

31 March 1998

Further information on Extra 146/96, AMR 14/10/96, 9 September 1996 and follow-ups (AMR 14/11/96, 12 September 1996 and AMR 14/12/96, 9 October 1996) - Death Penalty

THE BAHAMASTrevor Nathaniel Fisher

Trevor Nathaniel Fisher is scheduled to be hanged in The Bahamas on Thursday 2 April 1998.

The execution was scheduled despite the fact that Trevor Fisher has a petition pending with the Inter-American Commission on Human Rights (IACHR). The IACHR had requested a stay of execution as a precautionary measure whilst they considered his claims that the authorities failed to guarantee his fundamental rights set in the American Declaration on the Rights and Duties of Man.

To execute Trevor Fisher while his petition to the IACHR is still pending would violate the government's obligation to ensure the protection of his fundamental rights. The government has recently made assurances that it would respect the regulations of the IACHR governing such petitions. Safeguard 8 of the UN Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty states "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".

The Bahamas is a Member State of the Organization of American States. Accordingly, people who claim that the government of The Bahamas has failed to guarantee a right set out in the American Declaration of the Rights and Duties of Man may petition the IACHR seeking relief after they have exhausted national procedures.

Trevor Fisher was sentenced to death on 25 March 1994 for the murder of Duventon Daniels. His appeal to the Court of Appeal was dismissed on 10 October 1994. His petition for leave to appeal as a poor person to the Judicial Committee of the Privy Council (JCPC), the final court of appeal for The Bahamas located in the United Kingdom, was dismissed in May 1996.

This is the second time Trevor Fisher has been moved to a death cell. He had been scheduled to be executed in September 1996 but received a stay pending a decision on a constitutional motion. This motion alleged, among other things, that he had been denied a fair trial due to the long period, three years and five months, he had been held in detention prior to trial. The motion argued that this violated his constitutional right to trial within a reasonable time and that, combined with the two and a half years he then spent on death row following conviction, this would amount to inhuman punishment in violation of the Constitution of The Bahamas. On 16 December 1997, the JCPC, the final arbiter on the constitutional motion, ruled against Trevor Fisher.

BACKGROUND INFORMATION

The death penalty is mandatory for murder in the Bahamas. After a period of 12 years with no executions, the Bahamas resumed hangings in March 1996: Thomas Reckley was executed on 13 March 1996 and Dwayne McKinney on 28 March 1996. There have been no executions since that date.

In December 1997 in the course of deciding the case of Trevor Fisher, the JCPC revised its 1996 ruling that executing a prisoner who had spent three and a half years or more under sentence of death would violate the constitutional prohibition against inhuman or degrading punishment. The JCPC's December 1997 ruling concluded that the guideline period should be extended to five years, in view of The Bahamas Government's undertaking to respect individual's rights to petition the Inter-American Commission on Human Rights.

In January 1998 it was announced that the sentences of death imposed on 17 persons who had been on death row for more than five years have been commuted to life imprisonment.

RECOMMENDED ACTION: Please make urgent appeals by telephone/telegram/fax/ express letter in English or your own language:

- expressing deep concern that Trevor Nathaniel Fisher is due to be hanged on 2 April 1998;
- urging that his death sentence be commuted and that no further executions be carried out;
- pointing out that to execute him while his petition to the IACHR is still pending and also after the IACHR had requested precautionary measures, would violate his fundamental human rights (as stated in Safeguard 8);
- expressing sympathy for the victims of violent crime and their relatives, but voicing opposition to the death penalty in all cases as a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading punishment, as proclaimed in the Universal Declaration of Human Rights.

You may also make some or all of the following general points: the death penalty 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 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.

APPEALS TO:

Governor General

His Excellency Orville Turnquest

Governor General

PO Box N-8301, Nassau, The Bahamas

Telegrams: Governor General, Nassau, Bahamas

Telephone: + 1 242 322 1875

Faxes: +1 242 322 4659

Salutation: Your Excellency

Attorney General

The Honourable Tennyson Wells

Attorney General

PO Box N-3007, Nassau, The Bahamas

Telegrams: Attorney General Wells, Nassau, Bahamas

Faxes: + 1 242 322 2255

Salutation: Dear Attorney General

COPIES TO:

The Honourable Hubert Ingraham

Prime Minister

Office of the Prime Minister

Sir Cecil V. Wallace Centre

PO Box CB 10980, Nassau, The Bahamas

Faxes: + 1 242 327 5806 or 327 5807

The Tribune (newspaper)

Shirley Street, PO Box N-3207, Nassau, The Bahamas

Faxes: + 1 242 328 2398

The Nassau Guardian (newspaper)

PO Box N-3011, Nassau, The Bahamas

Faxes: + 1 242 325 3379

and to diplomatic representatives of Bahamas accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY.