

***The International Campaign  
Against the Death Penalty***

**The Criminals' Lobby Strikes Again**

**Saving the Lives of  
Killers, Traitors  
and Spies**

**A Special Investigative Report  
By Cliff Kincaid**

**Published by America's Survival, Inc. P.O. Box 146, Owings, MD. 20736  
[www.USAsurvival.org](http://www.USAsurvival.org)**

## Executive Summary

**The U.N.-sponsored international campaign against the death penalty has nothing to do with the innocence or guilt of those on death row. The case of cop-killer Mumia Abu-Jamal proves that. He is guilty beyond any reasonable doubt. Yet he has become a global poster boy against capital punishment. Another convicted killer, Ruben "Hurricane" Carter, freed on technical grounds, has been feted at the U.N. and hosted by President Clinton. This international campaign also has nothing to do with global justice. The Pan Am 103 international terrorism trial, in which the alleged perpetrators escaped the death penalty, and the alleged mastermind, Libya's Moammar Gadhafi, escaped prosecution, demonstrates the fraudulent nature of their crusade. Of the 270 victims, 189 were Americans, most of whom have reacted with outrage to the deal with Gadhafi. But a prominent U.N. "expert" on human rights is on record as expressing opposition to the movement for victim's rights in the U.S. Their real objective is to overturn the American constitutional legal tradition, which includes the death penalty, rewrite the U.S. Constitution, and replace U.S. law with U.N. or "international" law. In the name of "global justice," they are actually protecting and assisting criminals on an international basis. Their most popular argument -- that the U.S. death penalty is racist -- will be pursued at a U.N. conference on racism in 2001. The most visible impact of their campaign, if successful, will be a rise in crime and homicide rates affecting all Americans. Nevertheless, the American Bar Association, the premier lawyers group in the U.S., supports a death penalty moratorium and actively assists the U.N.'s legal campaign.**

**Two members of the U.S. Supreme Court, Stephen Breyer and Ruth Bader Ginsburg, are the nucleus of the "black robed globalists" on the Court today. Breyer has written that the U.S. should look to foreign courts for guidance on capital punishment cases, while Ginsburg has suggested that the U.S. Constitution, under which the death penalty is authorized, is outdated and irrelevant. If they have their way, international treaties, notions of "global justice," and even the rules of the "global economy" could replace U.S. domestic law and the Bill of Rights.**

**The campaign is well underway. With the consent of the Supreme Court, a legal U.S. resident, arrested by federal agents, has already been extradited to a U.N. criminal tribunal for trial. Eventually, a system of international criminal courts backed by military and police personnel is envisioned with an International Criminal Court (ICC) at the apex. An ICC could arrest, imprison and prosecute American citizens. Breyer has participated in closed-door meetings where plans for the ICC were debated and discussed, and exchanges have taken place between U.S. and foreign judges to facilitate the establishment of this new global legal order.**

America's Survival, Inc. wishes to acknowledge the generous assistance provided to publish and distribute this special report from the Vernon K. Krieble Foundation and the Sarah Scaife Foundation.

By Cliff Kincaid\*

The American people are experiencing an unprecedented assault on their values, their laws, their Constitution, and their form of government. Foreign and international governmental bodies, in collaboration with liberal-left non-governmental organizations (NGOs), are waging a propaganda and legal campaign to abolish capital punishment in the United States. It is an insidious campaign to replace the U.S. Constitution with "international law" and United Nations treaties.

John Bolton, a former assistant secretary of state, has declared that what is underway is a debate over control of the U.S. democratic decision-making process.

"The real agenda" of the U.N. and its allies "is to leverage the stature and legal authority of the United Nations (such as they are) into our domestic debate, an effort most Americans would find fundamentally illegitimate," he says.<sup>1</sup>

In the most visible manifestation of this effort, a United Nations bureaucrat, Bacre Ndiaye of Senegal, was invited on

---

\*Cliff Kincaid is a veteran journalist who serves as president of America's Survival, Inc. Telephone: 301-855-2679.

---

<sup>1</sup> John R. Bolton, Senior Vice President, American Enterprise Institute, "Threats to American Sovereignty," Testimony Submitted to the Republican National Committee, Hearings on Foreign Policy and Defense, June 23, 2000.

American soil by the U.S. State Department during the fall of 1997 to review the use of the death penalty in the U.S. Ndiaye, who carries the grandiose title of "U.N. Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions," issued a report finding a "significant degree of unfairness and arbitrariness" in the U.S. death penalty. He called on the U.S. to halt executions until it could ensure that death penalties are "administered fairly and impartially..."<sup>2</sup> He also mentioned that the American Bar Association (ABA) and U.N. Commission on Human Rights had come to the same conclusion.

Oddly, Ndiaye concedes that the death penalty "is not yet prohibited under international law," but goes on to say that there "has been a gradual move within the United Nations to a position favoring the abolition of the death penalty..."<sup>3</sup>

In addition to attacking the death penalty, Ndiaye identified the "very strong movement" for victims' rights in the U.S. as an "issue of concern." His report stated, "The Special Rapporteur is concerned by the

---

<sup>2</sup> "United Nations Investigator Calls on United States to Halt Executions Until It Can Ensure Fairness and Impartiality in Use [of] Capital Punishment," HR/98/21, April 3, 1998.

<sup>3</sup> *Question of the Violation of Human Rights and Fundamental Freedoms in Any Part of the World, with Particular Reference to Colonial and Other Dependent Countries and Territories. Extrajudicial, Summary or Arbitrary Executions. Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Mr. Bacre Waly Ndiaye, submitted pursuant to Commission resolution 1997/61. Addendum. Mission to the United States of America. United Nations Economic and Social Council. E/CN.4/1998/68/Add.3, January 22, 1998.*

fact that victims' rights as provided by law in some states may undermine the rights of the accused."

Victims' rights statutes or amendments simply guarantee the participation of victims or their families in judicial proceedings. (see Appendix I).

Nidiaye also urged "a human rights component in training programs for members of the judiciary," which led Bolton to comment that this is a recommendation "that someone, I trust, brought swiftly to the attention of Chief Justice William Rehnquist."

### The Cop-Killer

Nidiaye had previously come to the assistance of Mumia Abu-Jamal, a convicted killer sentenced to die for the murder of Philadelphia police officer Daniel Faulkner in 1981.

Dan Flynn, executive director of Accuracy in Academia, has written authoritatively that the claim of Abu-Jamal being framed for the crime is a "con" that has taken in millions of people, especially on college campuses.<sup>4</sup>

ABC's network news magazine program, 20/20, investigated the case in 1998 and concluded that the evidence pointing toward Abu-Jamal's guilt was substantial. Forensic evidence, witnesses and even a confession helped to convict him.<sup>5</sup>

In the show, correspondent Sam Donaldson said that supporters of Abu-Jamal, such as actors Ed Asner and Mike Farrell, "admit to a larger purpose

behind their interest in his case" -- their opposition to the death penalty. One-time journalist Abu-Jamal has proven to be an articulate and some say charismatic poster boy and spokesman for the anti-death penalty movement.

The "Free Mumia" web site reports that, "Support for Mumia Abu-Jamal has steadily grown from a small number of Philadelphia radicals to a major international movement, whose number includes the European Parliament, Presidents Jaques Chirac and Nelson Mandela, and members of the Danish, German, Norwegian and British parliaments." (see Appendix II).

The European Parliament had passed a resolution overwhelmingly condemning the "unfair trial" of Abu-Jamal and calling for the commutation of his sentence.

### Killer Addresses the U.N.

Another convicted killer, Rubin "Hurricane" Carter, actually addressed the United Nations at a special screening of "The Hurricane," a Hollywood film that is supposed to be about his case.

If you believe the Hollywood version, Carter spent almost 20 years in prison for murders he didn't commit. The case has been frequently cited in the campaign to eliminate the death penalty throughout the U.S. Carter, who is black, is portrayed as the victim of a racist criminal justice system. The public is told that if the justice system could fail Carter, there could be dozens of people on death row awaiting execution who could also be innocent.

Carter was twice convicted of a triple murder and he was never found innocent of that crime. Instead, he was freed on technical grounds. Cal Deal, a former journalist who

<sup>4</sup> Dan Flynn, *Cop Killer. How Mumia Abu-Jamal Conned Millions Into Believing He Was Framed*, Accuracy in Academia, Washington, D.C. [www.academia.org](http://www.academia.org)

<sup>5</sup> A transcript is available at: [www.danielfaulkner.com](http://www.danielfaulkner.com)

# HEAR RUBIN 'HURRICANE' CARTER



## *Speak in defense of* **MUMIA ABU-JAMAL**

*Also featuring*

**GERONIMO JI JAGA, ANGELA DAVIS, LEONARD WEINGLASS (MUMIA'S CHIEF COUNSEL),  
MICHAEL FRANTI, PAM AFRICA**

**• SAN FRANCISCO, SAT., OCT. 7, 7:30 P.M.,  
MISSION H.S.,**

covered the case, says, "The movie is almost totally false."<sup>6</sup>

Carter consistently maintained his innocence. But he was convicted two times, and the second jury included two blacks. The police believed that the murders were a racial revenge killing because the stepfather of one of Carter's friends had been killed by a white man earlier in the evening. But it was that theory that got Carter out of prison. The judge in the case, known as "Let 'em go Lee," ruled that the prosecution should not have introduced that theory in the trial. This and other procedural errors resulted in Carter being set free in 1983.

In addition to attending the U.N. event, Carter went to the Golden Globe film awards, where he was brought up on stage by actor Denzel Washington, who plays Carter in the film. Carter gave a short speech and got a standing ovation. He also showed up at the White House to watch the movie with President Clinton. "He said he sat so close to Clinton he could hear him breathe," Deal said. Carter has appeared on numerous

television programs, including the Oprah Winfrey show and the NBC Today program.

Not surprisingly, Carter has spoken out in support of Abu-Jamal, saying he is "factually innocent" and deserves a new trial. Carter, who now sits on the board of the Southern Center for Human Rights, a Georgia-based group aiding death-row prisoners, was described on the "Mumia2000" Internet site as having been "framed for murder" himself.

The international campaign against the death penalty is accelerating and could help pressure the U.S. Supreme Court to, once again, outlaw capital punishment.

Peter Spiro, a Hofstra University law professor, has even argued that U.S. enforcement of the death penalty is a violation of "international norms" and that other nations might somehow retaliate against us through the World Trade Organization (WTO).<sup>7</sup>

While the use of the WTO for such a purpose may seem far-fetched, the organization has been expanding into areas

<sup>6</sup> His web site includes voluminous material about the case: [www.graphicwitness.com](http://www.graphicwitness.com)

<sup>7</sup> Quoted in Lyle Denniston, "States' Legal Role Grows Globally," *Baltimore Sun*, June 1, 1998, page 2A., cited by John Bokon.

other than trade policy.<sup>8</sup> Labor unions and environmental groups want the WTO to influence the labor and environmental laws of the nations of the world.<sup>9</sup>

In effect, the U.N. and other international agencies and NGOs have become a massive liberal lobby on a global basis, agitating for changes in domestic laws that the U.S. Congress or most states have not agreed to.

"Finding national governments, especially the United States, unresponsive to their priorities, and democracy increasingly inconvenient, many non-governmental organizations find it more congenial to increase the role of 'civil society' in international affairs," notes Bolton.<sup>10</sup> Civil society is the name given to this collection of NGOs and mainly includes feminist groups, labor unions, and various activist organizations. Civil society, Bolton says, wants to participate in decision making on a global level that is functionally equivalent to the traditional role of national governments.

In his report, Ndiaye identified his NGO collaborators, having met with representatives of the following organizations:

**American Civil Liberties Union, the American Friends Service Committee, the Anthony Baez Foundation, Amnesty International-United States Section, the Death Penalty Information Center, the December 12th Movement, the California**

---

<sup>8</sup> As an example, the WTO had given the U.S. Government an October 1, 2000, deadline to eliminate a provision of the U.S. tax code that was said to be an unfair subsidy for U.S. exporters.

<sup>9</sup> For more on this, see "Big Labor and Its Global Socialist Agenda," available from America's Survival, Inc.

<sup>10</sup> Ibid. Bolton.

**Appellate Project, the Ella Baker Center for Human Rights, Human Rights Watch, the International Human Rights Law Group, the International Association against Torture, the National Coalition to Abolish the Death Penalty, the NACCP Legal Defense Fund, New York Lawyers Against the Death Penalty, Parents Against Police Brutality, the Southern Region Rainbow Coalition, the Texas Coalition to Abolish the Death Penalty and the Texas Defender Service.**

In addition, the "Special Rapporteur" thanked the International Human Rights Law Group in Washington, D.C. for "assistance provided during his mission," and expressed gratitude to Human Rights Watch, "whose assistance in the organization of appointments at a non-governmental level was highly appreciated." Ndiaye also specifically thanked the "December 12th Movement" for "organizing public hearings on police violence in New York."

Ndiaye's visit was just one manifestation of the U.N. campaign to eliminate the U.S. death penalty (see Appendix III).

Another strategy of "civil society" is to go to court and claim that U.N. treaties take precedence over U.S. law. In this way, certain "rights" can be provided for convicted killers or others which are not provided for in U.S. law or the Constitution.

### **The Treaty Trap**

In a different context, that of so-called economic or social rights, Professor Marjorie Cohn of the Thomas Jefferson School of Law confirmed the utility of this approach. What follows is a partial transcript of an interview this journalist conducted with the professor:

*Professor Marjorie Cohn:* "One of the major treaties in the world is called the International Covenant on Economic, Social and Cultural rights. Many of the civilized countries have ratified that but the United States will not ratify it. What that treaty guarantees is the right to work, the right to housing, the right to health, and equal pay for equal work. Those things seem like basic human rights that we shouldn't be afraid to give our people. I don't know why we're afraid to ratify that treaty.

*Cliff Kincaid:* If those are so great, why doesn't the Congress just amend our own Constitution and put those rights in that document?

*Cohn:* It's not that easy to amend the constitution. As you know, it's been many, many years since any amendments have gone through. It's not an easy thing to amend the constitution. Many people have called for amendments, but it just doesn't happen that easily.

*Kincaid:* So it's easier, professor, to get an international treaty passed than to amend the Constitution, which suggests to me that you want to see international law substituted for our own founding documents.

*Cohn:* Interestingly enough, under our own Constitution, when we sign a treaty, that becomes the law of the land and that means when we sign a treaty, that becomes part of our domestic law, enforceable in our own courts. So it's not just something out in the stratosphere, some international document. So treaties are very, very important and they are as important as our laws.

*Kincaid:* So when you pass these international treaties, you don't even have to

bother with domestic law. You just go to the courts and get judges to enforce it.

*Cohn:* Many treaties in the United State are not what they call **self-enforcing**. Which means you can't just take the treaty into court and enforce it. Congress needs to pass enabling legislation. So Congress does have a stab at it there."<sup>11</sup>

In the absence of such enabling legislation, however, another option is for the president of the United States to use "executive orders" to mandate compliance with treaties. This is exactly what happened in the case of these U.N. "human rights" documents.

On December 10, 1998, Clinton issued executive order 13107 on the "Implementation of Human Rights Treaties." Claiming that the U.S. had "obligations" under various treaties, Clinton announced that **federal agencies** would carry out their terms and monitor compliance by the states. The executive order also mandated federal cooperation with U.N. representatives who travel throughout the U.S. to monitor U.S. compliance with U.N.-sponsored treaties.<sup>12</sup>

---

<sup>11</sup> Interview on the American Freedom Network, September 12, 2000.

<sup>12</sup> "Executive Order. Implementation of Human Rights Treaties," The White House, Office of the Press Secretary, December 10, 1998.

### **Killer Pleads for the International Community To Save Him**

Convicted killer Gary Graham, executed in Texas on June 22, 2000, used his final statement to ask for an "international court" to take up his case and claimed to be the victim of genocide. His final statement included the following:

"I want you to take this thing off into international court...I want to get my family and take this down to international court and file a law suit... Get all the video tapes supporting that law suit. And make the public exposed to the genocide and this brutality world, and let the world see what is really happening here behind closed doors. Let the world see the barbarity and injustice of what is really happening here. You must get those video tapes. You must make it exposed, this injustice, to the world. You must continue to demand a moratorium on all executions...

"Reverend Al Sharpton, I love you, my brother. Bianca Jagger, I love all of you... Reverend Jesse Jackson and know that this murder, this lynching will not be forgotten. I love you, too, my brother. This is genocide in America...."

Source: Texas Department of Criminal Justice,  
[www.tdcj.state.us/stat/grahamgarylast.htm](http://www.tdcj.state.us/stat/grahamgarylast.htm)

This executive order specifically mentioned the International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT), and the Convention on the Elimination of All Forms of Racial Discrimination (CERD). However, it also required U.S. compliance with "other

relevant treaties concerned with the protection and promotion of human rights to which the United States is now *or may become* a party in the future..." (emphasis added). Hence, it appeared that Clinton was implementing treaties that haven't been ratified by the U.S. Senate.

**This was unconstitutional on its face because it overrides the Congressional action that is required to ratify and implement treaties.**

Some of the other treaties referred to by Clinton were apparently the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), which mandates government control of the economy to guarantee "women's rights," and the Convention on the Rights of the Child, which authorizes government involvement in the care and raising of children.

