

Of interest

The First World Congress Against the Death Penalty in June 2001 in Strasbourg, France, involved abolitionists from around the world. The high attendance of lawyers from many nations underlined their strong commitment and mobilization in favor of the universal abolition of the death penalty.

The Congress - jointly organized by ECPM, with the support of the EU Parliament -- led to the creation of the World Coalition Against the Death Penalty and the establishment of the World Day Against the Death Penalty, held on 10 October each year.

The 2nd World Congress Against the Death Penalty will take place in Montreal, Canada, from 6 - 9 October 2004.

For more info contact ECPM Canada at:
avocats@abolition-ecpm.org

In this issue

President's Column	1
Reprive Espana: The Story So Far	4
Five Hundred Words	5
Mental Impairment Seemingly No Bar to Execution in Texas	6
International Leaders Urge US Supreme Court to Ban Execution of Juvenile Offenders	6
Choosing How to Die	7

President's Column

The ugly shadow cast by Guantanamo

Over the last 18 months, *RepriveAustralia* has closely monitored the debate surrounding the detention of men at Guantanamo Bay ("Gitmo"). We have done this for two reasons. First, the pretext on which detainees have been held by the US Administration is, at best, tenuous and at worst, a shocking abuse of human rights and the rules of war. Secondly, and more importantly, many of those detainees at Gitmo may ultimately face the death penalty after consideration of their circumstances by a military commission. That matter is directly within our fiat as an organisation.

It matters little that Western Allies of the US (read Australia and Britain) have done backroom political deals with the US Administration so that the death penalty will not be imposed upon British and Australian nationals should their cases proceed before the commission. If anything, this simply heightens the suspicion that there is nothing apolitical or court-like about the commission process. The US Executive is wearing too many hats. It is playing prosecutor. It is also carefully selecting the commission panel from its own military. Further, these deals raise for consideration the relevance of the ethnicity of a detainee to the imposition of the death penalty.

Why is there a need for the death penalty at all? To impose it is to render 'western justice' little better than the moral compass of the 'worst of the worst'.

The rule of law is at least alive in the USA

We applaud the recent decision in *Rasul v Bush* of the US Federal Supreme Court. The US Supreme Court determined that it has jurisdiction to consider challenges by foreign national detainees to their detention at Gitmo. These detainees may now bring suit for the ancient English writ of habeas corpus under US Federal statute. The decision is a legal (and in a sense, political) slap in the face to Secretary of Defence Rumsfeld and Attorney General Ashcroft. The legal concoction designed by these men and the Bush Administration is deserving of the highest and most acute form of public censure. The Supreme Court, in its majority 6:3 verdict, has dutifully spoken in such terms.

Mississippi death row conditions reviewed

Further good news in the US courts is the recent ruling by the 5th US Circuit Court of Appeals that the state of Mississippi must improve the conditions on death row at Parchman prison. In particular, the Court of Appeal did not overturn the trial court's decision that the provision of mental health services by the State of Mississippi was inadequate. Congratulations to inmate Willie Russel for bringing the suit.

Obie in Texas

Reprive has recently received (continued on page 2)

President's Column *(continued from pg 1)*

correspondence from Obie D Weathers III, an inmate on death row in Livingston, Texas. Obie is facing execution by lethal injection and his plight is desperate. We have referred him to our contacts in the US.

Among other things in his letter, he writes:

“What I would love more than anything at this point in my life is a second shot at life. That’s my reason for reaching out to you all today because I desperately need help on this struggle with the State of Texas.”

It often makes a great difference to an inmate just to have contact with the outside world. If you wish to write to Obie, you can contact him by addressing your letter to:

Obie Weathers #999396
Polunsky Unit D.R.
3872 FM 350 South
Livingston Texas 77351
USA

For more info on Obie and his case, go to www.people.freenet.de/DeathRow/obie_weathers.htm

Populism or principle?

Saddam Hussein is, in all likelihood, a tyrant, thug and a mass killer. So, should he receive a trial? If guilty, should he receive the death penalty? In fact, how should he be treated? Once again, all debate may be reduced to a simple question. Is he a member of the human race? Well, yes. Accordingly, does it follow that he should be accorded basic human rights? To that question there is also a simple answer – yes. And so there should be no real debate about the imposition of the death penalty.

With this in mind, it is startling (taking off my cynic’s hat for a moment) to hear both Opposition Leader Latham and Prime Minister Howard supporting the death penalty (by hanging) for Hussein.

Latham’s Labor party is implacably opposed to the death penalty in all its forms (as part of its platform) yet this does not seem to have impeded this pro-death penalty public position. The Howard Government is ostensibly opposed to the death penalty, so how can the Prime Minister take this position?

