



Death Penalty Developments that the Human Rights Council should address: Amnesty International written statement to the 24th session of the UN Human Rights Council (9 to 27 September 2013)

Index No.: IOR 41/014/2013

Date: 21 August 2013

Resumption of executions

Amnesty International is very concerned about the resumption of executions in some countries over the past year, and moves to expand the scope the death penalty in others.

Between August 2012 and August 2013, Gambia, Pakistan, India, Indonesia, Kuwait, Nigeria and, most recently, Viet Nam have resumed executions. In addition, legal changes in Papua New Guinea prompt concern that executions might resume in that country also.

Developments over the past 12 months

In **Gambia**, on 23 August 2012, nine death row prisoners – seven Gambian men and two Senegalese citizens – were taken from their cells and executed by firing squad shortly after. These were the first executions in nearly three decades. They were carried out in secret and without prior information to the prisoners, their families and lawyers, or the Senegalese government. The bodies of those executed have not been returned to their families for burial, nor has the location of their graves been disclosed.¹

Pakistan carried out its first execution since 2008 on 15 November 2012, when the military authorities executed a soldier. After taking office in June 2013, the government of Prime Minister Nawaz Sharif announced its intention to recommence executions in the face of pressure to improve the law and order situation. At least eight men were scheduled to be executed across Pakistan between 20 and 25 August 2013, including two men who were juveniles when the alleged crimes were committed and one whose family say he suffers from mental illness. These planned executions were temporarily suspended on 18 August.

On 21 November 2012, Ajmal Kasab was hanged in the first execution in **India** since 2004. The public was only informed after the execution had been carried out. The Indian Home Minister publicly stated they had taken this action to avoid intervention from human rights activists. Similarly, when a second man was executed on 9 February 2013, his family only received official notification of his execution after it had been carried out, and the body was not returned to his family for burial. Further executions were reportedly scheduled for August 2013.

Indonesia carried out its first executions since 2008 on 14 March 2013, when a Malawian national was executed by firing squad for drug-trafficking. On 16 May, three men convicted of murder were also executed.

¹ See Resolution 19/37 on the “Rights of the Child”, UN document A/HRC/RES/19/37, 19 April 2012, OP 69(f).

Kuwait carried out its first executions since 2007 on 1 April 2013, when three men convicted of murder were executed. On 18 June 2013, two more men were executed by hanging.

Four men were executed in the state of Edo in southern **Nigeria** on 24 June 2013. These were the first known judicial executions since 2006, and were conducted in spite of pending appeals. In 2011 the federal government had confirmed that there was an official moratorium on executions in place in Nigeria; however, this was later described as "voluntary". Many of the over 1,000 people under sentence of death in Nigeria have been sentenced following blatantly unfair trials, some after spending more than a decade in prison awaiting trial, and for non-lethal crimes.

In **Viet Nam**, one man convicted for murder was executed on 6 August 2013 through lethal injection – the first execution in the country since at least January 2012, following changes to the execution method in the country. Viet Nam retains the death penalty for 21 offences, including violent crimes, national security offences, drug trafficking and embezzlement. Statistics on the death penalty continue to be classified as a "state secret".

A new law adopted in **Papua New Guinea** on 28 May 2013 has, among other things, expanded the scope of the death penalty to specific crimes, including robbery and aggravated rape, even if they did not result in death. Legal execution methods now include, in addition to hanging, lethal injection, electrocution, firing squad and "medical death by deprivation of oxygen". While the death penalty is retained in law, no executions have been carried out since 1954. But these legal changes indicate the government's intent to move towards implementing the death penalty, and have put at least 10 prisoners under sentence of death at risk of execution.

Amnesty International is concerned that more executions in these countries may follow. This concern is heightened by the fact that executions were resumed in violation of international law and standards, including those for fair trial, and were carried out for crimes - such as drug-trafficking - that do not involve intentional killings, the threshold of "most serious crimes".²

The Death Penalty is not a solution to the problem of serious crimes

Very often governments present high crime rates or particularly heinous crimes to the general public as a reason to retain capital punishment – or even to carry out executions – as a crime control measure. Amnesty International acknowledges fully the suffering of family members of victims of murder, and recognizes the obligation and duty for governments to protect the rights of victims of crime. The organization believes that those found responsible, after a fair judicial process, should be punished, but without recourse to the death penalty.

There is no convincing evidence that capital punishment has a unique deterrent effect on crime. Instead of focussing on this ultimate cruel and inhuman punishment, governments should direct their attention towards devising comprehensive crime prevention programmes to tackle root causes of crime.

Governments too often invoke the death penalty as a "quick-fix" to crime but fail to invest in effective measures to address the issue of public security and crime, including more effective policing, and a fair, functioning criminal justice system. Weaknesses in the justice systems in many countries include an inadequate quality of criminal investigations and limited legal representation.

People want to be protected from crime; but the death penalty does not make societies safer.

The Constitutional Court of South Africa stated when it abolished the death penalty in 1995:

² Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, UN document A/67/275, 9 August 2012, para. 67.

“We would be deluding ourselves if we were to believe that the execution of...a comparatively few people each year...will provide the solution to the unacceptably high rate of crime. ... The greatest deterrent to crime is the likelihood that offenders will be apprehended, convicted and punished. It is that which is presently lacking in our criminal justice system; and it is at this level and through addressing the causes of crime that the State must seek to combat lawlessness.”³

In countries where the death penalty has been abolished, crime rates have often fallen. A recent study found no link between the use of the death penalty and murder rates in Trinidad and Tobago.⁴ Canada’s homicide rate remains over one third lower than when the death penalty was abolished in 1976.

World Day Against the Death Penalty, 10 October 2013

On 10 October 2013, the 11th World Day Against the Death Penalty will focus on the use of the death penalty in the Greater Caribbean, under the motto of “Stop Crime Not Lives”.⁵ The World Day represents an opportunity for international actors as well as governments and civil society from around the world to promote a meaningful debate around public security and the death penalty.

Positive developments

There are presently 97 countries abolitionist for all crimes, and Amnesty International views 140 countries in total as having abolished the death penalty in law or in practice. In 2012 Benin and Mongolia acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, followed by Bolivia and Latvia so far in 2013. In May 2013, Maryland became the 18th abolitionist state in the USA. In 2012 only 21 of the world’s countries were recorded as having carried out executions.

Recommendations

Amnesty International urges the Human Rights Council to call on all states that still maintain the death penalty, pending full abolition:

- to remove from their laws any death penalty provisions that are in breach of international human rights law, such as its mandatory imposition or for crimes which do not meet the threshold of “most serious crimes”;
- to ensure that trials for crimes carrying the death penalty must comply with all international standards on the use of the death penalty, including those on fair trials and the prohibition of its use against juvenile offenders or people with mental or intellectual disabilities, among others; and
- to ensure that the criminal justice system is sufficiently resourced and capable of investigating crimes effectively and supporting victims.
- to heed the calls for a moratorium on executions made in resolutions adopted by the United Nations General Assembly, with increasing majorities and cross-regional support, most recently in resolution 67/176 of 20 December 2012.

Amnesty International opposes the death penalty in all cases without exception. The death penalty is a human rights issue, to be addressed from a human rights perspective.

³ *Makwanyane and Mcebunu v. The State* (CCT/3/94) [1995] ZACC 3, paras. 121-2.

⁴ David F. Greenberg and Biko Agozino, “Executions, imprisonment and crime in Trinidad and Tobago”, *British Journal of Criminology* (2012) 52 (1), pp. 113-140.

⁵ <http://www.worldcoalition.org/worldday.html> (accessed 19 August 2013).