Under these treaties, when ratified, "compliance reports" from the U.S. Government are required to be submitted to the U.N. Clinton's executive order was clearly an effort to enforce compliance. But the World Organization Against Torture, USA, has already issued reports claiming that the U.S. is currently violating the ICCPR, the CAT and CERD by operating a criminal justice system that imposes the death penalty in a racially discriminatory manner.<sup>13</sup>

**Even though Clinton said he favors the death penalty, his executive order could be cited in a court case as**

---

<sup>13</sup> see "Torture in the United States" and "Racial and Ethnic Discrimination in the United States" on the web site of the World Organization Against Torture USA, [www.omct.org/](http://www.omct.org/)



part of an effort to make its use a violation of international law in the U.S.

In the initial compliance report of the U.S. to the U.N. Committee on the Elimination of Racial Discrimination, the Clinton Administration raised the issue of race and the death penalty and said that, "While capital punishment continues to be supported by a majority of the citizens in a majority of states in the United States, a significant number do not support it." It then went on to cite the arguments of death penalty opponents. The report only mentioned in passing that the U.S. Supreme Court, in the case *McClesky v. Kemp*, rejected the claim that numbers relating to black and white defendants and victims supposedly proved that the death penalty was racist and therefore a violation of the Eighth Amendment's prohibition against cruel and unusual punishment.<sup>14</sup>

It is anticipated that a forthcoming U.N. event, the "World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance," will serve as a forum for international attacks on the U.S. death penalty as racist. The event is scheduled for South Africa in August-September, 2001.

In a document prepared by Human Rights Watch and posted on the conference web site,<sup>15</sup> it is alleged that racial bias is behind the number of blacks on death row in the U.S.<sup>16</sup>

<sup>14</sup> The Convention on the Elimination of All Forms of Racial Discrimination. Initial report of the United States of America to the United Nations Committee on the Elimination of Racial Discrimination, September 2000, page 30.

<sup>15</sup> [www.unhcr.ch/html/racism/general.htm](http://www.unhcr.ch/html/racism/general.htm)

<sup>16</sup> Racism, Racial Discrimination, Xenophobia and All Forms of

## U.S. Rebuts U.N. Critics Of Human Rights Record

Officials Make 1st Formal Defense Under '92 Treaty

By John Frawley  
Washington Post Foreign Service

UNITED NATIONS, March 29—The United States had to swallow a big dose of its own medicine today when senior American officials came for the first time to formally defend their country's human rights record before the United Nations.

A high-powered delegation including John Shattuck, assistant secretary of state for human rights, and Deval Patrick, assistant attorney general for civil rights, gave the United States' first report on its compliance with a key international human rights treaty.

Rights experts from countries including Egypt, Chile, Ecuador and Australia chided the United States for endorsing the treaty only half-heartedly and helping laws on its books that allow capital punishment for innocents. Non-governmental rights monitoring groups used the opportunity to unleash a barrage of criticism against the United States.

It was an unusual role reversal for the Clinton administration, which prides itself on its vigorous scrutiny of rights violations by other governments and has often used the United Nations to press its case against offending nations. A worldwide human rights movement that was born in Washington during the Carter administration has reached international maturity, and today it turned a judging eye on its proprietor.

The United States ratified the International Convention on Civil and Political Rights in 1988. Like every other signatory, therefore, the U.S. government must now report periodically on the measures it takes to meet the terms of the treaty.

Hearings are held by the International Human Rights Committee, an independent body that includes leading authorities on rights

the treaty and have a system of civil liberties that is a model for the rest of the world. So we welcome an opportunity to show it off," he said.

Patrick presented a long list of legal actions the administration has initiated to enforce anti-discrimination laws.

Committee members were concerned about reservations the United States tucked into the treaty when it signed. In one, the United States declared that the pact does not automatically ban state domestic law, in sum, the U.S. position is that American laws already meet the committee's standards. As a result, the treaty cannot be used as a basis for action in American courts.

Osman Shabot, who is from Egypt, chastised the United States' overall record. "People around the world look to your country as a

*The U.S. has "a system of civil liberties that is a model for the rest of the world."*

— Assistant Secretary of State John Shattuck

watchdog for justice and fair play," he said. But he worried that the covenant would become "a dead letter" in this country because of the U.S. conditions.

Luís María Quevedo of Chile worried whether the failure of the Equal Rights Amendment would put the United States out of step with the treaty. Jule Fruta Vallejo of Ecuador charged that Clinton's 1994 Proclamation 127, which limits state benefits to illegal immigrants, has created "actual discrimi-

Regardless of where Americans stand on the issue, we should be outraged that an international organization such as the U.N. (financed by U.S. tax dollars) is attempting to alter and direct the course of our own domestic law enforcement activities.

If the campaign is successful, the American people will be denied a punishment that has been reserved for some of the most heinous crimes committed against our fellow citizens and our nation, such as murder and treason.

The American people will also be denied a punishment that evidence suggests

Discrimination. Written statement submitted by Human Rights Watch, a non-governmental organization in special consultative status. December 30, 1999.

has been a significant deterrent to crime and murder.<sup>17</sup>

The death penalty was used against the Nazi architects of World War II and the holocaust at the Nuremberg trials, but the NGOs leading the international campaign against "war crimes" and "crimes against humanity" today do not think the punishment is appropriate under any circumstances.

The death penalty was also used against Julius and Ethel Rosenberg, who gave our nuclear secrets to the Soviet Union.<sup>18</sup> The judge in the case called their crime "worse than murder." (see Appendix IV).

The U.N.'s opposition to capital punishment is reflected in the nature of the U.N. tribunals for the former Yugoslavia and Rwanda. Neither can apply the death penalty.

In addition, their International Criminal Court (ICC), now coming into existence, will not have the authority to apply the death penalty to those who are found to have carried out crimes against humanity, genocide, and the mass murder of millions.

---

<sup>17</sup> Professor Isaac Ehrlich of the University of Buffalo is one of the foremost authorities in the nation on deterrence and crime. His published papers include several on the deterrent effect of capital punishment. (see: [www.economics.buffalo.edu/ehrllich](http://www.economics.buffalo.edu/ehrllich)).

In addition, veteran crime reporter William Tucker has argued that the evidence indicates that the national homicide rate declines as the number of executions increases.

<sup>18</sup> One of the leading anti-death penalty groups today is the Rosenberg Fund for Children, run by the Rosenberg children, Robert and Michael Meeropol.

But their system of "global justice" is a fraud. A good example of what they have in mind for the United States and the rest of the world is the Pan Am 103 trial in Holland of two Libyans for the crime of international terrorism. A deal was struck between the U.S., Britain, the U.N. and Libya's dictator, Moammar Gadhafi, that eliminated the death penalty as a possible punishment and required that the defendants, if convicted, serve limited prison time at a facility monitored by the U.N. (see Appendix V). Meanwhile, Gadhafi himself, the alleged mastermind of the bombing over Lockerbie, Scotland that killed 270 people, including 189 Americans, was given immunity from prosecution.<sup>19</sup>

The American Bar Association (ABA), which claims to represent more than 400,000 attorneys, is strongly committed to this notion of "international justice."<sup>20</sup> Working with the Coalition for International Justice, the ABA's Central and East European Law Initiative (CEELI) has been securing financial and in-kind support for the U.N. tribunals. CEELI also helps U.N. member states in the drafting and implementation of extradition legislation.

---

<sup>19</sup> For more on this case, please consult "Getting Away With Mass Murder," available on the America's Survival web site, [www.USAsurvival.org](http://www.USAsurvival.org)

<sup>20</sup> The ABA has been described by the Focus on the Family "Citizen" magazine as a once-proud group that has managed to "drag down" the reputation of lawyers a few more notches. In August 1999, it announced that President Clinton would address the group, just days after U.S. District Judge Susan Webber Wright had fined him \$90,000 for lying under oath in the Paula Jones sexual harassment case.

The ABA has long supported the concept of an ICC <sup>21</sup> and has also called for a moratorium on the death penalty in the U.S.

But there can also be no doubt that our founding fathers believed in it. The Death Penalty Information Center, a group opposed to capital punishment, acknowledges, "When European settlers came to the new world, they brought the practice of capital punishment." <sup>22</sup>

In its treatment of "The Death Penalty in America," the group claims that some prominent Americans, such as Thomas Jefferson and Benjamin Franklin, sought "reforms" of the death penalty. However, they did not seek its abolition. Jefferson, it said, tried to restrict the punishment to murder and treason, while Franklin wanted capital punishment used only for first degree murder. <sup>23</sup>

William Eaton, author of *Who Killed the Constitution*, noted, "The death penalty had...been commonly practiced in the Colonies before the adoption of the Constitution and the Bill of rights, was practiced at the time of their adoption, and had been continuously applied since." <sup>24</sup>

---

<sup>21</sup> In testimony in July, 2000, before the House Committee on International Relations, Monroe Leigh on behalf of the ABA urged deferral of a measure that would prohibit the U.S. executive branch from cooperating with the ICC, exempt U.S. troops from prosecution by the court, and prohibit military assistance to most of the countries that would join the ICC. The measure was called "The American Servicemembers' Protection Act."

