

TABLE OF CONTENTS

Introduction.....	1
1. The death penalty violates human rights	2
2. Death penalty applied in violation of international law	3
3. Executing the innocent.....	5
4. No deterrent	6
5. A cruel punishment	7
6. Momentum towards worldwide abolition of the death penalty	8
7. The call for a global moratorium on executions	11
8. Amnesty International's urgent call on all UN Member States.....	11

Global moratorium on executions now

"I recognize the growing trend in international law and in national practice towards a phasing out of the death penalty", UN Secretary-General Ban Ki-moon.

Introduction

A resolution calling for a global moratorium on executions will be introduced at the United Nations General Assembly (UNGA) 62nd session which begins on 18 September 2007. The adoption of such a resolution by the UN's principal organ would be an important milestone towards the abolition of the death penalty.

The High Commissioner for Human Rights, Louise Arbour called the death penalty "... a sanction that should have no place in any society that claims to value human rights and the inviolability of the person". She recently praised Rwanda's decision to abolish the death penalty as demonstrating leadership by action especially noting this is a country that "has suffered the ultimate crime and whose people's thirst for justice is still far from quenched".¹

The death penalty legitimizes an irreversible act of violence by the state. The death penalty is discriminatory and is often used disproportionately against the poor, minorities and members of racial, ethnic and religious communities. The death penalty is often imposed after a grossly unfair trial. But even when trials respect international standards of fairness, the risk of executing the innocent can never be fully eliminated: the death penalty will inevitably claim innocent victims, as has been persistently demonstrated.²

Many governments have recognized that the death penalty cannot be reconciled with respect of human rights. As a result, an increasing number of countries across the world have abolished the death penalty in their national legislations.

UN Secretary-General Ban Ki-moon emphasized shortly after assuming office on 11 January 2007: "I believe that life is precious and must be protected and respected, and that all human beings have the right to live in dignity. International law affirms these values. I recognize the growing trend in international law and in national practice towards a phasing out of the death penalty".³

Indeed, a momentum is gathering to end capital punishment in all countries: 130 countries, from all regions of the world, have abolished the death penalty in law or in practice and only

¹ See

<http://www.unhchr.ch/hurricane/hurricane.nsf/view01/808937DA7F016C05C1257325002FA718?opendocument>, 27 June 2007.

² Amnesty International opposes the death penalty in all cases and without exception, believing it to be a violation of the right to life and not to be subjected to cruel, inhuman and degrading treatment or punishment.

³ See <http://www.un.org/apps/sg/sgstats.asp?nid=2407>

25 countries carried out executions in 2006. Amnesty International (AI)'s statistics also show a significant, overall decline in the number of reported executions in 2006.

Many governments from all regions have done more than abolish capital punishment in their own legal systems by leading and supporting international initiatives to achieve worldwide abolition of the death penalty. In 2005, for example, the former UN Commission on Human Rights adopted a resolution on the question of the death penalty which called upon all states that still maintain it to abolish capital punishment "completely and, in the meantime, to establish a moratorium on executions".⁴ More recently, 95 states signed or joined a statement presented at the UNGA 61st session on 19 December 2006 "calling upon states that still maintain the death penalty to abolish it completely and, in the meantime, to establish a moratorium on executions."⁵

AI urges the UNGA to adopt a resolution calling for a global moratorium on executions and requests all states to support this important initiative.

This document outlines why the death penalty violates the right to life and not to be subjected to cruel, inhuman and degrading treatment or punishment as well as some recent developments towards abolition of the death penalty. It also addresses the efforts made by the international community towards a global moratorium on executions that aims to achieve worldwide abolition of capital punishment.

1. *The death penalty violates human rights*

The right to life and the right not to be subjected to cruel, inhuman and degrading treatment or punishment are recognized in the Universal Declaration of Human Rights, other international human rights instruments and many national constitutions. AI believes that the death penalty violates these rights.

The community of states has adopted four international treaties providing for the abolition of the death penalty, namely the *Second Optional Protocol to the International Covenant on Civil and Political Rights*, aiming at the abolition of the death penalty, adopted by the UN General Assembly in 1989; *Protocols No. 6 and No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms* (European Convention on Human Rights), adopted by the Council of Europe in 1982 and 2002 respectively; and the *Protocol to the American Convention on Human Rights to Abolish the Death Penalty*, adopted by the General Assembly of the Organization of American States in 1990.

