

PUBLIC

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15 December 1999

Further information on EXTRA 101/99 (AMR 14/01/99, 4 August 1999) and follow-up (AMR 14/03/99, 10 August 1999) - Death Penalty

BAHAMAS

John Higgs
David Mitchell

On 14 December 1999 the Bahamas' highest court of appeal, the Judicial Committee of the Privy Council (JCPC), dismissed constitutional motions filed by John Higgs and David Mitchell. Both men are now at imminent risk of execution.

The JCPC ruled by a majority of three to two that it would not be unconstitutional to execute the two men while their petitions were pending before the Inter-American Commission on Human Rights as more than 18 months had elapsed since the petitions were filed with the international human rights monitoring body.

The court also ruled that prison conditions for those under sentence of death did not amount to inhuman and degrading punishment. This was strongly criticized by the two dissenting judges, Lord Steyn and Lord Cooke of Thorndon, who stated that the conditions were so appalling as to amount to inhuman and degrading punishment, and that the men's sentences should therefore be commuted.

John Higgs was sentenced to death in 1995 for the murder of his wife, Joan Higgs. He was retried in August 1996, and again sentenced to death. David Mitchell was convicted of the 1994 murder of Horst and Traude Henning, and sentenced to death in November that year.

FURTHER RECOMMENDED ACTION: Please send telegrams/telexes/faxes/express/airmail letters, in English or your own language:

- urging the government to commute the death sentences of John Higgs and David Mitchell;
- urging the government to take into account the dissenting judgements of Lord Steyn and Lord Cooke of Thorndon on the constitutional motion, which called strongly for commutation of their sentences;
- reminding the government that despite the ruling of the Judicial Committee of the Privy Council to dismiss their constitutional motions, the Bahamian government has an obligation as a member of the Organisation of American States not to execute John Higgs and David Mitchell while their petitions are pending before the IACHR;
- urging the government to uphold the integrity of the Inter-American System for the protection of human rights by staying the executions pending the decisions of the IACHR on the men's petitions;
- expressing sympathy for the relatives of Joan Higgs, Horst and Traude Henning, along with all victims of violent crime and their relatives;
- pointing out that the death penalty is the ultimate cruel, inhuman and degrading punishment, which violates the right to life and has a brutalizing effect on all involved in its application;
- urging the government to implement the 1999 recommendation of the United Nations Commission on Human Rights to establish a moratorium on executions with a view to completely abolishing the death penalty.

APPEALS TO:

Prime Minister

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COPIES TO:

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Governor General

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

PLEASE SEND APPEALS IMMEDIATELY.