commission of Pakistan (HRCP) Asma Jehangir while expressing her views said: "If taking life is a crime, then the state becomes 'criminal' by carrying out death sentence." She said that the HRCP since its inception had been demanding abolition of the death penalty. "It is dissimilar to the norms of justice and does not act as a deterrent either," Asma added. Chairperson HRCP (Punjab Chapter) Hina Jillani said that more offenses of heinous nature took place in the countries where death penalties remained on statute books. "Crime statistics compiled by the countries such as the US vis-à-vis most European countries where death penalty has been abolished prove my point," she said.

Secretary Supreme Court Bar Association Ali Akbar Qureshi, opposing the stance of HRCP said that no European country ever passed any legislation against capital punishment as China had controlled corruption by hanging the corrupt," he added. He maintained that only Islam provided the facility of 'Qisas' to avoid execution, otherwise in West, right to forgive the murderer went to

the state and not to the legal heirs of the deceased. Finance Secretary of the Lahore High Court Bar Association Rabiya Bajwa, who is also an active member of human rights committee said that there was a good independent research to show that the death penalty had no deterrent effect. She said that in formulating an opinion on capital punishment, one must not forget the victims' family. "Capital sentence may also protect society from turmoil because the victims' friends or family may try to take the life of the person once he was released from prison as in their opinion he did not get what he deserved," she added. According to a recent report, at present over 7,000 males and 33 females (with the highest number of 5000 in Punjab) were on death row (for murders, drug offences, kidnapping for ransom, gang-rape) in Pakistan.

#### **MAN ESCAPES DEATH PENALTY, TO PAY DIYA**

An Iraqi man who murdered a Saudi for attempting to sexually abuse his wife escaped death penalty when the father of the victim accepted diya (blood money) as per the Shariah Law, reported the Khaleej Times from Abu Dhabi on Oct. 16. The Federal Supreme Court ordered the defendant to pay Dh200,000 diya to the heirs of the deceased. He has also been sentenced to three years imprisonment. The apex court sentenced the woman, who ran the vice den where the incident had taken place, to three years in prison plus one month for abetting a prostitute to stay in the country illegally and practice flesh trade.

The case, in which the final verdict was issued on last September 25, dated back to April 29, 2002, when the public prosecution accused Mohammed Shaker, who hails from Iraq, of premeditated murder for killing Khalid Manookh, Saudi.

Shaker had stabbed Manookh to death after the latter tried to sexually abuse his wife, the court heard. He decided to avenge his dishonour when he killed Manookh in a brothel run by a woman identified as Ameera Mahmoud, an Iraqi, used her compatriot woman as sex worker. The prostitute, according to the indictment sheet, is an Iraqi national identified as Saya Khalid, but her real name is Enas Abbas. The public prosecution had referred them to the court. Accordingly, the bench of the Shariah Criminal Court in Abu Dhabi unanimously convicted the defendant and ordered to be penalised by death sentence as per the shariah law.

#### **DEATH PENALTY SENDS LEGAL COSTS SOARING**

Longtime reader Chris Wren of Madison this week sent me a copy of a job posting made by the Indiana attorney general's office to fill a deputy attorney general position in its habeas corpus and capital litigation section, writes Dave Zweifel in Madison.com on Oct. 30. Wren notes that the job posting ought to interest Wisconsin citizens, who on Nov. 7 will vote to "advise" the Legislature whether Wisconsin ought to legalize the death penalty. This particular Indiana job is the one that handles the appeals from people sentenced to death there. Here is an excerpt from a paragraph that describes the job's principal duties:

"When a court imposes the death penalty, the attorney general represents the state in all future appeals. These cases are very lengthy and often last in excess of 15 years. The successful candidate will be responsible for representing the state's interests in all aspects of appeals before the Indiana Supreme Court, post-conviction relief proceedings in state trial courts, and federal habeas corpus proceedings in the federal district and appellate courts. "Additionally, attorneys provide consultation and assistance to the prosecuting attorneys in trial proceedings. As these cases involve a mixture of trial and appellate practice, prior trial experience is an asset."

In other words, once a state enacts capital punishment, it needs to prepare itself for lots of appeals and huge court costs that typically stretch over nearly two decades for each case.

Hence, Wisconsin too would need to hire a whole new set of assistant attorneys general if the state decides to go down the scary path of the death penalty. As Wren noted in his e-mail to me:

"Despite what proponents of the death penalty might want voters to believe, capital crimes prosecution and defense are specialized areas of legal practice; both the Department of Justice and the state public defender will need substantial increases in resources and sum-sufficient litigation budgets to handle these kinds of cases. Capital cases last a long time and consume enormous amounts of legal resources and all those costs will come directly from the taxpayers' pockets at the expense of public education, health care, environmental protection and all manner of other public services." Yet more reasons why Wisconsin should stay the course it wisely chose 153 years ago and turn down this attempt to get our state in the legalized murder business.

**Editor's Note :** The copyright for items included in the world press review lies with the respective media mentioned as sources. This review is purported to provide a glimpse of the coverage of death penalty related issues in the global media. This review is in no case intended for commercial purposes. -



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