In General Comment No. 6 on Article 6 of the International Covenant on Civil and Political Rights, the (UN) Human Rights Committee has stated that Article 6 "refers generally to abolition [of the death penalty] in terms which strongly suggest... that abolition is desirable.

⁴ See UN Commission on Human Rights, resolution 2005/59, adopted on 20 April 2005.

⁵ A/61/PV.81. See

<http://daccessdds.un.org/doc/UNDOC/GEN/N06/669/66/PDF/N0666966.pdf?OpenElement>

The Committee concludes that all measures of abolition should be considered as progress in the enjoyment of the right to life...”⁶

The Rome Statute of the International Criminal Court (ICC), which has been ratified or acceded to by 105 states, excludes the death penalty from the punishments which that Court is authorized to impose, even though the ICC has jurisdiction over extremely grave crimes such as crimes against humanity, genocide and war crimes. The same is also true for the International Criminal Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda, the Special Court for Sierra Leone, the Special Panels for Serious Crimes in Dili, Timor-Leste, and the Extraordinary Chambers in the Courts of Cambodia.

2. Death penalty applied in violation of international law

Amnesty International continues to document how the death penalty is imposed and applied in violation of existing norms of international human rights law, which prohibit the execution of child offenders⁷ and of the mentally ill, as well as executions after unfair trials.

A handful of states continue to execute child offenders. In Iran two child offenders -- Mohammad Mousavi and Sa'id Qanbar Zahi -- were executed this year.⁸

In Pakistan the Juvenile Justice System Ordinance 2000 abolished the death penalty for people under 18 years old at the time of the offence, except in the Federally Administered Tribal Areas (FATA) and provincially administered tribal areas of Baluchistan province, where this law does not apply. On 13 June 2006 Mutabar Khan was executed in Pakistan. He was believed to be 16 years old at the time of an alleged murder in 1996 but could not benefit from the presidential Commutation Order 2001 as he could not prove his age.

In Saudi Arabia, Dhahian Rakan al-Sibai'I was beheaded on 21 July 2007 for a murder he allegedly committed when he was just 15 years old.⁹

The United States of America continues to pass death sentences on, and execute the mentally ill. In a decision issued on 28 June 2007, the United States Supreme Court blocked the execution of Scott Panetti, a Texas death row inmate who suffers from severe delusions. The ruling more clearly defined the standard to determine whether a prisoner is legally insane. In doing so, the court also recognized how difficult it is to make such a determination.¹⁰ On 27 June 2006 Angel Maturino Reséndiz was executed in Texas. The execution went ahead despite compelling evidence that Angel Maturino Reséndiz suffered from serious mental illness, including paranoid schizophrenia.

⁶ (UN) Human Right Committee, General Comment No. 6. See link:

[http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/84ab9690ccd81fc7c12563ed0046fae3?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/84ab9690ccd81fc7c12563ed0046fae3?Opendocument)

⁷ Those that committed a crime under the age of 18.

⁸ See Amnesty International, *Iran: the last executioner of children*, AI Index: MDE 13/059/2007.

⁹ See Amnesty International, *Saudi Arabia: Juvenile offender beheaded*, AI Index: MDE 23/031/2007

¹⁰ See Amnesty International, *USA: Supreme Court tightens standard on 'competence' for execution*, AI Index: AMR 51/114/2007.

As documented by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, the death penalty is often imposed and carried out after unfair trials, where the most basic human rights of the defendants are violated, including the right to be presumed innocent, the right to be represented by legal counsel, the right to be tried by an independent and impartial court, the right to appeal to a higher tribunal and the right to petition for clemency or commutation of the death sentence. In some jurisdictions, death penalty cases are heard before special or military courts using summary procedures. Often confessions and other evidence elicited under torture are admitted as evidence in court proceedings that resulted in the imposition of the death penalty.¹¹

