the guilty verdict stand, was that of black death row inmate Jimmy Clark. In that one case, the only one it ever took up, the Virginia Supreme Court pounced on the commutation and reinstated the death penalty.

Besides the Virginia Supreme Court's absymal record on those capital cases it does consider, Virginia's laws *kill* these appeals at higher, federal levels.

The reason is that Virginia is one of a handful of states, including South Carolina, that makes no exceptions for procedural defaults in capital cases. If an attorney fails to object to a ruling at trial (i.e., enter a "contemporaneous objection"), that material, no matter how obvious or clearly exculpatory, and despite the fact that a verbatim transcript exists, cannot be raised by the defendant in any state or federal appeal, even if it proves his innocence and would save him from execution.

Thus the performance of counsel, always a crucial issue in capital cases, takes on even greater importance in Virginia. Yet Virginia has never had a competence standard for counsel in capital cases, which present an extraordinary degree of difficulty. Frequently, capital cases are handled by lawyers who are raw novices. A competence standard for attorneys

U.N. conventions also torn up

United Nations conventions and treaties on the standards for a fair trial, sanctimoniously promoted and in some cases written by American diplomats, are being violated in the United States. A special Committee on the Administration of Justice of the United Nations Human Rights Commission, consisting basically of an American and a "Soviet" delegate, insists on *the defendant's right to have sufficient time, with counsel, to prepare a defense*. This is regularly violated by the Alexandria, Virginia federal "rocket docket" and other courts.

In the "rocket docket," LaRouche and his codefendants had 37 days from indictment, to obtain counsel and prepare to start trial. Pre-trial motions were summarily dealt with during the same 37 days. The LaRouche case involved potentially millions of documents, and the government had spent years preparing it! The defense lawyers repeatedly protested to the judge that they could not even fully acquaint themselves with the case, let alone prepare to defend it.

The special U.N. body insists that "independence of the judiciary and fairness of trials make unacceptable any interference or attempt to exert pressure by authorities or persons not involved in the case": Judges are to be disinterested, on guard for any and all attempts to influence them, and will immediately make public to all involved any such attempt, sternly rebuking the offending party. Both federal Judge Albert Bryan in Alexandria, and the ADL-corrupted Clifford Weckstein, the Virginia judge who is running the state LaRouche trials, arrogantly violated this requirement for an independent, impartial judge (see below).

One of the foremost American, and now, universal principles of law—the Fifth Amendment prohibition against trying and punishing an individual twice for the same acts—has been rejected and modified by the Supreme Court, despite its clear and plain language LaRouche's two trials in Boston and Alexandria federal courts violated that clear principle; LaRouche's associate Michael Billington was tried by the state of Virginia for "securities fraud" for exactly the same charges for which he served two and one-half years in federal prison, under the label "mail fraud." Virginia's courts held that the state was a "dual sovereign" to the U.S. government, and therefore could try Billington in what was admitted to be double jeopardy in strict terms.

The same U.N. committee says that "The accused or his lawyer must have the right to act diligently and fearlessly in pursuing all available defenses and the right to challenge the conduct of the case if they believe it to be unfair." Judges in the LaRouche trials in Virginia courts have repeatedly ruled out precisely those defenses they knew the accused would rely on, especially the defense of *government interference with the LaRouche movement*, which defense resulted in the failure of the "get LaRouche" prosecution in Boston. These judges have denied subpoenas for witnesses and requests for documents that would back this line of defense.

Again, the (American-dominated) U.N. committee states that, because of the presumption of innocence, "It is the duty of all public authorities to refrain from prejudging the outcome of a trial," clearly including prosecutors. Virginia Attorney General Mary Sue Terry and then-U.S. Attorneys William Weld and Henry Hudson, leaders in the LaRouche prosecution, not only encouraged trial by press, they have made themselves the stars of the media trial of the LaRouche movement.

The same committee states that everyone convicted shall have the right of review and appeal. Virginia does not grant such a right: Those convicted must petition for it, and three-quarters of these petitions are denied. The Virginia Supreme Court recently contemptuously refused a hearing to a death row prisoner, because his attorney filed the wrong piece of paper.

The committee states that anyone "facing the death penalty should be provided adequate assistance of counsel at every stage of the proceedings, above and beyond

in capital cases is scheduled to go into effect in Virginia *for the first time* in July 1992.