If one looks carefully at recent comments on this issue, it would seem that the Howard Government’s public position is only maintained with respect to the Australian mainland and Australian nationals. To me, it seems there is a disconcerting element of populism from both leaders on this issue. As a matter of principle (a confronting concept in modern Australian political discourse), the Australian Government should oppose the death penalty for Hussein. 20 years or more in a jail cell in Iraq would be no picnic.

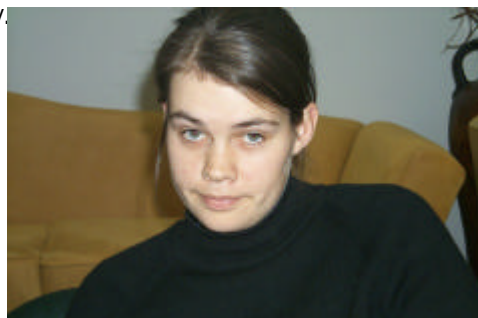
Van in Singapore

Many of you will be aware that a 23 year old Australian, Tuong Van Nguyen, received a death sentence for heroin trafficking in Singapore earlier this year. Van’s appeal is to be heard on 26 July 2004. Melbourne barristers, Lex Lasry QC and Julian McMahon, will travel to Singapore to attend the appeal hearing. We acknowledge their ongoing efforts, done on a pro bono basis, to assist Van in his difficult plight to avoid death in Singapore.

Bonnie Renou returns...

A former Reprieve volunteer intern, Bonnie Renou (pictured below), has returned for yet another volunteer stint in the deathbelt of the USA. Since June, Bonnie, a criminology graduate, has been working with A Fighting Chance - the specialist capital investigations office formed out of the LCAC in New Orleans, Louisiana.

As with other volunteers who have returned to continue their service, Bonnie's experience has allowed her to jump right in to the deep end in helping to prepare cases for trial, and the staff at AFC are delighted to see her back. Good on you Bonnie, for your active commitment to the work against the death penalty.



President's Column *(continued from pg 2)*

Commencement of Executive Officer and Technical Support Officer

We are pleased to announce that Natasha Stojanovich has commenced as the Executive Officer for Reprive. She will work a number of hours each week to keep those wheels turning that have for over 3 years relied entirely on volunteers.

She will be assisted by Ben Elbaum as Technical Support Officer. Tash and Ben are law students, and will work out of our new office at the rooftop of 412 Collins Street, Melbourne. This office space has been generously donated by Entity Solutions Pty Ltd – thank you Jonathan Knowles for that support!

We welcome both Tash and Ben, and look forward to the continued growth of Reprive as a vibrant, active organisation that really makes a difference.



Tash
Stojanovich

Renewal of membership

It is that time. We survive on a financial shoestring, so we really rely upon your small investment each year. For those of you who joined more than 3 months ago (memberships taken out between 1 April and 30 June carry over for the next financial year), it is time to renew please! Do it now, so you don't forget.

Membership renewal forms are on our website at www.reprive.org.au, and may be returned to us at GPO Box 4296, Melbourne 3001. And hey, we might even invite you to the AGM and associated extravaganza in September.....

Nick Harrington
President

Membership renewals are due NOW!

Please don't forget to renew your Reprive membership for the 04/05 year— in the past year, your membership has helped us send 6 interns to the US, who together contributed the equivalent of 18 months of one person's time to do vital, life-saving work against the death penalty.

Download a membership renewal form from our website at www.reprive.org.au

Reprieve España: The Story So Far

The case of *Hererra v. Collins* (506 U.S. 390 (1993)) is infamous among capital litigators for the US Supreme Court's ruling that the execution of an innocent defendant does not violate the Constitution (provided that Due Process is assured).

This somewhat unsettling case was alloyed, however, to another formidable problem facing capital defence teams, particularly in the southern states of the US where large, deprived Hispanic communities are everywhere. The inability to conduct thorough investigation in both English and Spanish was depriving defence counsel of potentially life-saving information.

Deathbelt states have failed to resource capital defence teams with bilingual investigators, including the real killer state – Texas. For a state that dedicates so much time, resources and money to executing its condemned, (currently it costs each Texan county close to US\$2.1m to fund the whole process from arrest up to execution), there is little inclination to provide specialist assistance to Spanish speaking defendants.

It was with these problems in mind that Reprieve UK began to investigate the possibility of branching out into Spain to establish a link with the legal community there and to encourage the involvement of Spanish law students in capital defence work.

I became the first Reprieve España intern in the summer of 2003 and, under the auspices of GRACE (the Gulf Region Advocacy Center) in Houston, began investigating the case of Angela Camacho, a 21-year old Mexican charged with the murder of her three children and husband.

As with all cases, extensive investigation is essential, particularly in a case such as this where test results indicating mental retardation, if supported by behavioural abnormalities, could lead to a bar on execution. As a result of four months of interviewing Spanish-speaking and English-speaking witnesses alike, the State of Texas is on the verge of dropping capital charges.

