

German Lawmakers To U.S.: End Death Penalty

by Rainer Apel

It is a rare occasion to see all of Germany's legislators united, across party lines, on a highly sensitive issue. The resolution which all 662 members of the national Parliament in Berlin passed on Dec. 7, has been such an occasion, and it deals with ending the use of the death penalty in the United States.

This resolution had been discussed over several months, but when the French national legislature voted for a resolution against the U.S. death penalty in July, the Germans decided to keep their initiative on hold during the U.S. Presidential campaign. Most executions this year have occurred in Texas under Gov. George "Dubya" Bush, and Germans were afraid that taking a position against the executions would be read as gross interference in the U.S. elections.

But, four weeks after the U.S. elections, German lawmakers put their resolution on the parliamentary agenda, and government and opposition alike voted for it. Whereas it denounces the practice of the death penalty and executions in clear language, the resolution is packaged in the context of an urgent call from Germany to the United States to abolish the death penalty as a relic of inhumanity, and for the United States to revitalize its historic tradition as a promoter of human progress internationally. Given its form, the resolution could also gain the support of long-standing friends of America among Germany's politicians. A simplistic denunciation of the death penalty would not have gained the unequivocal support of the legislators.

The legislators first reaffirm a resolution to the same effect, passed during the previous four-year term, "which states that the death penalty is a violation of the most fundamental right of man, namely, the right to life. It is an unjustifiable form of gruesome, humiliating, and inhuman treatment or punishment." In the introduction to the Dec. 7 resolution, the lawmakers also make reference to the United Nations resolution of April 2000, on the protection of the lives of children and the mentally disabled, as proclaimed in the General Declaration on Human Rights.

The legislators state: "Although the trans-atlantic code of values is congruent on many fundamental questions, there is considerable dissent on the death penalty, between Europe and the United States, which is an expression of differing traditions of law. Because of that, the German Government has intervened with the U.S. Administration on numerous impending executions.

"The development of death sentencing and the executions in the United States of America is reason for concern. Since the death penalty has been re-allowed there in the year 1976, 666 human beings have been executed. Since the early 1990s, an enormous increase of executions has occurred: No fewer than 485 death sentences have been carried out since 1993. In 1999, 98 humans were affected. By mid-November this year, already 75 persons have been executed. More than 3,600 prisoners in the United States are faced with an execution. . . . However, the state of legislation in the U.S. is not homogeneous: In already 12 out of 50 states, the death penalty has been abolished."

Gross Inequalities

Based on the fact that some states have abolished the death penalty, the legislators appeal to Americans to abolish it in those states where it is still practiced. The resolution points to surveys in the United States, for example the June 2000 Columbia University report commissioned by Sen. Joseph R. Biden (D-Del.), "A Broken System: Error Rates in Capital Cases, 1973 until 1995," which document that 68% of all death sentences during this period were declared void on grounds of legal flaws, and that 7% of prisoners executed during the same period proved to be innocent. Moreover, it said, "socially underprivileged defendants usually cannot afford a competent, meaning an expensive, legal defense." The large discrepancy between the fact that 12% of U.S. citizens, but 42% of all prisoners sentenced to death, are non-whites, is also referenced.

The German legislators expressed particular concern about three prisoners of German, and another three of other European origin, who face execution in the United States. The Germans are the brothers Rudi and Michael Apelt, imprisoned in Arizona, and Dieter Riechmann, who sits in a Florida jail. Avoiding any remarks concerning the crimes with which they are charged, the resolution states that the imprisoned Europeans have been denied adequate legal counsel, which is in violation of the Vienna Agreement on Consular Relations—an agreement signed by the United States. The fact that these Europeans have been on the death row for more than ten years, is referred to as an "inhuman and humiliating practice," on which a 1989 ruling of the European Court of Human Rights exists.

The German legislators emphasize that they "oppose any execution of a human being," and that they hope that by dropping the death penalty, the United States will give more political clout to its global campaign for democracy and human rights. For the time being, the German lawmakers call on Americans to declare a moratorium on executions, and to enter a debate on the final abolition of the death penalty. In particular, they urge that prisoners on death row who, at the time of the crime with which they are charged, were under age 18, and prisoners who are mentally disabled, be exempted from the death penalty.