<sup>22</sup> History of the Death Penalty, Part 1, Death Penalty Information Center, [www.deathpenaltyinfo.org/history2.html](http://www.deathpenaltyinfo.org/history2.html)

<sup>23</sup> Ibid.

<sup>24</sup> William Eaton, *Who Killed the*

Indeed, "In both the Fifth and Fourteenth Amendments there is direct reference to capital punishment," notes one scholar, <sup>25</sup> in the references to depriving a person of life. The Fifth states in part that, "No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand jury..." It further states, as does the Fourteenth, that no person shall "...be deprived of life, liberty, or property, without due process of law..." "Thus, the conclusion is inescapable that the Constitution envisions the possibility of using capital punishment by either the national government or the states." <sup>26</sup>

Today, however, we have judges, even Supreme Court justices, who refuse to abide by the Constitution.

On October 24, 1996, -- United Nations Day -- U.S. Supreme Court associate justice Ruth Bader Ginsburg provided a revealing insight into the new global legal era. In the speech, which was the subject of some controversy, she examined how the Court reviews constitutional issues. In the official text, as it was prepared for presentation at Louisiana State University, Ginsburg criticized the Court's Dred Scott decision, which condoned slavery, and went on to say:

"I appreciate too that in its declaration of human rights, the United States Constitution is not regarded as a model document for a modern state.

---

*Constitution*, (Washington, D.C.: Regnery Gateway, 1988), page 152.

<sup>25</sup> Dr. Jim L. Riley, Ph.D, "The Death Penalty,"

<http://members.iex.net/~jriley/capunish.htm>  
<sup>26</sup> Ibid.

"Recall that, although the United States is not old among the world's nations, its Constitution is the oldest written Constitution still in use. It was drafted in 1787, a terse bill of Rights was added to it four years later, and thereafter it has been amended on only 17 occasions. (More than half the world's nations have constitutions written since 1970).

"The United States Constitution, as composed in 1787, is dominantly concerned with the structure of the national government and the powers of its three branches (legislative, executive, and judicial). The Constitution's text details few individual rights. The Bill of Rights, added in 1791, is short and has distinct gaps...Moreover, the Bill of Rights does not even declare our most basic rights. Instead, it assumes they exist and simply tells the state to keep its hands off.

"Our principal rights declaring document, indeed, is not the 1987 Constitution or the 1791 Bill of Rights; it is the 1776 Declaration of Independence, a document not directly enforceable in court...

"Modern human rights declarations in national and international documents do not follow the U.S. Bill of Rights' spare, government-hands-off style. Not only do contemporary declarations contain affirmative statements of civil and political rights; they also contain economic and social guarantees, for example, the right to obtain employment, to receive health care and free public education, even -- more grandly -- the state's assurance of the conditions necessary to the development of the individual and the family. Any current effort at constitutional amendment to include such guarantees in the United States, I am confident, would encounter defeat far more stunning than the

1980s defeat of the proposed Equal Rights Amendment, which would have confirmed the equal stature of men and women before the law.

"It is not that the United States, today, is so much less of a welfare state than other nations that proclaim in a constitution state-assured rights to life's basic needs... [W]e must rely on legislation, not the Constitution, to declare and implement safety net protections. Implementation of such protections is also accomplished by statute elsewhere. So the constitutional status economic and social safeguards lack in the United States does not have telling practical significance.

"Were we to place economic and social security guarantees explicitly in the Constitution, our style of constitutional review by courts would require adjustment."

These remarks provoked a controversy when an Associated Press reporter at the speech said that Ginsburg had proposed "fleshing out" or expanding the constitution to include social and economic guarantees. Mr. Winston R. Day, chancellor and Pan-American Life Professor at Louisiana State University Law Center, demanded a correction and the AP acknowledged having "mischaracterized" her remarks.

However, the speech stands on its own. She was not saying that the Constitution should be expanded, only that it was largely irrelevant. In effect, she was saying that the Constitution was an outdated document which has been supplanted by legislation granting the "rights" not found within it. But her speech simply assumes that the federal government is supposed to have such power. She ignores the rights that are



## Fight the Death Penalty in USA

### The Worlds Policeman Ignores international treaties

Feature article about the Stan Faulder case,  
published in three Danish newspapers, December 1999  
By Niels Graverholt - translated to English

On December 10 it is 50 years since the Plenary Committee of the United Nations adopted the Declaration of Human Rights which established a number of rights that apply to citizens in all the member countries.

While this day is being solemnly marked all over the world Texas has chosen to use this day for demonstrating one more time that it does not give a damn in this as well as in other international conventions.

contained in the Ninth and Tenth Amendments, which affirm that the powers not given to the federal government reside with the people.

The Ninth Amendment, for example, declares, "The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people."

Ginsburg's remarks reflect a fundamental misunderstanding of the American conception of where human rights come from. She seems to be saying that, unless the government acknowledges these "rights," they really do not exist. But both the Declaration of Independence, which Ginsburg asserts is not "enforceable" in court, and the Constitution, recognize human rights as God-given, not government-given.

It is extremely significant that Ginsburg made reference to how certain "international documents" do not follow the

American model. She is presumably referring to various U.N. human rights treaties. Later, she commented on how "foreign observers of judicial activity in the United States" might react to U.S. courts determining cases and policy. These statements reflect a judge with an "appreciation" of international law and all that it represents.

In this context, it is also significant that on January 27, 1997, Justice Ginsburg spoke at the U.S. Holocaust Memorial Museum on the subject of "Healing wounded People: War Crimes Tribunals and Truth Commissions." The other speaker was South African Constitutional Court Justice Richard Goldstone.

In the wake of the holocaust, these "war crimes tribunals" in the former Yugoslavia and Rwanda have been seen by some as a means by which to deal with horrible human rights abuses. But they do not follow the post-World War II Nuremberg model of putting the perpetrators of these brutal atrocities to death. Their

toughest possible sentence is life in prison. By contrast, the Nazis who were given death sentences at Nuremberg, Germany, were hanged for their crimes.

Ginsburg is not the only justice to fall under the sway of international legal opinion. In a 1999 case, *Knight v. Florida*, Justice Stephen Breyer voted to give a stay of execution to a convicted killer scheduled for execution on death row in Virginia and cited several foreign court rulings as justification for his decision. In making the argument that the killer had remained on death row too long, Breyer said:

"A growing number of courts outside the United States -- courts that accept or assume the lawfulness of the death penalty - have held that lengthy delay in administering a lawful death penalty renders ultimate execution inhuman, degrading, or unusually cruel."

Breyer went on to cite *Pratt v. Attorney General of Jamaica*, decisions by the Supreme Court of India and the Supreme Court of Zimbabwe, and a ruling of the European Court of Human Rights. "Obviously, this foreign authority does not bind us," he said. "After all, we are interpreting a 'Constitution for the United States of America.'" He also mentioned that the U.S. Senate had imposed certain reservations on various human rights treaties that apply to the U.S. One such reservation, to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, specifically said that the U.S. could continue to impose the death penalty consistent with the Constitution, "including any constitutional period of confinement prior to the imposition of the death penalty." Nevertheless, Breyer argued that the Court could decide whether a particular period of confinement was constitutional and that "this Court has long considered as relevant and

informative the way in which foreign courts have applied standards roughly comparable to our own constitutional standards in roughly comparable circumstances." He went on to say that, "Willingness to consider foreign judicial views in comparable cases is not surprising in a Nation that from its birth has given a 'decent respect to the opinions of mankind.'" <sup>27</sup>

In voting against further delay in the case, Justice Clarence Thomas noted that the defendant had been consistently arguing for delays only to ultimately complain about them. In a swipe at Breyer, Thomas noted that, if there were any support in the American constitutional tradition for such an argument, "it would be unnecessary for proponents of the claim to rely on the European Court of Human rights, the Supreme Court of Zimbabwe, the Supreme Court of India, or the Privy Council [of Jamaica]." Thomas also blamed the delays on the Court's "Byzantine death penalty jurisprudence," a reference to conflicting decisions on capital punishment.

In a speech at the American Enterprise Institute, former Judge Robert H. Bork called Breyer's reliance on foreign courts "a judicial version of black helicopters." Bork commented, "He found the foreign courts' views were useful even though not binding. I am not sure why the Constitution of the United States, which has its own history and understood meaning, should be affected in any way by what foreign courts have to say about their constitutions." <sup>28</sup>

<sup>27</sup> Supreme Court of the United States, *Thomas Knight, aka Askari Abdullah Muhammad v. Florida*, 98-9741.