In China, many executions take place after grossly unfair trials. For example, Xu Shuangfu, the leader of an unofficial Protestant group called "Three Grades of Servants", was executed along with 11 others in November 2006 after being convicted of murdering 20 members of another group, "Eastern Lightning", in 2003-2004. Xu Shuangfu reportedly claimed that he had confessed under torture during police interrogation and that the torture had included beatings with heavy chains and sticks, electric shocks to the toes, fingers and genitals and forced injection of hot pepper, gasoline and ginger into the nose. Both the first instance and appeal courts refused to allow his lawyers to introduce these allegations as evidence in his defence.¹²

Egypt continues to sentence people to death after unfair judicial processes that fall far short of international standards, including the right to appeal to a higher court. Muhammed Gayiz Sabbah, Usama 'Abd al-Ghani al-Nakhlawi and Yunis Muhammed Abu Gareer, convicted of terrorist offences after a grossly unfair trial are facing imminent execution in Egypt. They were tried before the (Emergency) Supreme State Security Court in Ismailia in connection with a series of bomb attacks in Taba and elsewhere on the Sinai Peninsula in October 2004. The emergency court sentenced the three men to death in November 2006. The African Commission on Human and Peoples' Rights has called for a stay of the executions.¹³

In Iraq, since the death penalty was reinstated in mid-2004, more than 270 people have been sentenced to death and at least 100 people have reportedly been executed, after trials that do not meet internationally recognized standards of fairness.¹⁴ In a statement on 15 January 2007, expressing regret over the execution in Baghdad of Awad Hamad Al-Bandar and Barzan Ibrahim Al-Hassan, the UN High Commissioner for Human Rights stated that "the imposition

¹¹ For the reports of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, please see: <http://www.ohchr.org/english/issues/executions/index.htm> For Amnesty International's reports on the death penalty, please see: <http://web.amnesty.org/pages/deathpenalty-index-eng>

¹² For further information see People's Republic of China: The Olympics countdown – repression of activists overshadows death penalty and media reforms, AI Index ASA 17/015/2007, published in April 2007.

¹³ See Amnesty International, *Egypt: executions imminent after unfair trials*, AI Index: MDE 12/020/2007.

¹⁴ See Amnesty International, *Unjust and unfair: the death penalty in Iraq*, AI Index: MDE 14/014/2007.

of the death penalty after a trial and appeal proceedings that do not respect the principles of due process amounts to a violation of the right to life".¹⁵

In Saudi Arabia defendants are sentenced to death after trials with no legal representation. For example, three foreign nationals, Halemma Nissa Cader (Sri Lankan), Naushad (Indian) and KMS Bandaranaike (Sri Lankan), were sentenced to death for their part in an armed robbery, during which they allegedly killed a woman. They have had no legal assistance at any time and are believed to have confessed under duress. In July 2007, their case was reportedly going to appeal, but still without any legal assistance. Appeals are heard in secret. These individuals are at risk of imminent execution if their sentences are upheld.

3. Executing the innocent

Whenever the death penalty is used, there is a grave risk that individuals are executed for crimes they did not commit. Prisoners have been executed despite strong doubts about their guilt. Others have been freed after re-examination of their cases showed they had been wrongly convicted. However, death sentences are extremely difficult to reverse as appellate courts will often not consider new evidence, confining themselves only to points of law. It is impossible to determine how many innocent people have been put to death, as judicial reviews or investigations into possible error rarely occur after execution.

In the United States of America, since 1973 124 people condemned to death have been released because they were found to be innocent or their convictions rested on insufficient evidence against them. Some of them had come close to execution after years on death row. These repeated errors in death penalty cases have been especially due to irregularities committed by prosecution or police officers, recourse to unreliable evidence, or incompetence on the part of defence lawyers.¹⁶

In 1981, Edmary Mpagi was arrested for robbery and murder in his family village in Uganda. Condemned to death at this trial, Mr Mpagi spent 18 years in the Luzira Upper Prison, waiting for execution. Mr Mpagi's family reported that the man he had allegedly killed was still alive and they campaigned for Mr Mpagi's release. In July 2000, after 18 years on death row, Mr Mpagi was released after a decision by a Presidential committee.

In Japan, Menda Sakae and three other men were sentenced to death on separate charges in separate trials, but were released during the 80s after it was established they were falsely accused and that "confessions" extracted under torture were used as evidence in the trials.

¹⁵ See link:

<http://www.unhchr.ch/hurricane/hurricane.nsf/view01/76B41F40CD620DFAC1257264005D9A00?openDocument>

¹⁶ See

http://www.amnestyusa.org/Fact_Sheets/The_Death_Penalty_Claims_Innocent_Lives/page.do?id=1101086&n1=3&n2=28&n3=99

Menda Sakae was acquitted in 1983 having spent 34 years on death row; during this time he had applied for retrial six times before his application was accepted.¹⁷

In China, She Xianglin and Teng Xingshan were both convicted of the murder of their wives and sentenced to death in 1994 and 1987 respectively. Both were sentenced to death despite pleas of innocence and allegations that they had confessed under torture. In both cases, the alleged murder victims reappeared several years later. She Xianglin was released after 11 years in prison in 2005 and officially cleared of all charges. Teng Xingshan had already been executed in 1989.¹⁸

In some cases, official acknowledgement that a state has executed an innocent person takes decades. In January 2007 eight pro-democracy activists in South Korea were posthumously acquitted of treason charges, more than 30 years after they were hanged in 1975. The Seoul Central District Court found them not guilty of forming an underground party aiming to overthrow the authoritarian government of then President Park Chung-hee.

4. No deterrent

In 1996, President Nelson Mandela said:

*"It is not because the death sentence has been scrapped that crime has reached such unacceptable levels. Even if the death sentence is brought back, crime itself will remain as it is. What is required here is that the security forces must do their work and we are busy to ensure that the security forces have the capacity to deliver services, safety to the community. That is the issue, not the death sentence."*¹⁹

There is no valid scientific evidence to support that the death penalty deters crime more effectively than other punishments. The most recent survey of research findings on the relation between the death penalty and homicide rates, conducted for the UN in 1988 and updated in 1996 and 2002, concluded: "...research has failed to provide scientific proof that executions have a greater deterrent effect than life imprisonment. Such proof is unlikely to be forthcoming. The evidence as a whole still gives no positive support to the deterrent hypothesis."²⁰

In the USA and Canada evidence does not show that violent crime increases in the absence of the death penalty. For example, in 2004 in the USA, the average murder rate for states that used the death penalty was 5.71 per 100,000 of the population, but in states without capital punishment the murder rate was only 4.02 per 100,000. Furthermore, in Canada, in 2006, 30

¹⁷ See Amnesty International, *"Will this day be my last?" The death penalty in Japan*, AI Index: ASA 22/006/2006.

¹⁸ See Amnesty International, *People's Republic of China The Olympics countdown – failing to keep human rights promises*, AI Index: ASA 17/046/2006.

¹⁹ *Voice of America*, 9 September 1996.

²⁰ Roger Hood, *The Death Penalty: A Worldwide Perspective*, Oxford University Press, 2002.

years after the abolition of the death penalty, the murder rate had fallen by 44 per cent from the levels in 1975 – before the death penalty was abolished.

The best deterrent to violent crime lies in guaranteeing a high chance of capture and conviction. This assertion, supported by various research studies, was clearly stated by the Constitutional Court of South Africa:

"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 lacking in our criminal justice system."²¹

All too often politicians have found the death penalty a useful tool in appearing to address crime and make the public feel safe. In reality, the death penalty has no such effect and simply distracts from the need to address the causes of crime and providing effective remedies.

5. A cruel punishment

Every execution is a brutal act that dehumanises those that carry it out and devalues the worth that society places upon human life.

On 30 December 2006, Iraq's former President Saddam Hussein was hanged, after a trial that failed to meet international fair trial standards. Silent film of the execution up to the moment before the hanging was officially released by the Iraqi authorities. However, further images, illicitly recorded, were then made available. These showed prison guards taunting Saddam Hussein and details of the execution until the moment the trap door opened. The executions of Saddam Hussein and his co-accused provoked wide international condemnation.

In Kuwait, Sri Lankan national Sanjaya Rowan Kumara was executed in November 2006. Initially declared dead immediately after the hanging, Sanjaya Rowan Kumara was taken to the morgue where medical staff noticed he was still moving. According to newspaper reports, further examinations found a weak heartbeat. He was eventually pronounced dead five hours after the execution had begun.

