

US execution proceeds despite world condemnation

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Defying a decision of the World Court and other international protests, the state of Virginia carried out the execution of Angel Francisco Breard, a 31-year-old immigrant and citizen of Paraguay, on April 14.

Breard was put to death by lethal injection for the 1992 stabbing of a woman in Arlington, Virginia, a suburb of Washington, DC. After Breard's arrest, Virginia police failed to notify the nearby Paraguayan embassy or inform the suspect that he had the right to speak with a consular official from his home country.

Paraguay filed a complaint with the World Court over the lack of notification, pointing out that a consul would likely have persuaded Breard to make a plea agreement in return for a life sentence. Instead he pled not guilty, testified at his own trial that he had carried out the killing while in a state of Satanic possession, and was convicted and sentenced to death.

The World Court ruled in Paraguay's favor, citing the Vienna Convention, to which the United States is a signatory, which governs the treatment of citizens of one country arrested on the territory of another. By a 15-0 vote, including an American member, the tribunal in The Hague called for the death sentence to be suspended. It was the first time that the World Court had unanimously ruled against the United States, and its first ever decision on a US criminal case.

Virginia state authorities admitted they had violated Breard's rights under the Vienna Convention, but claimed that this had no effect on the outcome of the trial. Governor James Gilmore declared, apparently without intentional irony: "In this case, Mr. Breard received all of the procedural safeguards that any American citizen would receive."

The US Supreme Court upheld the death sentence only 38 minutes before it was scheduled to take place, in an unsigned 6-3 decision which was based on a technicality. Since Breard had failed to raise the issue of treaty violation in his appeals in the Virginia state court system, they ruled, he had lost his right to raise the issue in federal court.

The Clinton administration adopted a two-faced approach to the case. The Justice Department filed a brief with the Supreme Court upholding the legal right of the state of Virginia to execute Breard and denying that the violation of the Vienna Convention was sufficient grounds for overturning the death sentence.

At the same time Secretary of State Madeline Albright appealed to the governor not to carry out the execution, because such a flagrant violation of the Vienna Convention could have consequences for American citizens arrested abroad. Gilmore dismissed these concerns, declaring that any delay in the execution "would have the practical effect of transferring responsibility from the courts of the Commonwealth and the United States to the International Court."

The execution of Breard is thus a demonstration of the arrogance and indifference toward world opinion which characterizes the American ruling class. Not only Paraguay, but Argentina, Ecuador, Brazil and Mexico, countries with a majority of the population of Latin America, filed friend of the court briefs against the execution, without the slightest effect.

UN condemnation

Where capital punishment is concerned, America is increasingly regarded as an international outlaw. The Breard execution comes less than two weeks after the United Nations Commission on Human Rights condemned the American administration of the death penalty as racially discriminatory and arbitrary and urged that all executions in the United States be halted.

The Commission appealed for the moratorium on executions by a 26-13 vote after a lengthy report was presented by a Senegalese lawyer, Bacre Waly Ndiaye, who spent three weeks last fall in the US gathering material. He

spoke with government officials, defense attorneys, death row prisoners and the families of victims in Washington, DC and in four states—New York, Florida, Texas and California.

Ndiaye found that in America “race, ethnic origin and economic status appear to be key determinants of who will, and who will not, receive a sentence of death.” Race plays a particularly major role in Southern states such as Alabama, Florida, Louisiana, Mississippi, Georgia and Texas. More than two-thirds of victims of capital punishment in the United States come from this “death penalty belt” in the South.

The state of Texas has the highest rate of execution in the country. There are 136 people on death row from a single Texas jurisdiction, Harris County, which includes the city of Houston, with its large concentration of poor and minority workers.

Ndiaye’s report documented well-known examples of the way that American legal institutions—the judiciary, prosecutors and jury selection—are stacked against the poorest and most vulnerable sections of the population. Those able to afford good legal representation have far less risk of being sentenced to death than those who are provided court-appointed attorneys.

Local prosecutors have wide discretionary powers in determining when to seek the death penalty, while judges and juries can impose a death sentence for as many as 14 different “aggravating” circumstances. In four states, Alabama, Delaware, Florida and Indiana, judges can overturn a jury’s decision on a prison term and impose a death sentence instead. One-fourth of all Alabama death row inmates are there because of such a judge’s decision.

Ndiaye’s report criticized the United States for violating the de facto moratorium on the execution of women which has been observed by most countries since 1984. Two women have been executed so far this year in America and more than 100 are on death row.

Article 6 of the International Covenant on Civil and Political Rights (ICCPR), which the United States signed in 1992, prohibits the execution of juvenile offenders and pregnant woman and prohibits the arbitrary or discriminatory application of the death penalty. But the United States is one of the few countries of the world that permits the execution of inmates under 18 and people who are mentally retarded. The report cited this practice as a “disturbing step backward.”

Execution of the mentally retarded was approved by a Supreme Court decision several years ago. A California jury will soon decide whether a severely retarded inmate, Horace Kelly, is competent to be executed. Kelly will either be put to death or sent to a mental health facility, which, if his treatment is successful, would send him back to prison for

execution. Kelly’s lawyer remarked, “Treating him, just so he can be killed ... now that’s really insane.”

Why the death penalty frenzy?

Official discussions on the revival of capital punishment in the United States rarely examine its international context. Since the US restored capital punishment in 1976, many countries have done away with the death penalty and most have sharply restricted its use. During this period, 451 people have been executed in America by lethal injection, electrocution, the gas chamber, hanging and the firing squad, and the rate is accelerating.

The United States is the only wealthy industrialized country that retains the death penalty, and America is now in fifth place worldwide for the total number of executions annually, trailing only China, Turkmenistan, Iran and Saudi Arabia. The 1996 law, which sharply restricted appeal rights for the 3,000 prisoners now on death row, may result in a surge in executions which will put the United States second only to the Stalinist police state in China.

Why is the United States moving aggressively towards more and more executions, when the rest of the world is moving in the opposite direction? The answer must be found in an analysis of the underlying social conditions. While the official media and the big business politicians paint a picture of ever-rising material prosperity and economic progress, the reality is very different.

America is a country riven by the most terrific social tensions, in which a relatively small minority has amassed incredible wealth while the living standards and conditions of life for the vast majority of the population are stagnating or worsening. The ruling class has no solution to the mounting social crisis except the application of force.

It is not just a matter of building up the powers of the state by carrying out the most extreme measures against individual prisoners. The widespread application of capital punishment has an ideological purpose, inuring broad masses of people to the acceptance of ever more barbaric levels of violence and state repression.



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