<sup>28</sup> The Honorable Robert H. Bork, "Revisiting the Limits of 'International Law,'" American Enterprise Institute, Washington, D.C. April 4, 2000.

# Surrender of Rwandan to War Crimes Tribunal Sets Precedent

**New York** –The Lawyers Committee for Human Rights welcomes today's decision by the U.S. Supreme Court, clearing the way for U.S. officials to hand over Elizaphan Ntakirutimana to the International Criminal Tribunal for Rwanda (ICTR). The Court, without comment, refused a request to review a 5<sup>th</sup> U.S. Circuit Court's ruling that ordered the surrender of Ntakirutimana.

"This decision sets an important domestic precedent as Mr. Ntakirutimana is the first person that the U.S. has been asked to surrender to either of the international criminal tribunals," said Michael Posner, Executive Director of the Lawyers Committee. "It also sends an important signal to other nations, that the U.S. is willing to put into practice the same cooperation it asks of others."

In an April 14, 1998, decision, Breyer, Ginsburg and Justice John Paul Stevens argued for a delay in another death penalty case so that the Supreme Court could have more time to examine its international implications. They lost, however, in a 6-3 opinion.

In the case, *Breard v. Greene*, the government of Paraguay asked the U.N.'s International Court of Justice (ICJ), also known as the World Court, to issue an order to the U.S. to block the execution of Angel Francisco Breard, a citizen of Paraguay who was convicted of murder and attempted sexual assault on a Virginia woman in 1992. The World Court ordered the execution to be delayed, on the ground that Breard's rights were violated under an international treaty, the Vienna Convention.

In a high-level split, Secretary of State Madeleine Albright wrote to Virginia Governor James Gilmore to stop the execution, while the U.S. Justice Department argued that the World Court had no jurisdiction over the case.

In Texas, Governor George W. Bush came under international attack for allowing a death penalty case to go forward. A delegation of Canadian citizens had flown to Texas to plead for the life of Stan Faulder, a Canadian who had been on death row there since 1977. Secretary of State Madeleine Albright had also gotten involved in this case, arguing that the convicted killer's rights were abridged under a treaty.

Typically, the media attacked Bush and the death penalty. In an ABC News report, correspondent Steve Osunsami said that Texas was "a state that has executed more criminals than almost any other Western government," making it sound like Texas was engaging in indiscriminate killing. We were led to believe that Faulder may be just an innocent victim of Texas-style "justice," with Bush serving as chief executioner.

Osunsami aired a brief interview with Ruben Carter, described merely as a former death row inmate, who argued for Faulder's release, saying "You may not have the right man." Governor Bush was given a few moments to defend the death sentence and the investigation of the case, but he appeared



to be insensitive to the plight of a possibly innocent man.

Osunsami reported that Governor Bush was being accused of violating an international law, the Vienna Convention, mandating that foreign citizens accused of crimes be informed that they can seek legal help from their own governments. It was stated that Faulder was denied his right to seek help from the Canadian government. A so-called international lawyer was brought on to suggest that Bush was violating international law. Finally, it was noted that Secretary of State Madeleine Albright had written to Bush asking that the execution be delayed.

Faulder's guilt was not at issue. He was convicted of killing a woman named Inez Phillips by bashing her in the head and stabbing her through the heart after a bungled robbery. Osunsami himself noted that Faulder had been scheduled for lethal injection on nine separate occasions, avoiding the death penalty for almost 20 years through the use of many different delaying tactics. This latest ploy, citing international law, was just another delaying tactic that had the added advantage for the liberal media of making George W. Bush look bad.

References to international law and treaties are an increasingly popular legal trick. When a convicted killer in Georgia, Alexander Williams, was scheduled to be executed, his lawyers argued that his death would be a violation of the International Convention on Civil and Political Rights.<sup>29</sup> It was also reported that "several national and international groups, including the European Union, had urged the governor to

---

<sup>29</sup> Raymond Bonner, "Georgia Execution Is Stayed In Case of Youthful Offender," *The New York Times*, August 23, 2000, page A12.

spare his life because of his age at the time of the crime."

In another case, when it was publicized that the State of Alabama had reinstated "chain gangs" in its criminal justice system, the American Civil Liberties Union criticized the state and promised an investigation into whether international treaties were being violated.

On the federal level, President Clinton postponed the scheduled execution of a convicted killer and drug kingpin after it was reported that the Inter-American Commission on Human Rights, a body of the Organization of American States, was investigating the case to determine if the defendant's rights had been violated under a treaty known as the American Declaration of the Rights and Duties of Man.<sup>30</sup>

In an ominous and unprecedented development, the Supreme Court on January 25, 2000, consented to the extradition of a Rwandan church leader from the U.S. to the U.N.'s Rwanda tribunal. The case was described by the *Houston Chronicle* as "the first time the United States has surrendered a defendant from America to a UN tribunal." The defendant, Elizaphan Ntakirutimana, was a legal resident of the U.S. and supposedly entitled to the same protections and immunities granted to U.S. citizens.

FBI agents were used in September 1996 to arrest him outside Laredo, Texas, where he was living with family members.

The U.N. court wanted him extradited back to Africa to stand trial on charges of genocide. In a startling development, however, he had been released in December, 1997, after spending 14 months in a Laredo jail. U.S. Magistrate Marcel Notzon, who had issued his arrest

---

<sup>30</sup> Raymond Bonner, "Charges of Bias Challenge U.S. Death Penalty," *The New York Times*, June 24, 2000, page A1.



warrant, determined that the extradition request was illegal because the U.S. had never ratified a treaty with the U.N. court.

The judge also found that the evidence for the charges against the pastor was vague and questionable. He found the evidence came from a single affidavit filed by a Belgian police officer working for the tribunal. The affidavit cited several alleged witnesses, none of whom was identified, other than by letters (i.e. A,B,C, etc.). One witness was interviewed on multiple occasions. Only one witness actually claimed the pastor participated in an attack on someone. But there was no indication that any of the witnesses were placed under oath prior to making their statements.<sup>31</sup>

Nevertheless, the Rwanda tribunal is said to be a model for how the ICC would operate.

Not only was there no treaty between the U.S. and the tribunal concerning extradition, federal magistrate Notzon discovered that no treaty was ever ratified to create the court. A document provided by the U.N. Information Office in Washington, D.C. confirmed this, saying, "Normally, such a tribunal would be established by treaty rather than by the Security Council. The Secretary-General, however, pointed out that such an approach would require 'considerable time' and that 'there could be no guarantee that ratification will be received from those States which should be parties to the treaty if it is to be truly effective.'"

In other words, the Security Council decided to manipulate the U.N. Charter in the name of "global justice." This is a

---

<sup>31</sup> See "Memorandum and Order in the Matter of Surrender of Elizaphan Ntakirutimana, In the United States District Court for the Southern District of Texas, Laredo Division," December 17, 1997, pp. 9-11.

variation of the ends justify the means. The creation of both the Yugoslavia and Rwanda courts was a massive power grab, setting a dangerous precedent. The courts were established without the benefit of a treaty by the U.N. Security Council when it decided that Chapter VII of the U.N. Charter, authorizing the deployment of U.N. military forces, also gave the world body the ability to arrest, prosecute and jail individuals.

In the Ntakirutimana case, the Clinton Administration appealed Notzon's ruling and managed to get the U.S. Fifth Circuit Court of Appeals to order his extradition. It was carried out on March 14.

The treatment of Ntakirutimana was even criticized by analysts on the political left, who might be expected to support the U.N. Ntakirutimana's attorney, former Attorney General Ramsey Clark, called the charges against him "a total fabrication." He described him as a 70 year-old man, four times elected president of the second largest Christian church in Rwanda, "who had never had a machete or weapon in his home, who always opposed violence."

In an article in *The Nation* magazine, C. Douglas Lummis, a teacher of political philosophy, asked, "Where does the U.N. get the power to prosecute individuals?... Where does the Security Council get such power? The legal fiction is that the power comes from Chapter VII of the U.N. Charter. Chapter VII authorizes the U.N. to deploy the armed forces of member states in peacekeeping operations. Stretch the words as you will, you cannot make them say that the U.N. has the power to put people in jail on criminal charges."<sup>32</sup>

The inevitable conclusion is that the Yugoslavia and Rwanda tribunals are illegal

---

<sup>32</sup> C. Douglas Lummis, "Time To Watch the Watchers," *The Nation*, September 26, 1994, pp. 302-306.

under the "international law" that the U.N. claims to respect. And so is an ICC treaty which claims jurisdiction over countries such as the U.S. which do not ratify it.