In Iran, stoning is the punishment prescribed for adultery. Despite a reported moratorium on stoning ordered by the Head of the Judiciary in 2002, on 5 July 2007, Ja'far Kiani (m) was stoned to death in a village near Takestan, Qazvin province. A judiciary spokesperson later confirmed that the stoning had taken place. Stoning itself is calculated to cause maximum distress: the size of the stones is selected so as to cause a slow and painful death.

In Somalia, Omar Hussein was publicly executed in May 2006. He was hooded, tied to a stake and stabbed to death by the 16-year-old son of the man whom he had admitted stabbing

²¹ Statement made by the Constitutional Court of South Africa, when abolishing the death penalty as unconstitutional in 1995.

to death in February. Omar Hussein had been sentenced to death hours earlier by a Shari'a court with no right to legal representation or appeal.

In the United States of America, the authorities have continually sought to make executions more acceptable via changes of methods from hanging, to firing squad, gas chamber and electrocution before finally settling upon lethal injection.

Angel Diaz was executed by lethal injection in December 2007. After the first injection was administered, Diaz continued to move, and was squinting and grimacing as he tried to mouth words. A second dose was then administered and 34 minutes passed before death was declared. After performing an autopsy, the Medical Examiner stated that the needle had gone through a vein and out the other side, so the deadly chemicals were injected into soft tissue, rather than the vein. Two days after the execution, Governor Jeb Bush suspended all executions in the state and appointed a commission "to consider the humanity and constitutionality of lethal injections". Such is the concern about executions by lethal injection that many US states have currently suspended executions to allow the issue to be examined.²²

The death penalty is a unique form of cruel punishment: apart from the cruelty of the execution itself, it involves the cruelty of being forced to wait on death row -- often for many years -- contemplating execution.

6. *Momentum towards worldwide abolition of the death penalty*

On 27 July this year Rwanda became the latest country to abolish the death penalty in law. Fewer states than ever now carry out executions: in 2006, only 25 countries carried out executions and 91 percent of all known executions took place in six countries: China, Iran, Iraq, Pakistan, Sudan and the USA. The latest quinquennial report of the UN Secretary-General concludes that: "the rate at which countries have embraced abolition has proceeded at a steady pace".²³ This trend has been reaffirmed by the UN Secretary-General, Ban Ki-moon, who, in his report to the 4th session of the Human Rights Council in March 2007, concluded that "the trend towards abolition and restriction in the application of the death penalty has continued".²⁴ Similarly, the High Commissioner for Human Rights found: "there is a current and continuing trend towards abolition, suspension or the imposition of moratoria on executions."²⁵

²² For an overview of the imposition of the death penalty in 2006, including the cases mentioned in this section, see Amnesty International, *Death Penalty – Stop the state killings*, AI Index: ACT 50/011/2007.

²³ E/2005/3, paragraph 40

²⁴ See A/HRC/4/78, paragraph 20 (see link: <http://daccessdds.un.org/doc/UNDOC/GEN/G07/107/95/PDF/G0710795.pdf?OpenElement>)

²⁵ See A/HRC/4/49, paragraph 60 (see link: <http://daccessdds.un.org/doc/UNDOC/GEN/G07/111/39/PDF/G0711139.pdf?OpenElement>)

In 1977, just 16 countries had abolished the death penalty for all crimes. Today, that figure stands at 90. Eleven other countries have abolished the death penalty for ordinary crimes and retain the death penalty only for exceptional crimes such as crimes under military law or crimes committed in wartime. A further 29 countries can be considered “abolitionist in practice” as they have not carried out an execution for at least 10 years or have made an international commitment not to use the death penalty. This brings the total number of countries that have abolished the death penalty in law or practice to 130 out of 192 UN member states. Indeed, over the past decade more than three countries a year on average have abolished the death penalty in law or - having abolished it for ordinary crimes - have taken the further step to abolish it for all crimes. Moreover, once abolished, the death penalty is seldom reintroduced.²⁶

This trend can be seen in all regions in the world. In Central Asia, there is a clear move towards abolition. Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan retained the death penalty when they gained independence in 1991. However, by August 2007 Kyrgyzstan and Turkmenistan had abolished the death penalty in law. Kazakhstan has a moratorium on executions and Tajikistan has moratoria on executions and death sentences. Uzbekistan is also taking steps towards abolition. On 1 August 2005 President Islam Karimov signed a decree stipulating the abolition of the death penalty in Uzbekistan from 1 January 2008. In June 2007 the Uzbekistani Senate passed amendments to the criminal and criminal procedure codes replacing the death penalty with life imprisonment.