GRACE is a particularly appropriate office for Spanish speaking interns to provide their skills. A healthy relationship exists with MCLAP (the Mexican Capital Legal Appeals Program), which

was set up by the Mexican government to provide additional protection for Mexican nationals facing the death penalty in the US.

Those 'fortunate' enough to have Mexican nationality receive this extra support and monitoring. However, those who are US citizens, yet conduct their lives in almost exclusively Hispanic communities, face an unforgiving and often incomprehensible legal process. The need for specialised assistance for Hispanic clients becomes evermore pressing as these communities continue to boom in size.

In February and May of 2004, two trips were undertaken to Barcelona and Madrid respectively. The ESADE University in Barcelona provided Reprieve with its first 'official' Spanish interns, Alicia Barbany and Pep Buades, who were heavily involved in the cases of Mexican nationals in Houston and worked closely with MCLAP and the Mexican Consulate.

Mindful of the extensive needs of offices in Texas, Reprieve has flung the net wider in search of more interns of the requisite quality. Reprieve's subsequent trip to the Universidad Autónoma de Madrid to give a presentation discussion received substantial interest from the student body, and encouragingly, from the professors of the social sciences departments. Reprieve had the distinct privilege of being introduced by Enrique Peñarranda, a leading legal academic who was closely involved in the abolitionist movement in Spain in the early years post-Franco.

Spanish students have had problems finding funds. The student body in Spain is not initiated in the ways of other Reprieve interns who seem to have honed their sponsorship-hunting skills to an art form. However, there are positive signals from law departments at both Spanish universities regarding funding and an accreditation scheme.

There is no doubt that the trickle of interns that are currently passing through the administrative pipe lines will soon become the torrent necessary to aid the likes of Angela Camacho.

George Blom-Cooper
George Blom Cooper, a London based spanish-speaking physics graduate, first interned with Reprieve at the LCAC in the winter of 2002-3 and has since returned to work at GRACE in Texas (where he is heading for another stint in August). He is now helping to spearhead the establishment of Reprieve in Spain.

Five Hundred Words

At the end of this sentence, there will only be four hundred and eighty two words to go.

I have counted a lot during my time in New Orleans. When I arrived, I counted the days until I would hug my boyfriend again. I counted out dollar notes at the bar in exchange for beer. I counted sheep while jetlag taped my eyes open.

I like counting. I like the certainty of numbers. My mother tells me I knew my nine times tables before I could read.

I counted for Sigmund Van Dyke.

For Sigmund Van Dyke, I counted months between institution of prosecution and trial. According to Article 578 of the Louisiana Code of Criminal Law and Procedure, no trial shall be commenced:

- (1) In capital cases, after three years from the date of institution of the prosecution;
- (2) In other felony cases, after two years from the date of institution of the prosecution.

If the State goes over this time prescription, the defendant's right to a speedy trial is violated. Article 581 states that once the expiration of the time limitations is established, the court shall, upon motion of the defendant, dismiss the indictment. The statute reads like the Eleventh Commandment. There Shall Be No Further Prosecution Against The Defendant For The Same Or a Lesser Offence Based On The Same Facts.

I was given the task of looking over all the speedy trial cases in Louisiana. Draw up a table. List the case names. Count the months of delay. Note whether the motion to dismiss the indictment was Allowed or Denied. There were so many cases. There were too many cases. I

began to resent the counting and then I remembered I was counting months and years of people's lives.

Sigmund Van Dyke had been languishing in prison without a trial for almost seven years. Seven years away from his mum. Seven years away from his daughters. Seven years. Eighty-four months. Two thousand five hundred and fifty five days. After a while, numbers can start to weigh you down.

I was there when the Judge read his finding to the court. Without expression, as though he was announcing the weather, he uttered the divine words, "I hereby order Sigmund Van Dyke's immediate release." On the 16th of January 2003, at around 2:00 pm, I hugged Sigmund Van Dyke and congratulated him on his freedom.

I am glad I was able to count for him.

So, Mr Bourke, I don't think I made it to five hundred words for the newsletter. I tried though. I hope that counts.

Carmela Quimbo

Carmela, a Reprive volunteer intern, worked with the Louisiana Crisis Assistance Center in New Orleans in 2003.



For information about RepriveAustralia's internship program or to apply to participate in the program please check out our website at:

www.reprive.org.au
or email us at
contact@reprive.org.au

Mental Impairment Seemingly No Bar to Execution in Texas

Readers may recall the landmark 2002 decision of the US Supreme Court in *Atkins v. Virginia*, in which the court held that execution of the mentally impaired is prohibited by the Eighth Amendment of the US Federal Constitution on the grounds that it constitutes cruel and unusual punishment.

Notwithstanding hopes raised by that decision, the state of Texas went ahead and executed a mentally ill man in May, despite a rare clemency recommendation.