### Secret Meetings

Where might Justice Breyer have gotten such a dubious notion about foreign courts serving as guidance for the U.S. Supreme Court? Meetings have taken place between U.S. and foreign judges, during which plans have been made to integrate the legal systems of the nations of the world into one.

One such meeting was held from March 6-8, 1998, at the Aspen Institute's Wye River Conference Center in Maryland. The Lawyers Committee for Human Rights (LCHR) was a co-sponsor of the event.<sup>33</sup> A list of workshop participants was provided (see box) but the meeting was closed to the public.

Shelly Cryer, a media contact for the LCHR, says that LCHR President Michael Posner confirms that Breyer was at the event.<sup>34</sup> Posner said the event was designed to contribute to the "debate" over how the ICC could be an "impartial and independent body."<sup>35</sup> The LCHR is a group strongly committed to the ICC.

In its annual report, the Aspen Institute mentioned that the meeting of "eminent U.S. and foreign judges" was held under the sponsorship of its "Justice and

<sup>33</sup> "US Justice Stephen Breyer and Prominent international Judges Meet To Discuss International Criminal Court," LCHR Media Alert, March 2, 1998, [www.lchr.org/icc/rome/icc3298.htm](http://www.lchr.org/icc/rome/icc3298.htm)

<sup>34</sup> Telephone message, September 30, 2000.

<sup>35</sup> Ibid. LCHR Media Alert.



United States Department of State

## Civil and Political Rights in the United States

Initial Report of the  
United States of America to the  
U.N. Human Rights Committee  
under the International Covenant on  
Civil and Political Rights

July 1994

Society Program," headed by Alice H. Henkin. Aspen said that funding for the activity was provided by the Ford Foundation.

In a "conference report" issued after the event, Breyer was identified as endorsing the concept of an "effective" ICC. What's more, it was stated that the ICC could be effective "only if the Statute included an unequivocal obligation by the State parties to comply with the Court's orders."<sup>36</sup>

In 1998, Justice Sandra Day O'Connor<sup>37</sup> led a contingent of American judges on a ten-day, four-nation tour of Europe, where they had talks with the 15 judges at the European Court of Justice

<sup>36</sup> "An Effective International Criminal Court. The Principal Legal Concerns. A Conference Report." The Aspen Institute Justice and Society Program, New York, New York. Made available to this author.

<sup>37</sup> O'Connor is a member of the executive board of the ABA's Central and East European Law Initiative, which assists the U.N. criminal tribunals.

(ECJ) and other officials. Members of the ECJ made their own visit to the U.S. during April 15-22, 2000. According to the U.S. State Department, the president of the court, Rodriguez Iglesias, led a delegation of six judges, three Advocates General and the registrar "to meet with the Supreme Court of the United States and distinguished members of the United States judiciary and the American bar." The delegation participated in working sessions concerning the European Union and U.S. constitutional issues in New York, Washington, D.C. and Texas. A press release added:

"This visit by the European Court of Justice will build and develop the important relationship between the Court of Justice and the U.S. judiciary. It follows the official visit by a delegation of the Supreme Court of the United States, federal and state judges, attorneys, and law school faculty to the Court of Justice in 1998.

"The visit underlines the U.S. commitment to Europe, to transatlantic relations, and to the importance of encouraging the legal institutions of the United States and Europe to develop a fuller understanding of each other's role, decisions and process."<sup>38</sup>

#### **Ford Foundation Money**

The Ford Foundation,<sup>39</sup> which underwrote the conference featuring Justice Breyer, was also the sponsor of a November 12, 1998 symposium at which Richard

<sup>38</sup> U.S. Department of State Office of the Spokesman. Press statement. Press Statement by James p. Rubin, Spokesman. April 17, 2000.

<sup>39</sup> The Ford Foundation is providing the Aspen Institute \$1,200,000 and the Lawyers' Committee for Human Rights \$730,000 in the year 2000.

Dieter, executive director of the Death Penalty Information Center, presented a paper arguing that the application of the death penalty in the U.S. defies not just the spirit "but the letter of these important treaties" prohibiting torture and racial discrimination.

#### **Secret Meetings and U.N. Courts**

In March 1998, U.S. Supreme Court Justice Stephen Breyer participated in a closed-door meeting, sponsored by the Lawyers Committee for Human Rights and the Aspen Institute, and funded by the Ford Foundation, with judges from foreign courts and U.N. tribunals. The meeting was held in advance of the Rome conference that drafted a treaty for a permanent International Criminal Court.

Following is a list of the other participants: Judge George Abi-Saab of Egypt, formerly of the International Criminal Tribunal for the former Yugoslavia; Judge Ernst Ametistov, Russian Constitutional Court; Justice Louise Arbour, Prosecutor ICTY-ICTR, and formerly Judge of the Court of Appeals of Canada; Lord Nicolas Browne-Wilkinson, Law Lord in the UK; Judge Plamenko Custovic, formerly of the Constitutional Court of Bosnia; Judge Hanna Sophie Greve, European Court of Human Rights and formerly of the Norwegian Court of Appeals; Judge Rajssoomer Lallah, former Chief of the Supreme Court of Mauritius; Judge Dominique Marro, a French judge and member of the European Court of Justice; Judge Gabrielle McDonald, President of the International Criminal Tribunal for the former Yugoslavia and formerly of the US Federal District Court; Judge Jon O. Newman, US Federal District Court; Judge Benjamin Odoki, Supreme Court of Uganda; Judge Piza Escalante, Constitutional Court of Costa Rica; Judge Jeevan Reddy, President of the Indian Law Commission; and Judge Delia Revoredo de Mur, formerly of the Constitutional Court of Peru.

But he mentioned several problems facing death penalty opponents who want to outlaw the practice on a global basis:

- The U.S. took "a specific reservation to the Civil and Political Rights Covenant essentially exempting itself from the ban on juvenile executions."
- The U.S. took a reservation to the Torture Convention, stating that the U.S. understands that "international law does not prohibit the death penalty, and does not consider this convention to restrict or prohibit the United States from applying the death penalty consistent with the Fifth, Eighth and/or Fourteenth Amendments to the Constitution."
- When 11 countries and the U.N. Committee on Human Rights stated that the U.S. reservation to the Civil and Political Rights Convention was invalid, the U.S. Senate threatened to withhold funds from U.S. participation in the work of the committee.
- The U.N. Convention on the Rights of the Child prohibits the use of the death penalty for juvenile offenders, but the U.S. has not ratified the treaty "in part because we foresee the conflict between our practice of executing juveniles and the treaty."

Interestingly, in arguing that time on death row might constitute cruel and unusual punishment, Dieter cited *Pratt v. Attorney General of Jamaica*, the same foreign court ruling that Justice Breyer cited in the Knight case.

Dieter also argued that the International Convention on the Elimination of All Forms of Racial Discrimination, which the U.S. has signed and ratified, might be used to outlaw the death penalty in the U.S. "Although the Race Convention does not specifically address capital punishment," he said, "it binds all state parties to 'condemn

racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms..." Since there is "persistent and pervasive evidence of racial discrimination in the application of the death penalty," Dieter argued, the U.S. might be in violation of the treaty.<sup>40</sup>

### Who Decides?

If American sovereignty means anything, it means that the American people, guided by their Constitution, decide the kind of society they should have. On the issue of crime and punishment, they have decided that they want capital punishment in order to banish heinous killers from their midst. Today, 38 states and the Congress have authorized the death penalty for certain crimes.

As noted by John Bolton, senior vice president at the American Enterprise Institute, "Through democratic decision-making processes, over long periods of time, American electorates have expressed broad, although certainly not universal, support for the death penalty. Under intense constitutional assault on the death penalty, both on substantive and procedural grounds, the general public in recent years has had to consciously confront the objections and inadequacies described in a range of Supreme Court decisions, and not simply adhere to the death penalty because of tradition or long-standing use. Americans in the last several decades have soberly examined the death penalty, and by and large

---

<sup>40</sup> Richard C. Dieter, Executive director, Death Penalty Information Center, "The U.S. Death Penalty and International Law: U.S. Compliance with the Torture and Race Conventions," November 12, 1998.



# UNITED NATIONS

Press Release

## UNITED NATIONS INVESTIGATOR CALLS ON UNITED STATES TO HALT EXECUTIONS UNTIL IT CAN ENSURE FAIRNESS AND IMPARTIALITY

reaffirmed it in a textbook demonstration of popular sovereignty at work." <sup>41</sup>

Nevertheless, in a 1972 case, *Furman v. Georgia*, the Supreme Court ruled that the death penalties of all the states were unconstitutional. However, in a 1976 case, *Gregg v. Georgia*, the Court ruled that the death penalty was constitutional in principle.