Europe is a virtually death penalty-free area, the only exception being Belarus.

The continent of Africa is largely free of executions with only six of the region’s 53 countries known to have carried out executions in 2006. According to AI’s information, 14 countries in Africa are abolitionist in law and a further 17 in practice.

In Burundi, proposals for the new revised Penal Code, currently being considered in Parliament, exclude the death penalty as punishment. Other positive developments in Africa include Malawi where, in April, the High Court declared the mandatory death penalty unconstitutional. In Ghana the Minister of Interior, Mr. Albert Kandapaah, reportedly announced in March 2007 the commutation of 36 death sentences to life imprisonment. In August 2006 President Jakaya Kikwete commuted all death sentences on mainland Tanzania to life imprisonment. In Sierra Leone President Kabbah announced on 11 December 2006 that the death penalty would not be used during his time in office.

With the abolition of the death penalty in the Philippines in June 2006, the total number of countries that have now abolished the death penalty in law or practice in the Asia Pacific region has reached 25. In South Korea, there have been no executions since 1998 and a Death Penalty Abolition Bill is under consideration.

Earlier this year, China introduced Supreme Court review for all death sentences. The Chinese representative at the UN Human Rights Council’s 4th session, in March 2007, stated

²⁶ For Amnesty International facts and statistics on the death penalty, see link: <http://web.amnesty.org/pages/deathpenalty-statistics-eng>

that "..., we are seeking to limit the application of the death penalty in China. I am confident that with the development and progress in my country, the application of the death penalty will be further reduced and it will finally be abolished."²⁷

The Americas are almost free of executions. Since 2003, only the United States of America continues to execute on a regular basis. The only other countries to have carried out executions this century are Cuba in 2003, Guatemala in 2001 and the Bahamas in 2000. Although the 10 countries of the English speaking Caribbean retain the death penalty in law, there remains a hiatus on executions. Central and South America are virtually death penalty free, with only Guatemala, Belize and Guyana retaining the death penalty.²⁸

The United States of America is slowly turning against the death penalty. In February 2007, the Montana Senate voted to abolish the death penalty. There is strong public support for a moratorium on executions in the state of North Carolina where almost 40 local governments and more than 40,000 people have signed a moratorium petition. In New York, the state's highest court in 2004 found the state's death penalty statute unconstitutional. In New Jersey in 2006, the legislature imposed a moratorium on executions and established a commission to study all aspects of the death penalty in that state. In its final report in January 2007, the commission recommended abolition of the death penalty.²⁹

The above figures and examples demonstrate that there is a real momentum to end capital punishment in all regions in the world. This trend is further supported by the increased ratification of international and regional treaties providing for the abolition of the death penalty.³⁰

This trend towards abolition of the death penalty is also reflected in the appeal by 14 Nobel Prize laureates and other prominent personalities from all regions of the world, who asked the UNGA to establish "a universal moratorium on executions with a view to total abolition."³¹

²⁷ A record of the meeting is available at:

[http://www.unog.ch/80256EDD006B9C2E/\(httpNewsByYear_en\)/B0ACE4B6EF0F09BDC125729C00427038?OpenDocument](http://www.unog.ch/80256EDD006B9C2E/(httpNewsByYear_en)/B0ACE4B6EF0F09BDC125729C00427038?OpenDocument)

²⁸ Although some other countries, such as Peru and Argentina, have laws that allow for the imposition of the death penalty for 'exceptional' crimes (such as treason or crimes during times of war) none have carried out executions in the recent past.

²⁹ See Amnesty International, *The Death Penalty, Questions and Answers*, AI Index: ACT 50/010/2007.

³⁰ As of 30 July 2007, there are 61 states parties to the Second Optional Protocol to the International Covenant on Civil and Political Rights and a further eight states have signed it; there are eight parties and two signatures to the Protocol to the American Convention on Human Rights to Abolish the Death Penalty; 46 parties and one signature to Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty; and 39 parties and six signatures to Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty in all circumstances.

