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COMMISSION ON HUMAN RIGHTS
Sixtieth session
Item 13: Rights of the Child

Thank you, Mr. Chairman.

I am Jotaka Eaddy, Domestic Program Coordinator of the **National Coalition to Abolish the Death Penalty**. We have been working with **International Possibilities Unlimited (IPU)**, an NGO with special consultative status, on the issue of the juvenile death penalty.

The Question of the Death Penalty: The Juvenile Death Penalty in The United States

We welcome the report of the Secretary General (E/CN.4/2004/86) on the question of the death penalty and we are pleased with the growing number of states that have abolished, imposed moratoriums and limited the use of the death penalty.

We also welcome the report's special attention on the imposition of the death penalty against persons younger than 18 years of age at the time of the offence.

To that End,

While we are hopeful that the world will soon see the end of the death penalty as a form of legal punishment, we would like to take this opportunity to share our grave concern of the continued **imposition of the death penalty and not simply just the "execution"** of children under the age of 18 in the United States.

Currently there are 74 people on death row for crimes committed under the age of 18. **22** executions have been carried out on juvenile offenders.

The juvenile death penalty continues to be marred with racial bias. Nearly 67% of juvenile offenders on death row are people of color and of the last **seven** executions carried out on juvenile offenders **six of them were black men all in the state of Texas.**

Most recently on April 3, 2003, during the 59th Session of *this* Commission of which the United States was a member, Scott Hain, a juvenile offender, **was executed** in the state of Oklahoma despite calls from U.S. citizens and the international community to halt the execution.

Mr. Chair,

Unique Moment In History: A Chance to End this Practice in the United States

In the 2002 case *Atkins v. Virginia* the U.S. Supreme Court banned the death penalty for those who suffered from mental retardation citing **"evolving standards of decency"** in the form of: *1) public opinion, 2) international consensus and international policy, 3) and a dramatic shift among state legislatures.*

In January 2004, the Court **agreed to hear the case of *Roper v. Simmons*, which reopens** the issue of the **constitutionality** of sentencing juvenile offenders to death. The US Supreme Court **could in this case ban the juvenile death penalty in America.**

This case will be heard in **October 2004 and a decision could come as late a June 2005.**

Important Developments: Growing Momentum

Despite the continued use of this flagrant violation of human rights, there is growing momentum in the rejection to the juvenile death penalty.

69% of Americans are opposed to the juvenile death penalty.

There has also been a **dramatic shift among State Legislatures** on the issue. Just recently two states South Dakota and Wyoming banned the imposition of death penalty for those under age 18 bringing the total number of states that have outlawed the practice to **31**. (*30 states banned death penalty for those that were mentally retarded at the time of Atkins v. Virginia*)

In addition to this ,the prohibition of the juvenile death penalty has been accepted widely throughout world as an international norm leaving the United States **virtually isolated** in its adherence to the practice.

Moreover, several human rights instruments expressly prohibit juvenile executions including the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights (Article 6(5)), the International Court of Justice, and several resolutions of the **Human Rights Commission. 2002/47** (Administration of Justice), **2003/67**(The question of the death penalty), and **2003/86** (Rights of the Child).)

An “**evolving standard of decency**” has clearly emerged on the issue of the juvenile death penalty.

We would to also like to inform this Commission that four juvenile offenders are currently awaiting executions and their fate rests upon the outcome of the pending Supreme Court Case.

Recommendations

Yes, there is growing momentum, but victory is not guaranteed. It is vitally important that this **Commission strengthens its objection to the juvenile death penalty** and affirms that the **world has evolved to a higher stand of decency when dealing with our children.**

Given the importance of the international community in the small window of opportunity, we would like to make the following recommendations to the Commission.

- a. We strongly encourage the commission to **strengthen previous language** urging the immediate end to the juvenile death penalty. Including but not limited to: Commission on Human Rights resolutions **2002/47** (Administration of Justice), **2003/67**(The question of the death penalty), and **2003/86** (Rights of the Child).
- b. Affirm that the imposition of the death penalty on those aged under 18 at the time of the commission of the offence is **contrary to customary international law**, as stated by the Commission’s Sub-Commission on the Promotion and Protection of Human Rights in its resolution 2000/17 of 17 August 2000, and recognize that the prohibition of such use is **a norm of jus cogens**, as stated by the Inter-American Commission on Human Rights (*Michael Domingues v. United States*, Case 12.285, Merits, Report No. 62/02, 22 October 2002, paras. 84-85) and other cases.

Finally Mr. Chairman,

I would like to close the words of someone who has fell prey to this human rights violation. On May 28, 2002 Mr. Napoleon Beazly was executed for a crime he committed when he was 17 years old. Just minutes before his execution Mr. Beazly stated:

"I'm not going to struggle physically against any restraints. I'm not going to shout, use profanity or make idle threats. Understand though that I'm not only upset, but I'm saddened by what is happening here tonight. I'm not only saddened, but disappointed that a system that is supposed to protect and uphold what is just and right can be so much like me when I made the same shameful mistake...."

Tonight we tell the world that there are no second chances in the eyes of justice ... Tonight, we tell our children that in some instances, in some cases, killing is right.

This conflict hurts us all, there are no SIDES. The people who support this proceeding think this is justice. The people that think I should live think that is justice. As difficult as it may seem, this is a clash of ideals, with both parties committed to what they feel is right. But who's wrong if in the end we're all victims?

In my heart, I have to believe that there is a peaceful compromise for our ideals. I don't mind if there are none for me, as long as there are (peaceful compromises) for those who are yet to come.....

No one wins tonight. No one gets closure. No one walks away victorious."

Thank you, Mr. Chair.