In attempting to explain why the Court ruled as it did in 1972, William Eaton found that the issue had become a cause celebre, "around which powerful interest groups had rallied both their passions and their support." <sup>42</sup> He identified them as the NAACP Legal Defense Fund, the governors or ex-governors of nine states, the Synagogue Council of America, fourteen religious denominational councils or groups, the National Urban League, the Southern Christian Leadership Conference, the Mexican-American Legal Defense and Educational Fund, the National Council of Negro Women, the National Legal Aid and Defender Association and the ACLU.

When the Court reversed itself in 1976, Eaton found that, this time, various groups supporting capital punishment had

made their views known. "And behind the new lineup was the mounting pressure of public opinion, outraged at the 1972 decision, terrified by the rising crime rate, and determined to fight the Court on the issue," he noted. <sup>43</sup> Eaton notes that a book by Frank G. Carrington had concluded that the 1972 case was the result of "a concerted and well organized campaign to eliminate the death penalty" and that the 1976 case "was the result of counterpressure from various groups that had been offended by the earlier decision."

Eaton adds, "Carrington's book is but one of several illuminating studies which suggest that pressure groups have for some time operated effectively upon the courts, that lobbyists have helped direct judicial policy, and that militant, and sometimes small, minorities- usually invisible to the public - have had a part in fashioning constitutional changes to conform to their own particular goals and policies, regardless of constitutional mandates." <sup>44</sup>

This campaign has now gone global, with an impressive array of international organizations joining the campaign against the death penalty. Hopefully, with the publication of this special report, it will not remain largely invisible to the American public. (30)

<sup>41</sup> John Bolton, "Threats to American Sovereignty," Testimony Submitted to the Republican National Committee, Hearings on Foreign Policy and Defense, June 23, 2000.

<sup>42</sup> Ibid., Eaton, page 153.

<sup>43</sup> Ibid., page 153.

<sup>44</sup> Ibid., page 154.

## Appendix I

# Crime Victims Demand "Justice for All"

A U.N. "expert" has expressed opposition to the movement for crime victim's rights. The following is an edited transcript of an interview with Roberta Roper, who lost her daughter, Stephanie, to violent crime and established the Stephanie Roper Committee and Foundation to fight for victims' rights. Her daughter's killers escaped the death penalty, claiming they were under the influence of drugs and alcohol when they tortured, murdered and dismembered her, and are eligible for parole in 2003:

*Roberta Roper:* Until we can identify with the statement, "There but for the grace of God could go any of us," we think of it as somebody else's problem -- that violent crime is not going to happen to me...

In 1982, our oldest child, Stephanie, was a senior at Frostburg State University, about to graduate. She was the child every parent works for and prays for. She came home that Spring weekend. She met her friends from high school and that was the last time we saw her. Stephanie took her friend home and decided not to spend the night. Shortly after leaving her friend, in a rural section of Prince George's County, Maryland, her car became disabled. Two men supposedly stopped to help but instead at gun point kidnapped Stephanie and over the next five hours would repeatedly and brutally rape and torture her. She was taken to a very remote area of St. Mary's county in Maryland to a deserted shack. She made one last attempt to escape. She was apprehended and her skull was fractured with a lock and chain. She was shot in the forehead. We would later learn that they doused her body with gasoline and set it on fire. They began dismembering her body so it would not be identified. She was missing for nine days. Her remains were discovered when someone who was living in the home with the two defendants had to leave and his conscience troubled him when one of the defendants bragged about what he had done. His family told him to call the police. They were arrested and charged with first degree rape, kidnapping and capital murder.

I can only summarize our experience as total disillusionment. I had never even been in a traffic court. I was determined to learn as much as I could about the criminal justice system. What we learned was that, unlike the two individuals charged with these crimes, we had no right to be informed, no right to observe the trial or be heard at sentencing. That experience with the criminal justice system was in so many ways worse than the terrible crimes suffered by our daughter. That was a harder burden to bear and a harder challenge to overcome for us to preserve a family, a marriage and help our four surviving children deal with this. We had to embark on a process to begin to remedy some of the problems we experienced.

The defendants claimed they were under the influence of alcohol and drugs. As a capital case in 1982, jurors were required to check off those issues as mitigation. We have changed that. We have been instrumental in the passage of more than 50 pieces of legislation in Maryland, including a constitutional amendment in 1994. It's far different than it was 18 years ago. There were no rights for victims of crime and no organizations to support them.

It is not about revenge. It is about fairness and justice for all. As Americans, we have come to expect that concept. It is not about punishment of the offenders. It is about how we treat the people who are the victims of crime. While the state may be the legal victim, the state doesn't bleed and die. Real human beings suffer these consequences. We have to let victims have a right to participate in this process.

*Question:* Was the death penalty an option in 1982?

*Roper:* Yes it was. There were two sentencing options - life or death. We had never had any set expectation of punishment. What we did naively presume was that life, if it didn't mean exactly life, meant something appropriate to the crime. That was the final blow to us when the jury rejected the death sentence and the court imposed two life sentences plus 20 years to be served concurrently. That meant both individuals could be eligible for parole in 11 and one-half years. That was beyond our comprehension. As a result of many of our experiences, we have seen the passage of many victims' rights laws, but we were the lead supporters of life without parole. Talking to jurors at the time, many of them said that they, too, thought that life meant life. It was in a sense a legal lie. Our daughter's killers were also tried in another county as well, because the crimes also occurred in another county. They received an additional life sentence to be served consecutive to the first sentences imposed in 1982. As a result, both men are eligible for parole in the year 2003.

*Question:* Did the jurors reject the death penalty because the defendants were drunk?

*Roper:* That was a factor. Under Maryland law at that time, alcohol and drugs were mitigating factors and had to be weighed in death penalty cases. Since then it has changed.

*Question:* You've had success in Maryland but want national action, too.

*Roper:* The National Victims Constitutional Amendment Network (NVCAN), based in Denver, is a coalition of organizations and crime victims who support an amendment to the U.S. Constitution to protect the rights of victims like we protect the rights of those accused or convicted of crimes.

(Note: The key sponsors, Senators Jon Kyl of Arizona and Dianne Feinstein of California, saw the amendment approved by the Senate Judiciary Committee in October 1999 and debated in the full Senate in April. But Kyl says, "Opponents made it clear that they were willing to 'talk it to death' and prevent it from coming to a vote, so the amendment was withdrawn." Opponents claimed the amendment was wordy and harmful to criminal defendants. It will be resubmitted in the new Congress).

For more information: [www.stephanieroper.org](http://www.stephanieroper.org)  
[www.nvcn.org](http://www.nvcn.org)



## Appendix II

# The International Campaign for Mumia Abu-Jamal

An ad in favor of a new trial for convicted cop-killer Mumia Abu-Jamal appeared in the August 9, 1995, edition of the *New York Times* and was signed by the following:

Adjoa A. Aiyetoro, Director, National Conference of Black Lawyers; Shana Alexander, Author; Laurie Anderson, Artist; Maya Angelou, Poet; Paul Auster, Author; Alec Baldwin; Russell Banks, Author; John Perry Barlow, Cofounder, Electronic Frontier Foundation; Richard J. Barnet, Institute for Policy Studies; Derrick Bell, Legal Scholar; Dennis Brutus, Professor, University of Pittsburgh; David Byrne, Lusks Bop Records; Naomi Campbell, Model, Actress; Robbie Conal, Artist; Denise Caruso, Journalist; Noam Chomsky, Professor, M.I.T.; Richard A. Cloward, Professor, Colorado University, School of Social Work; Ben Cohen, Ben and Jerry's; Kerry Kennedy Cuomo, Founder, Robert F. Kennedy Center for Human Rights; U.S. Representative Ronald V. Dellums; Dominique de Menil; Jacques Derrida; David Dinkins, Professor, Columbia University School of International and Public Affairs; E.L. Doctorow, Author; Roger Ebert, Film Critic; Jason Epstein, Editor, Random House; Susan Faludi, Journalist; Mike Farrell, Producer, Actor; Timothy Ferris, Author; Eileen Fisher, Clothing Designer; Henry Louis Gates, W.E.B. DuBois Professor of the Humanities, Harvard University; Terry Gilliam, Film Director; Danny Glover; Leon Golub, Artist; Nadine Gordimer, Author; Stephen Jay Gould, Professor of Zoology, Harvard University; Gunter Grass, Author; Herbert Chao Gunther, President, Public Media Center; Edward S. Herman, Wharton School, University of Pennsylvania; Jim Hightower, National Radio Host and Commentator; James Hillman, Psychologist, Author; Bell Hooks, Cultural Critic; Molly Ivins, Political Columnist; Bill T. Jones, Artistic Director, Bill T. Jones/Amie Zane Dance Co.; June Jordan, Poet, Professor, African American Studies, University of California, Berkeley; Mitchell Kapor; Casey Kasem, Broadcaster; C. Clark Kissinger, Refuse and Resist!; Herbert Kohl, Educator, Author; Jonathan Kozol, Author; Tony Kushner, Playwright; John Landis, Filmmaker; Jaron Lanier, Computer Scientist; Lyn & Norman Lear; Spike Lee, Director, Producer, Actor; Edward Lewis, Chairman and CEO, Essence Communications, Inc.; Maya Lin, Artist; Norman Mailer, Author; Frederick Marx, Producer, Hoop Dreams; Nion McEvoy, Editor-in-Chief, Chronicle Books; Bobby McFerrin, Vocalist, Conductor; Susan Meiselas, Photographer; Jessica Mitford, Author; Michael Moore, TV Nation; Frank Moretti, Associate Headmaster, The Dalton School; James Parks Morton, Dean, Cathedral of St. John the Divine; Paul Newman; Peter Norton; Joyce Carol Oates, Author; Dean Ornish, M.D., President,