³¹ See Hands of Cain website: <http://www.handsofcain.info/chisiamo/index.php?iditema=20079>

7. The call for a global moratorium on executions

In light of the growing concerns about the application of the death penalty and of the momentum towards abolition, various international and regional intergovernmental bodies have recommended establishing a worldwide moratorium on executions as a step towards abolition of capital punishment.

From 1997 to 2005, the former UN Commission on Human Rights adopted an annual resolution on the question of the death penalty calling, *inter alia*, upon all states that still maintained the death penalty to establish a moratorium on executions.

At its 26th Ordinary Session, held in Kigali (Rwanda) in November 1999, the African Commission on Human and Peoples' Rights called on all states in Africa that still maintain the death penalty "to consider establishing a moratorium on executions of death penalty".³²

The Protocol to the American Convention on Human Rights to Abolish the Death Penalty, adopted on 8 June 1990 by the Organization of American States, states in paragraph 3 of the preamble that "the tendency among the American States is to be in favour of abolition of the death penalty". This is in line with the declaration submitted by 14 out of the 19 delegations present at the Specialized Inter-American Conference on Human Rights that adopted the American Convention on Human Rights on 22 November 1969, which states: the "undersigned delegations [...] solemnly declare our firm hope of seeing the application of the death penalty eradicated from the American environment [...] and place America once again in the vanguard of the defense of the fundamental rights of man".³³

In resolution 1560 (2007), adopted on 26 June 2007, the Parliamentary Assembly of the Council of Europe welcomed the current initiative for a global moratorium on executions at the UN General Assembly this year. It further stated that "a moratorium on executions is but one step in the right direction, the ultimate goal remaining the complete abolition of the death penalty in all circumstances".³⁴

8. Amnesty International's urgent call on all UN Member States

The UNGA has taken important steps towards abolition and to limit the death penalty over many years. In 1977 the UNGA reaffirmed, in resolution 32/61, that the "main objective to be pursued in the field of capital punishment is that of progressively restricting the number of offences for which the death penalty may be imposed with a view to the desirability of abolishing this punishment". The UNGA has adopted standards to limit the application of the death penalty and safeguards to protect the rights of those facing capital punishment,

³² See

http://www.achpr.org/english/doc_target/documentation.html?../resolutions/resolution47_en.html

³³ See OEA/Ser. K/XVI/1.2. The governments' delegations that signed the above mentioned declaration were: Argentina, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Paraguay, Uruguay and Venezuela.

³⁴ See above.

including by adopting the Second Optional Protocol to the International Covenant on Civil and Political Rights and endorsing the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty.

The UNGA has also adopted resolutions calling on governments not to proceed with executions and to commute death sentences of particular individuals.³⁵

Since the UNGA adopted resolution 32/61, 30 years ago, the world has moved steadily towards abolition of the death penalty, with a commitment which is reflected in the decisions of intergovernmental bodies mentioned above. A resolution at the UNGA 62nd session calling for a moratorium on executions with a view to abolition would be an important milestone towards achieving this objective. Such a resolution by the UN's principal organ consisting of all UN member states would constitute a powerful and timely reassertion of member states' commitment to work towards abolition of the death penalty. The adoption of a resolution by the UNGA would not in itself prevent a state from imposing death sentences or carrying out executions. However, the authority carried by a resolution of the UN's principal organ of universal membership would make it more difficult for states that retain the death penalty to carry on executing prisoners and would pave the way for worldwide abolition.

AI urges all UN member states to co-sponsor and vote in favour of the proposed UNGA resolution calling for a global moratorium on executions. AI believes that such a resolution must include the following elements:

- Affirming the right to life and stating that abolition of the death penalty is essential for the protection of human rights;
- Calling on retentionist states to establish a moratorium on executions as a first step towards abolition of the death penalty;
- Calling on retentionist states to respect international standards that guarantee the protection of the rights of those facing the death penalty; and
- Requesting the UN Secretary-General to report on the implementation of the moratorium to the next session of the UNGA.

³⁵ See, for example, A/RES/37/1, Appeal for clemency in favour of South African Freedom Fighters; A/RES/37/68, Further appeal for clemency in favour of South African freedom fighters; A/RES/44/1 Death sentence passed on a South African patriot.