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PROMOTION AND PROTECTION OF HUMAN RIGHTS

**Written statement* submitted by the National Coalition to Abolish the Death Penalty, a
non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 February 2005]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

The National Coalition to Abolish the Death Penalty (NCADP) welcomes the quinquennial report of the Secretary General on capital punishment and the implementation of the safeguards guaranteeing protection of rights of those facing the death penalty (E/CN.4/2005/94). We also welcome the report's particular attention to the application of the death penalty on persons under the age of 18. In this statement we share our grave concern with execution juvenile offenders and persons suffering from mental disabilities.

Overview of Capital Punishment in the United States

Currently there are over 3,400 people on death row including 52 women. Since 1976, the U.S. has carried out 948 executions. There have been 5 executions in 2005. Ten executions are scheduled to take place in March alone.¹

Continued use of the Juvenile Death Penalty

We believe that notwithstanding its formal reservation to the International Covenant on Civil and Political Rights (ICCPR) the continued use of the death penalty on juvenile offenders in the United States is a violation of international human rights standards and customary international law.²

Since 1976, 226 juvenile offenders have been sentenced to death. Five were female juvenile offenders. More than half of the 226 death sentences have been reversed or commuted. Currently, 72 juvenile offenders remain incarcerated on death row³. In 2004, 2 juvenile offenders, Robert Aaron Acuna and Eric Dale Morgan, were sentenced to death. Also in 2004, 3 juvenile offenders were scheduled for execution, Omar Villareal, Brian Capatillo and Efrian Perez. Their cases underscore the racial and geographic biases in the juvenile death penalty—in all three cases, the juvenile offender is Latino and the victim white; each execution was scheduled to take place in Texas. Since 1976, 22 executions have been carried out on juvenile offenders, the most recent being the April 3, 2003 execution of Scott Hain, who was 17 years old at the time of his crime.

Executions of Persons Suffering from Mental Illness

In June 2002 in the case of *Atkins v. Virginia*, the U.S. Supreme Court banned the execution of people with mental retardation stating that “evolving standards of decency” now made the practice cruel and unusual punishment.

State legislatures are currently reviewing and revising their statutes to comply with the ruling, but we are concerned that some people with mental retardation are still at risk for executions.

Furthermore, while people with mental retardation may no longer lawfully be sentenced to death and executed, this protection does not extend to people with mental illness.

¹ As of February 11, 2005.

² The United States has signed but not ratified the Convention on the Rights of Child which also prohibits the execution of juveniles

³ “Human Rights Human Wrong: The Sentencing of Children to Death” National Coalition to Abolish the Death Penalty, March 2003.

While the U.S. Supreme Court's decision in *Ford v. Wainwright*, bans the execution of people who do not understand the reason for or the reality of their punishment, this prohibition does not protect the vast majority of people on death row who suffer from mentally illness or who committed crimes because of their mental illness. Moreover, even the minimal protection provided by *Ford v. Wainwright* has been undermined. At least one Federal Court has allowed for a death row inmate to be medicated in order to be deemed "sane" for execution.⁴

Since 1983, over 60 people diagnosed as mentally ill or with mental retardation have been executed. It is currently estimated that 5 to 10 percent of people on death row have a serious mental illness.⁵

Many professional associations are expressing grave concern with this practice, including the American Psychiatric Association, National Association for the Mentally Ill, and National Mental Health Association among others. The case of Kelsey Patterson illustrates of the problem of executing people with mental disabilities:

On May 18, 2004, Kelsey Patterson was executed in Texas despite the fact that he suffered from paranoid schizophrenia, a serious mental illness. His symptoms include hallucinations, delusions, and confused thinking causing him to believe that he was protecting himself from a "conspiracy". According to reports, after the crime Patterson removed all of his clothes, except for his socks, and was found pacing and shouting incomprehensibly. Patterson stated that he been forced to commit the crime by a device that was implanted within his body.⁶

Racism in the Application of the Death Penalty

Since the United States ratified the International Convention on the Elimination of All Forms of Racial Discrimination in 1994, U.S. courts and legislatures have failed to act decisively in the face of evidence that race has a significant impact on capital sentencing. Although African Americans make up 12% of the population, they account for 42% of current death row inmates⁷.

According to the General Accounting Office, in 82% of studies, race of victim was found to influence the likelihood of being charged with capital murder or receiving a death sentence⁸. Since 1977, blacks and whites have been the victims of murders in almost equal numbers, yet 80% of the people executed in that period were convicted of murders involving white victims.⁹ In North Carolina, the odds of receiving a death sentence are *3.5 times higher* among defendants whose victims were white¹⁰.

⁴ Charles Singleton executed January 6, 2004

⁵ "Mental Illness and the Death Penalty" American Civil Liberties Union, 2004.

⁶ NCADP Execution Alert May 2004.

⁷ "Death by Discrimination – The Continuing Role of Race in Capital Cases," Amnesty International, April 24, 2003.

⁸ U.S. General Accounting Office, *Death Penalty Sentencing: Research Indicates Pattern of Racial Disparities* (1990)

⁹ Bureau of Justice Statistics

¹⁰ Professors Jack Boger and Dr. Isaac Unah, University of North Carolina, 2001