



IOR 40/7053/2017
04 September 2017

The Human Rights Council must act to ensure respect of international obligations and protection of the right to life

Written statement to the 36th regular session of the UN Human Rights Council (11 – 29 September 2017)

Amnesty International welcomes the recent abolition of the death penalty in Benin, Mongolia and Nauru. These countries set a positive example of the human rights change that can be achieved when there is the political will on the part of the authorities to lead the country in that direction. Amnesty International welcomes steps taken by several other states to remove this punishment. In Guinea, for example, a revised Criminal Code abolished the death penalty for ordinary crimes in October 2016.

However, Amnesty International is concerned about the use of the death penalty in the minority of states that still resorts to it and wishes to draw the attention of the UN Human Rights Council to a number of serious violations of international human rights law and standards often associated with it, including in States that have undertaken voluntary commitments by ratifying international treaties. Amnesty International calls on the Council to respond robustly where such violations occur.

The death penalty is in many cases imposed: in proceedings in which the right to a fair trial is violated, including where defendants have been subjected to torture or other ill-treatment to extract “confessions” which are often used as basis to convict them; on people who were below 18 years of age when the crime was committed; or on people or who have mental or intellectual disabilities. In some countries, it is imposed for offences that do not meet the threshold of the “most serious crimes,” to which it must be restricted under international law,¹ and is often imposed as a mandatory punishment. Amnesty International has repeatedly expressed concern about the secrecy that surrounds the use of the death penalty in a number of countries, and remains alarmed at how those from vulnerable socio-economic backgrounds are at greater disadvantage in

¹ Article 37(a) of the Convention on the Rights of the Child and Article 6(2) of the International Covenant on Civil and Political Rights; Safeguards guaranteeing protection of the rights of those facing the death penalty, adopted by the UN Economic and Social Council in resolution 1984/50 of 25 May 1984. See also Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, UN doc. A/67/275, 9 August 2012, para. 35.

their experience of criminal justice systems around the world.

Developments in recent weeks have showed that some states completely disregard their international law obligations in this context. This calls for international condemnation and action.

THE APPLICATION OF DEATH PENALTY ON PERSONS BELOW 18 YEARS OF AGE AT TIME OF CRIME

One of the clearest restrictions set out under international customary and treaty law is the prohibition on the use of the death penalty for offences committed when the persons were below 18 years of age. A number of states continues to disregard these international law obligations. Amnesty International has expressed concern in recent months as a number of States parties to the Convention on the Rights of the Child (CRC) and other treaties, which explicitly prohibit the use of the death penalty against juveniles, have executed – or scheduled for execution – teenagers and young men who were children when the crime was committed.

On 10 August 2017 the **Islamic Republic of Iran**, a State Party to the CRC, executed Alireza Tajiki, who was just 15 at the time of his arrest and had been convicted following an unfair trial, during which the court relied on a forced “confessions” Alireza Tajiki said was obtained after he was tortured.² Another man –who was also below 18 at the time of the crime– came close to being hanged just a week later.³ This year at least four other individuals who were under the age of 18 at the time of the crime were scheduled to be executed on several occasions, with e postponements occurring after international pressure. Amnesty International has received credible reports that two individuals arrested as children were executed in 2016 and at least three others in the first five months of 2017, bringing the total number of such executions to four this year.⁴ As of August 2017, at least 92 people remain on death row for crimes committed when they were below 18 years old.

Individuals who were younger than 18 at crime are at imminent risk of execution in **Saudi Arabia**, also State Party to the CRC. Abdulkareem al-Hawaj, a young Shi’a Muslim man, had his death sentence upheld on 10 July after he was convicted a year earlier in an unfair trial for his alleged involvement in anti-government protests in 2012, when he was aged 16.⁵ Three others remain on death row awaiting execution, and have said that they were tortured to “confess”: Abdullah Hasan al-Zaher, Ali Mohammed Baqir al-Nimr and Dawood Hussein al-Marhoon were arrested for offences said to have been committed when they were 16, 17 and 16 years old.⁶

Amnesty International believes that individuals who were below 18 years old when the crime was committed remain on death row in **Bangladesh, Maldives, Nigeria, Pakistan and Papua New Guinea**,⁷ all of which are States parties to the CRC and other

² Amnesty International, Iran: Shameful execution of man arrested at 15, 10 August 2017, available at <https://www.amnesty.org/en/latest/news/2017/08/iran-shameful-execution-of-man-arrested-at-15/>.