The public often hears that prosecutors simply want to save money by cutting back on endless appeals. The actions of Mary Sue Terry show that the aim is not judicial economy (which is trivial compared to taking an innocent life), but vindictiveness. *It is the position of Virginia Attorney General Mary Sue Terry to oppose the appointment of any attorneys who request appointment to a specific capital case.* The goal is to keep out the most skilled attorneys, who have interest and expertise.

Four of those currently on Virginia's death row, minimally, have strong claims of innocence: Joseph Roger O'Dell, Roger Coleman, (whose cases are discussed above), Earl Washington, and Herman Bassett. Earl Washington is a severely retarded black man whose survival mechanism when he is outside his family is to propitiate authorities. Washington repeatedly changed the details of his confession to please the detectives prompting him. Herman Bassett, also black, was convicted solely on the testimony of co-perpetrators of the crime, despite the fact that the physical evidence points away from Bassett.

The United States is the only industrialized country in the world that inflicts capital punishment. The United States not only applies it in a racist fashion to the mentally retarded, but also to juveniles. In Virginia, the law permits the execution of anyone 15 years of age. That is the lowest age arguably permissible under recent U.S. Supreme Court decisions.

Virginia has executed more prisoners than any other state in the nation since use of the electric chair was initiated.

The Virginia gulag

The incarceration rate of blacks is disproportionately high in Virginia, as it is all over the United States. While 19% of Virginia's population is black, approximately 63% of its prison population is black.

Virginia's prisons exceed the national average of 115% of capacity for state prisons; state prisons are where 90% percent of all prisoners in the United States are housed.

Virginia state prisons, where the most serious offenders are housed, are currently at 122% of capacity, while local jails are at 147% of capacity as of Dec. 5, 1991. Although county jails are intended only to be used to house prisoners with sentences of *one year or less,* currently prisoners with *six-year* sentences are serving their terms in jails because the state prison system is packed. From 1983 to 1989, Virginia's inmate population grew at an average annual rate of almost 9%.

One reason Virginia's prisons are full is that a whopping 40.1% of inmates have sentences of 20 years or longer—far above the national average. In fact, the average jail sentence in Virginia is 24.1 years (*1990 Corrections Yearbook,* Criminal Justice Institute). Additionally, Virginia ranks near the bottom nationally when compared to the rates of discretionary parole in other states, as a recent study by the state's own Joint Legislative and Audit Review Commission reports.

Some states are required by court order to initiate emergency release when the prison population reaches a certain threshold. All states can use the federal 1986 Emergency Powers Act for this purpose. But no court orders or directives from the state legislature have ever mandated relief of overcrowding in Virginia, as has been done even in Texas and Tennessee—hardly trendsetters for humane conditions.

The state's General Assembly did mandate of the Virginia Parole Board to "establish parole policies which result in the earliest possible release of inmates who are deemed suitable for discretionary parole and whose release is compat-

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the protection afforded in non-capital cases."

The U.S. Supreme Court, egged on by Virginia, has explicitly ripped up this right which the U.S. government preaches to other nations (very few of which practice capital punishment at all). Most accused of capital crimes in the U.S. are miserably represented even at their first trial and appeal, as everyone knows, and may not be represented at all after that. Innocent people are executed, inevitably, as the result.

In 1989 the Supreme Court ruled that new laws, new decisions on procedures, etc., cannot be used retroactively to challenge convictions or sentences, and cannot even apply to trials that are ongoing when the changes occur. Through the U.N. Committee on Administration of Justice, American delegate William Treat proclaims precisely the opposite to the rest of the world: "If subsequent to the commission of an offense, a provision is made for the imposition of a lighter penalty, the lighter penalty shall benefit the offender."

That committee also ruled that when Uruguay held a student prisoner incommunicado for 15 days, Uruguay had "violated her right to humane treatment under Article 10" of the U.N. Convention on fair trial procedures. Today in the "special detention" or "punishment cells" being set up in the U.S. on the model of the Marion, Illinois federal prison, inmates are "locked down" continuously without visitors for significantly longer periods. In the windowless "Q Wing" of Florida State Prison at Starke, some inmates have not been outside for seven years.

In many of these cited sections of its 1990 and 1991 reports, the U.N. Committee is not merely stating the conclusions of its American and Soviet "rapporteurs," but referring to articles of international conventions on fair trials. The United States has signed these conventions, and in some cases led the way in drafting them. But the U.S. judicial system now ignores them, in its mission to "fill the jails, build more jails," and facilitate political prosecutions or silence dangerous opponents of government policies, such as Lyndon LaRouche.