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PROMOTION AND PROTECTION OF HUMAN RIGHTS:
STATUS OF THE INTERNATIONAL COVENANTS ON
HUMAN RIGHTS

Question of the death penalty

Report of the Secretary-General submitted
pursuant to Commission resolution 1998/8

Addendum

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Introduction

The present document contains abridged versions of additional replies submitted by the Governments of the Islamic Republic of Iran, Lithuania and Turkmenistan, and from the European Parliament. The Permanent Mission of Brazil sent a reply that reiterates information contained in document E/CN.4/1998/82, annex and is therefore not summarized in this document. (The replies were received after the preparation of document E/CN.4/1999/52.)

I. COMMENTS RECEIVED FROM GOVERNMENTS

Iran, (Islamic Republic of)

[Original: English]
[23 December 1998]

The Government of the Islamic Republic of Iran considers that the issue of the death penalty should remain within the framework of the Commission on Crime Prevention and Criminal Justice. The consideration of the issue by that Commission will facilitate the attainment of an international consensus on the topic which is quite clearly lacking at international level. The considerable majority of the States Members of the United Nations have in the first part of the present decade either voted against or abstained whenever the abolition of capital punishment has been put to a vote in the General Assembly. The divergence of views on this question manifested itself at the forty-ninth session of the General Assembly during which a draft resolution on the subject was rejected by an overwhelming majority.

The Government of the Islamic Republic of Iran is of the view that the Commission on Human Rights should continue to address extrajudicial, summary or arbitrary executions and ensure that States which retain the use of the death penalty comply with the international legal requirements.

The legislation and application of the death penalty in the Islamic Republic of Iran is in accordance with the Islamic penal system which is not incompatible with human rights conventions and the respective guarantees set forth in them. According to article 22 of the Constitution of the Islamic Republic of Iran, "the dignity, life, property, rights, residence, and occupation of an individual are inviolable, except in cases authorized by law".

The application of the death penalty in the Islamic Republic of Iran is limited to those cases specified in legally binding laws for commission or perpetration of the most serious crimes. It will only be carried out after the legal proceedings called for under those laws have been concluded and final judgement handed down. Anyone sentenced to death has the right to appeal to a court of higher jurisdiction, including the Supreme Court.

According to article 473 of the Penal Procedure Law, the verdicts of penal courts are enforced in the following cases:

- (a) If no protest or appeal has been made within the legal time limit (the time limit is 30 days from the date of issuance of the court verdict);
- (b) If the verdict is confirmed by the Supreme Court;
- (c) In those cases where the request for appeal has been rejected or the appeal has been rejected in a final judgement.

Article 49 of the Islamic Punishment Law provides that: "Children shall not bear penal responsibility for the offence they commit, and their education will, at the discretion of the court, be entrusted to the child's guardian or, if occasion demands, to the Juvenile Reform and Education Centre".

According to article 484 of the Penal Statute, the death penalty cannot be imposed on a sick convict, a pregnant woman or a new mother until her child reaches two years of age.

It was pointed out that more detailed information on this issue is available in the second periodic report of the Islamic Republic of Iran to the Human Rights Committee (CCPR/C/28/Add.15) the summary records of the meetings of the Committee (CCPR/C/SR.1251-1253) and the concluding observations of the Committee (A/48/40, paras. 190-270).

Lithuania

[Original: English]
[22 January 1999]

Since July 1996, the President of the Republic of Lithuania has de facto suspended the execution of death penalties. On 9 December 1998, the Constitutional Court, after consideration of a case submitted by a group of members of Parliament, issued a decision that capital punishment as provided for in article 105 of the Criminal Code did contradict articles 18, 19 and Part 3 of article 21 of the Constitution.

In accordance with this ruling, the Seima (Parliament), on 21 December 1998, amended the relevant articles of the Criminal Code, thereby abolishing the death penalty. The new amendments entered into force on 31 December 1998. By a separate law the death sentences for already convicted persons were commuted to life imprisonment. The Republic of Lithuania signed Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty in Strasbourg on 18 January 1999.

Turkmenistan

[Original: English and Russian]
[7 January 1999]

On 6 January 1999, the President of Turkmenistan issued the Decree entitled "Introduction of a moratorium on capital punishment as a measure of criminal justice". As stated in the Decree, the moratorium was declared in

connection with the fiftieth anniversary of the adoption of the Universal Declaration of Human Rights and was inspired by ideals of humanism, kindness and justice.

On the same date the President also issued the Law entitled "The rules of the application of a moratorium on capital punishment as a measure of criminal justice". The law contains the following provisions:

"In connection with the introduction of the moratorium on capital punishment as a measure of criminal justice by the Decree of the President of Turkmenistan on 6 January 1999:

"1. The courts of Turkmenistan shall not give a sentence of capital punishment as a measure of criminal justice starting 1 January 1999;

"2. Pursuant to the principles of article 6 of the Criminal Code of Turkmenistan, the jurisdiction of the moratorium on capital punishment as a measure of criminal justice is extended to persons who were sentenced to death before the moratorium entered into force;

"3. Persons sentenced to death before 1 January 1999, shall be sent to reformatories to keep them under the conditions provided for persons who serve their sentence in the reformatories of special regime.

"4. This law enters into force at the moment of its adoption."

II. REPLIES RECEIVED FROM INTERGOVERNMENTAL ORGANIZATIONS

European Parliament

[Original: English]
[11 January 1999]

On 17 December 1998, the European Parliament adopted a resolution on the abolition of the death penalty in which it expressed its deep regret about the fact that, despite international reaction against executions, the United States continues to apply the death penalty; expressed its concern at the death penalties passed in Turkmenistan on three persons; noted that Sarah Jane Dematera was sentenced to death in February 1996 by a Saudi Arabian court and emphasized that Mrs. Dematera had only a very limited opportunity to prove her innocence; called for the immediate and unconditional global abolition of the death penalty; called on those States still practising the death penalty to declare an immediate moratorium; and called on member States not to agree to extradite individuals for crimes which carry the death penalty to those States which retain it on their statute books.

Regarding certain specific cases, the Parliament called once again on all the states within the United States to abandon the death penalty; issued an urgent appeal to the Governor of Pennsylvania not to sign a fresh warrant setting an execution date and reiterated its call for a retrial for Mumia Abu-Jamal and for the death sentence passed on him to be commuted;

called on the Supreme Court of Florida to annul the death sentence on the Spanish national Joaquín José Martínez and to guarantee his right to prove his innocence through a retrial; called on the Saudi Arabian Government to abolish the death penalty and to commute death sentences; expressed its concern about the high number of death sentences being passed in Turkmenistan, and called on the President of Turkmenistan to use his constitutional authority and commute the death sentences passed on Shaliko Maisuradze, Gulshirin Shykhyeva and Tylla Garadshayeva, and any other death sentences that come before him.