³ Amnesty International, “Iran: Scheduled execution of man arrested as teenager is an all-out assault on children’s rights”, 10 August 2017, available at <https://www.amnesty.org/en/latest/news/2017/08/iran-scheduled-execution-of-man-arrested-as-teenager-is-an-all-out-assault-on-childrens-rights/>

⁴ Amnesty International, “Death sentences and executions in 2016” (<https://www.amnesty.org/en/documents/act50/5740/2017/en/>), April 2017, p.6. See also Amnesty International “Growing up on death row: The death penalty and juvenile offenders in Iran” (https://www.amnestyusa.org/wp-content/uploads/2017/04/growing_up_on_death_row_-_the_death_penalty_and_juvenile_offenders_in_iran_final.pdf), January 2016.

⁵ Amnesty International, “Saudi Arabia -Further information: Juvenile offender’s death sentence upheld: Abdulkareem Al-Hawaj”,(MDE 23/6744/2017), 17 July 2017, available at <https://www.amnesty.org/en/documents/mde23/6744/2017/en/>

⁶ Amnesty International, “Saudi Arabia: Death penalty for juvenile activist: Ali Mohammed Baqir al-Nimr”(MDE 23/014/2014), 3 June 2014; and “Saudi Arabia: juvenile offenders risk executions” (MDE 23/2671/2015), 15 October 2015.

⁷ Amnesty International, “Death sentences and executions in 2016” (ACT 50/5740/2017), April 2017, p.6.

human rights treaties.

THREAT TO RESUME EXECUTIONS, IN BREACH OF STAY REQUESTED BY HUMAN RIGHTS COMMITTEE

Amnesty International is alarmed at the announcement on 6 August 2017 by the President of **Maldives** that death sentences would be implemented in the country “by the end of September.” The resumption of executions in Maldives, after more than 60 years, would constitute a grievous setback for the country’s death penalty record, at a time when the unfolding political crisis has resulted in the suspension of Parliament and the harassment, intimidation and arrest of some of its members. Three men who are facing imminent execution have filed a complaint with the Human Rights Committee (“the Committee”) regarding alleged violations of their rights guaranteed in the International Covenant on Civil and Political Rights (ICCPR), to which the Maldives is a State Party. The Committee has requested that Maldives stay their executions pending the outcome of a review of their cases. In its General Comment no.33, the Committee explicitly states that the “[f]ailure to implement such interim or provisional measures is incompatible with the obligation to respect in good faith the procedure of individual communication established under the Optional Protocol”.⁸

When States freely and voluntarily undertake commitments under international law, they also agree to assume obligations and duties to respect, protect and fulfil human rights and put into place domestic measures and legislation compatible with their treaty obligations. International law and standards set the abolition of the death penalty as the goal to be achieved. It is time for countries that still retain this punishment to join the global trend towards abolition.

It is not only countries that retain the death penalty who violate, or risk violating their commitments under international law. Over the past year, the government of the **Philippines** has taken steps to reintroduce the death penalty. Legislation to this effect was adopted by the House of Representatives on 7 March 2017 and a separate bill is currently pending before the Senate. The Philippines is a State party to the Second Optional Protocol to the ICCPR. Its Article 1 prohibits the implementation of the death penalty, and requires States Parties to it to abolish it. This Article also obliges States parties not to re-introduce it, in line with its drafters’ view that this “would be contrary to the very object and purpose of the second optional protocol.”⁹ The obligations arising from the Protocol are not subject to derogation at any time, nor does the Protocol permit denunciation.

RECOMMENDATIONS

1. Amnesty International calls on all States that have not yet abolished the death penalty to:

-Immediately establish a moratorium on the implementation of the death penalty with a view to its abolition;

-Fully respect their treaty obligations by, *inter alia*, not imposing the death penalty on people who were below 18 years old when the crime was committed, and cooperate fully with UN bodies and mechanisms.

2. Amnesty International calls on all States that have abolished the death penalty not to reintroduce it, and share their experiences leading to abolition, including the challenges they faced in this context doing so and how they overcame them.

3. Amnesty International calls on all States to take prompt and effective action to ensure that international commitments,

⁸ Human Rights Committee, “General Comment No 33-The Obligations of States Parties under the Optional Protocol to the International Covenant on Civil and Political Rights, UN Doc.CCPR/C/GC/33, 5 November 2008, para.19.

⁹ Commission on human rights, Sub-Commission on Prevention of Discrimination and Protection of Minorities, UN Doc. E/CN.4/Sub.2/1987/20, 29 June 1987, para.162.

including those guaranteeing protection of the rights of those facing the death penalty, are respected by other States.