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TRINIDAD AND TOBAGO

POSSIBLE RESUMPTION OF HANGINGS

Amnesty International is gravely concerned by moves to resume executions in Trinidad and Tobago after 13 years and is calling on the government not to take such a retrograde step. Five execution warrants have been issued without warning during the past five weeks, all on prisoners who have spent years under sentence of death. Although temporary stays have been granted pending constitutional appeals, the government has indicated that further warrants will be issued over the next few weeks.

The issuing of so many execution warrants is placing a severe strain on Trinidad and Tobago lawyers, who represent prisoners under sentence of death free of charge after their direct appeals have been exhausted, and who sometimes have to spend thousands of dollars for official transcripts and other expenses. There is a serious fear that if more execution warrants are issued, volunteer lawyers will be unable to cope with them and some prisoners may be executed without having a chance to pursue all legal avenues which could save their lives.

The first of the five warrants were issued on Thursday, 5 November 1992, setting execution dates for the following Tuesday, 10 November, in the cases of three prisoners: Gayman Jurisingh and Faizal Mohammed, sentenced to death in 1982, and Peter Matthews, sentenced in 1984. In the cases of Gayman Jurisingh and Faizal Mohammed, warrants were issued despite the recommendation of a Commission of Inquiry into Capital Punishment in Trinidad and Tobago (the Prescott Commission) in 1990 that prisoners under sentence of death for more than ten years should have their sentences commuted to life imprisonment. This recommendation was accepted by the government in public statements made in 1990 but has reportedly been rescinded by the present government, which came to power in 1991. The third prisoner, Peter Matthews, was sentenced in 1984. Appeals in all three cases, to the Trinidad Court of Appeals and to the Judicial Committee of the Privy Council in London (the final appeal court for Trinidad and Tobago), were dismissed some years ago.

Stays of execution were granted after lawyers filed an emergency motion in the High Court arguing that the prisoners' constitutional rights would be violated if the executions were carried out. The motion was dismissed on 11 November 1992 and an appeal was immediately submitted. The hearing of the appeal is expected to end this week, with judgment reserved. The constitutional motion argues that the carrying out of executions after such a prolonged delay after the prisoners had exhausted their legal appeals would be a violation of due process, and that such delay is itself "cruel and unusual" punishment in violation of the Trinidad and Tobago Constitution. It is additionally argued that the previous

government's acceptance of the Prescott Commission's recommendations on commutation of death sentences had created a "legitimate expectation" on the part of Gayman Jurisingh and Faizal Mohammed that their sentences would be commuted.

While the appeal was still being heard, two more death warrants were issued in the cases of Brian Francois and Lal Seeratan, setting execution dates for 8 December 1992. The prisoners - who were sentenced to death in 1986 and whose final appeals were dismissed in 1988 - were also granted stays after lawyers argued that the same constitutional claims applied in their cases. However, the present government has made it clear that further execution warrants will be issued and that blanket stays will not be granted pending the motion currently before the court in the above cases.

The expedited procedures used in the above cases have placed great pressures on the lawyers concerned. In the past, constitutional motions have been heard two or three months after a stay of execution has been granted. However, the High Court judge in this instance insisted on hearing the motion on 9 November 1992, on the day before the first executions were scheduled to be carried out. The hearing continued from 9am until 10pm over each of the next three days, despite requests for an adjournment from the lawyers to allow them time to prepare the case. It was apparent that the High Court itself was anxious to expedite the proceedings so as not to delay the executions.

Background

The last hangings in Trinidad and Tobago took place in 1979, although the death penalty remains mandatory for murder. There are currently 108 prisoners under sentence of death.

In 1987 the Trinidad and Tobago High Court annulled the death sentences of two prisoners on the ground that the prolonged incarceration on death row in conditions of "appalling barbarity", and the issuing of execution warrants in December 1985 with only 24 hours notice, constituted "cruel and unusual" treatment or punishment in violation of the Constitution. Although providing legal authority in the present appeals, the ruling is not binding on the Court of Appeal in the present cases .

The death penalty has been the subject of recurrent debate in Trinidad and Tobago over the past decade. A commission of inquiry in 1980 recommended reducing the scope of the death penalty; however the recommendations were not implemented. In 1984 a coalition backed by more than 40 national organizations, including churches and trade unions, petitioned the government to abolish the death penalty and commute the sentences of those then on death row to life imprisonment. The latest study is by the Prescott Commission, which submitted its report to the President in 1990. Amnesty International has welcomed the commission's recommendation that the government commute long-standing death sentences

but remains concerned that it did not recommend abolishing the death penalty, despite considerable evidence submitted to it by Amnesty International and other organizations.

The resumption of executions would be contrary to the spirit of international human rights treaties which encourage governments to restrict their use of the death penalty with a view to abolition. Trinidad and Tobago has ratified the International Covenant on Civil and Political Rights (ICCPR), article 6 of which states *inter alia* that "Nothing in this article shall be invoked to delay or prevent the abolition of capital punishment by any State Party...". Further measures favouring abolition have since been adopted by the international community, including a Second Optional Protocol to the ICCPR and a Protocol to the American Convention on Human Rights to Abolish the Death Penalty.

Abolition of the death penalty is being increasingly adopted by countries throughout the world. In the last three years the Czech and Slovak Federal Republic, Hungary, Ireland, Mozambique, Namibia, Andorra, Sao Tomé and Príncipe, and Switzerland have totally abolished the death penalty, while Nepal abolished it for murder. South Africa has suspended all executions since February 1990 while a new constitution is being drafted. Paraguay abolished the death penalty for ordinary crimes in June 1992.

The move to resume executions in Trinidad and Tobago is out of line not only with world trends, but also within the Caribbean region, where executions have become increasingly rare. The death penalty was abolished in Anguilla, Cayman Islands, Montserrat, Turks and Caicos and the Virgin Islands in May 1991. There have been no executions since 1991 in the English-speaking Caribbean and none for more than five years in most countries of the region. Jamaica has recently passed legislation to narrow the death penalty. In Grenada, the death sentences of all prisoners who had exhausted their appeals were commuted in 1991, a move which was welcomed by churches, human rights groups and others around the world.

Amnesty International opposes 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, as proclaimed in the Universal Declaration of Human Rights.