Preventive Medicine, Research Institute; Grace Paley, Author; Alan Patricof; Martin D. Payson; Frances Fox Piven, Professor, City University of New York; Katha Pollitt, Author and Associate Editor, The Nation; Sister Helen Prejean, C.S.J., Author; U.S. Representative Charles B. Rangel; Adrienne Rich, Poet, Author; Tim Robbins; David A. Ross, Director, Whitney Museum of American Art; Salman Rushdie, Author; Susan Sarandon; Charles C. Savitt, President, Island Press; Andre Schiffrin, Director, The New Press; Peter Sellars, Director; Nancy Spero, Artist; Art Spiegelman, Comix Artist; Bob Stein, The Voyager Company; Gloria Steinem, Ms. Magazine; Sting, Musician; Michael Stipe, R.E.M.; Oliver Stone, Filmmaker; Brian Stonehill, Director of Media Studies, Pomona College; Nadine Strossen, President, American Civil Liberties Union; Trudie Styler, Producer, Actress; William Styron, Author; Edith Tiger, Director, National Emergency Civil Liberties Committee; Edward R. Tufte, Professor, Yale University; Eric Utne, Editor-in-Chief, Utne Reader; Bill Viola, Artist; Alice Walker, Author, Poet; Cornel West, Professor, Harvard University; Mare Weiss and Nancy Meyer, TV Producer and Writer; John Edgar Wideman, Author, Professor, University of Massachusetts; Garry Wills, Adjunct Professor of History, Northwestern University; Joanne Woodward; Peter Yarrow, Musician.

## Appendix III

# The U.N. Assault Against the Death Penalty

1971: U.N. General Assembly calls on states to **restrict the use** of the death penalty.

April 3, 1977: U.N. Commission on Human Rights adopts a resolution encouraging nations to **suspend executions**.

May 25, 1984: U.N. Economic and Social Council urges safeguards guaranteeing protection of the rights of those **facing the death penalty**.

February 4, 1998: **Mary Robinson**, U.N. High Commissioner for Human Rights, criticizes execution of **Karla Faye Tucker** in Texas, saying, "The increasing use of the death penalty in the United States and in a number of other states is a matter of serious concern and runs counter to the **international community's** expressed desire for the abolition of the death penalty."

April 3, 1998: **The U.N.** "Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions" **condemns the U.S. death penalty**, calling on the U.S. to halt executions "until it can ensure the **death penalty cases** are administered fairly and impartially, in accordance with **due process**."

February 3, 1999: U.N. official **Mary Robinson** condemns scheduled execution in Oklahoma of **Sean Sellers**, saying it would "run counter to established international principles and to the international community's expressed desire for the abolition of the death penalty."

April, 1999: Death penalty opponents deliver a petition to U.N. official **Mary Robinson** calling for a worldwide moratorium on executions.

April 26, 2000: The U.N. Human Rights Commission condemns capital punishment and urges nations to reduce the number of executions.

June 12, 2000: A "Special Rapporteur" for the U.N. Commission on Human Rights sends a letter to **Secretary of State Madeleine Albright** requesting information "concerning the steps taken by the competent United States authorities in compliance with the provisions contained in international legal instruments 'to ensure the right to life and physical integrity'" of convicted killer **Gary Graham**, then on death row in Texas.

June 23, 2000: The Rapporteur condemns the execution of convicted killer **Gary Graham** in Texas as "evidence of **disregard** for the growing international movement for abolition of the death penalty."

December 10, 2000: The "Moratorium 2000" group promises to **provide one million signatures and letters** to U.N. Secretary-General **Kofi Annan** on "International Human Rights Day" calling for a moratorium on the death penalty.

## The Death Penalty For Spies and Traitors

**Judge Irving R. Kaufman** presided over the Rosenberg case. What follows is his **statement upon sentencing them:**

Citizens of this country who betray their fellow-countrymen can be under none of the delusions about the benignity of Soviet power that they might have been prior to World War II. The nature of Russian terrorism is now self-evident. Idealism as a rationale dissolves . . . I consider your crime worse than murder. Plain deliberate contemplated murder is dwarfed in magnitude by comparison with the crime you have committed. In committing the act of murder, the criminal kills only his victim. The immediate family is brought to grief and when justice is meted out the chapter is closed. But in your case, I believe your conduct in putting into the hands of the Russians the A-bomb years before our best scientists predicted Russia would perfect the bomb has already caused, in my opinion, the Communist aggression in Korea, with the resultant casualties exceeding 50,000 and who knows but that millions more of innocent people may pay the price of your treason. Indeed, by your betrayal you undoubtedly have altered the course of history to the disadvantage of our country. No one can say that we do not live in a constant state of tension. We have evidence of your treachery all around us every day—for the civilian defense activities throughout the nation are aimed at preparing us for an atom bomb attack. Nor can it be said in mitigation of the offense that the power which set the conspiracy in motion and profited from it was not openly hostile to the United States at the time of the conspiracy. If this was your excuse the error of your ways in setting yourselves above our properly constituted authorities and the decision of those authorities not to share the information with Russia must now be obvious . . .

In the light of this, I can only conclude that the defendants entered into this most serious conspiracy against their country with full realization of its implications . . . The statute of which the defendants at the bar stand convicted is clear. I have previously stated my view that the verdict of guilty was amply justified by the evidence. In the light of the circumstances, I feel that I must pass such sentence upon the principals in this diabolical conspiracy to destroy a God-fearing nation, which will demonstrate with finality that this nation's security must remain inviolate; that traffic in military secrets, whether promoted by slavish devotion to a foreign ideology or by a desire for monetary gains must cease.

The evidence indicated quite clearly that Julius Rosenberg was the prime mover in this conspiracy. However, let no mistake be made about the role which his wife, Ethel Rosenberg, played in this conspiracy. Instead of deterring him from pursuing his ignoble cause, she encouraged and assisted the cause. She was a mature woman—almost three years older than her husband and almost seven years older than her younger brother. She was a full-fledged partner in this crime.

Indeed the defendants Julius and Ethel Rosenberg placed their devotion to their cause above their own personal safety and were conscious that they were sacrificing their own children, should their misdeeds be detected—all of which did not deter them from pursuing their course. Love for their cause dominated their lives—it was even greater than their love for their children.

# U.S. Law Vs. U.N. Law

The U.S. Constitution and the death penalty are under assault by the U.N., international lawyers, and even some Supreme Court Justices:

- U.S. Supreme Court Justices, including Stephen Breyer and Ruth Bader Ginsburg, have participated in meetings with international lawyers and judges for the purpose of integrating the U.S. into a global legal system. Ginsburg, in a 1998 speech, suggested the U.S. Constitution is outdated and irrelevant.
- A U.N. official traveled throughout the U.S. and then issued a report condemning capital punishment.
- The Inter-American Commission on Human Rights, a body of the Organization of American States, investigated the U.S. for its handling of a death penalty case involving a convicted killer and drug trafficker.
- In an unprecedented case, the U.S. Supreme Court on January 24, 2000, consented to the extradition of a legal U.S. resident from America to a U.N.-sponsored criminal tribunal. No treaty authorized the extradition.
- The U.S. Secretary of State, Madeleine Albright, joined the U.N.'s World Court in demanding a delay in the execution of a convicted murderer in Virginia.
- Justice Stephen Breyer, in a 1999 court case, argued that the U.S. should look to the decisions of foreign courts in deciding whether to uphold the U.S. death penalty.
- Lawyers for killers on death row in the U.S. increasingly argue that their executions would violate international treaties.
- The European Parliament demanded a new trial for Mumia Abu-Jamal, a convicted cop-killer and death row inmate in Pennsylvania.

Published and distributed by America's Survival, Inc.  
[www.USAsurvival.org](http://www.USAsurvival.org)