

EXTERNAL

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EXTRA 106/97

Death Penalty

21 July 1997

BAHAMAS John HIGGS

The Ministry of National Security in the Bahamas has announced that John Higgs, a prisoner on death row in the Bahamas, has been read a death warrant for his execution to be carried out on Tuesday 29 July at 8a.m. local time. The death warrant was issued despite the fact that the Court of Appeal in the Bahamas has not yet given its reasons for rejecting John Higgs' appeal against his conviction for murder. Furthermore, the prisoner has not yet been able to apply for leave to appeal to the Judicial Committee of the Privy Council (JCPC) in London, the final court of appeal for the Bahamas, and so has not exhausted all avenues of appeal.

John Higgs was first sentenced to death, for the murder of his wife, in October 1995. On appeal, however, it was ruled that his first trial had been unfair, because the judge had become too involved in the trial. A re-trial was ordered, and held in August 1996, and John Higgs was found guilty and sentenced to death again. The appeal of this conviction was turned down in May of this year. However, the reasons for the rejection of the appeal have not yet been given. This means that lawyers are not able to examine the Appeal Court's decision and thus determine what grounds there might be for an appeal to the JCPC.

BACKGROUND INFORMATION

The Bahamas resumed executions after a 12-year break with the hanging of Thomas Reckley on 13 March 1996. Approximately two weeks after Thomas Reckley's execution Dwayne McKinney became the second person to be hanged in the country since 1984. There are currently believed to be 38 people on death row in the Bahamas.

In October 1996 the JCPC allowed appeals by two death row prisoners from the Bahamas, Ricardo Farrington and Dwight Henfield, commuting their death sentences to life imprisonment. In its ruling the Committee concluded, in the case of the Bahamas, "taking into account an appropriate period of time for the domestic appeals available to condemned men in their own interest, that a period of 3½ years in prison awaiting execution, with all the agony of mind which that entails, would in all the circumstances be so prolonged a time as to render execution cruel or inhuman punishment." They thus set a guideline of 3½ years within which the appeal process in the Bahamas would be expected to be completed.

Following this ruling, the Government of the Bahamas announced that the death penalty would remain the law in the Bahamas and that measures would be taken to speed up the appeal process. Then, at the beginning of July, it was announced that if death row prisoners failed to file an appeal within 21 days of sentencing, the authorities may set a date for their execution, thus forcing them to appeal.

RECOMMENDED ACTION: Please telephone/ send faxes/express/airmail letters in English or your own language:

- expressing deep concern that John Higgs is scheduled to be executed on 29 July 1997 and urging that his death sentence be commuted and that no further executions be carried out;
- expressing sympathy for the victims of violent crime and their relatives;
- stressing that the reasons for the decision of the Court of Appeal in the case of John Higgs have not yet been given, making it difficult for the prisoner to pursue an appeal to the Judicial Committee of the Privy Council, the final

court of appeal for the Bahamas and that if the execution were to take place it would be in contravention of the *Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty*, adopted by the United Nations Economic and Social Council (ECOSOC) in resolution 1984/50 and adopted by the UN General Assembly on 14 December 1984 which state: "*Capital Punishment shall not be carried out pending any appeal or other recourse procedure or other proceeding relating to pardon or commutation of the sentence*";

- urging that the sentences of all those who have been on death row for more than 3½ years be commuted to life imprisonment, in accordance with the October 1996 decision of the JCPC.

If possible, also make some or all of the following general points about the death penalty:

- it has never been shown to deter crime more effectively than other punishments;
- it has a brutalizing effect upon all those who are involved in the process;
- it goes against the widely accepted principle of rehabilitating the offender;
- it does not necessarily alleviate the suffering caused to the victims of violent crime;
- execution is irrevocable and, despite the most stringent judicial safeguards, can be inflicted on the innocent.

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and to diplomatic representatives of the Bahamas accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat,
or your section office, if sending appeals after 18 August 1997.