Kelsey Patterson, a 50-year-old paranoid schizophrenic, was condemned for the 1992 shootings of an east Texas oilman and his secretary. Nevertheless, for the first time in over 20 years, the Texas Board of Pardons and Paroles recommended a last minute reprieve that the sentence be delayed or commuted to life in prison because of his mental

illness.

But the Pardon and Parole Board didn't reckon on Governor Rick Perry.

Only an hour before the scheduled execution, Governor Perry rejected the Board's recommendation. In doing so, he also ignored letters seeking clemency on Patterson's behalf from the Council of Europe and the Swiss Government.

Governor Perry announced that state and federal courts had reviewed Patterson's case at least 10 times and none had found a legal reason to stop his execution.

Patterson was subsequently executed by lethal injection on 18 May.

Pia Di Mattina



Governor Rick Perry

International Leaders Urge Supreme Court to Ban Execution of Juvenile Offenders

Former US President Jimmy Carter, former Soviet Union President Mikhail Gorbachev, and 48 nations, together with medical experts are among those who filed amicus briefs in July urging the US Supreme Court to end the juvenile death penalty.

The Court is scheduled to soon hear arguments in *Roper v. Simmons*, a case that will determine the constitutionality of executing juvenile offenders.

The US is one of only a handful of

nations around the world that continues to permit the execution of juvenile offenders, and one of only five nations (Congo, China, Iran, Pakistan, and the US) to carry out such executions during the past four years, according to the brief filed by Nobel Peace Prize winners, including Carter and Gorbachev.

The Court also received briefs from the 25-nation European Union, Mexico, Canada, and other nations that argued that executions of juvenile offenders

"violates widely accepted human rights norms and the minimum standards of human rights set forth by the United Nations."

Similar briefs were filed by former US diplomats, the American Medical Association, the American Psychiatric Association, and the US Conference of Catholic Bishops.



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PLEASE VISIT OUR
WEBSITE AT
WWW.REPRIVE.ORG.AU

RepriveAustralia was founded in Melbourne in April 2001 by a group of Melbourne lawyers with the intention of assisting in the provision of effective legal representation and humanitarian assistance to impoverished people facing the death penalty at the hands of the state.

It is a sister organisation of *Reprive (UK)*, a UK based international human rights charity which was launched in December 1999 by Clive Stafford Smith OBE. *Reprive (US)* was also established in 2001 to assist in the placement of volunteer interns supplied by *RepriveAustralia* and *Reprive (UK)*.

RepriveAustralia's primary objective is to provide effective legal representation to impoverished people facing the death penalty at the hands of the state, by assisting a body of volunteers from Australia to travel overseas to work on death penalty cases and issues.

Choosing How to Die

James Neil Tucker, 47, was executed in May in South Carolina's electric chair, after having spent 10 years on death row.

In a final statement read to witnesses by his attorney, Teresa Norris, Tucker said "To everyone, I have thought of a million things to say, but they can all be summed up like this. To those I have harmed, my abject apologies and regrets. I am ashamed. To those who must remain and deal with this insane world, my condolences. But be of good cheer. Christ has overcome the world! I know that my redeemer lives. I am leaving this world with a cheerful attitude. Hallelujah."

Under South Carolina law, an inmate sentenced before June 1995 may choose between lethal injection or electrocution as the means by which the state will put them to death. Tucker refused to make a choice because he did not want to be seen to participate in the process. As the statutory default is electrocution if no choice is made, they electrocuted him.

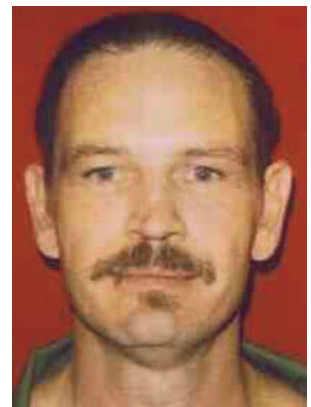
While the courts of some states have found electrocution to be cruel and unusual punishment, most have simply abolished it.

Tucker had been convicted of killing 54-year-old Rosa Lee Oakley in her home in June 1992. Having stole \$14 from Oakley, he shot her twice in the head. Afterwards, he said he'd needed money to help his pregnant wife. He was also convicted of killing 21-year-old Shannon Mellon six days later. Her hands and legs had been bound and she was shot three times in the head. Tucker stole her car and \$20.

According to Death Penalty Information Center figures, Tucker was the first person on death row to be electrocuted since Eric Bramblett in April 2003, in Virginia. He was the first to die in the electric chair in South Carolina since 1996, and the 27th murderer to be executed in the US this year.

Oakley's husband and Mellon's father witnessed Tucker's execution, but declined to talk to journalists afterwards.

Pia Di Mattina



James Neil Tucker