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## **AMNESTY INTERNATIONAL THE DEATH PENALTY**

### **The death penalty**

**Amnesty International opposes the death penalty in all cases. This is part of the broader work of the organization to promote internationally recognized human rights.**

**Amnesty International's campaigning focuses on some of the gravest abuses of those rights:**

- \* it seeks the release of all prisoners of conscience. These are people detained anywhere for their beliefs or because of their ethnic origin, sex, colour, language, national or social origin, economic status, birth or other status — who have not used or advocated violence;**
- \* it works for fair and prompt trials for political prisoners;**
- \* it opposes the death penalty, torture and other cruel, inhuman or degrading treatment or punishment without reservation;**
- \* it campaigns for an end to extrajudicial executions and “disappearances”.**

**Amnesty International also opposes abuses by opposition groups, including hostage-taking, torture and killing of prisoners and other deliberate and arbitrary killings.**

### **A violation of human rights**

All major international human rights conventions stipulate that everyone has the right to life, liberty, and security of person.

The United Nations General Assembly has stated that it is desirable to abolish the death penalty in all countries and that the crimes to which it applies should be progressively reduced.

The international human rights instruments adopted by the United Nations and by regional organizations since 1948 prohibit all forms of “cruel, inhuman or degrading treatment or punishment”.

Amnesty International seeks the abolition of the death penalty on the grounds that it is incompatible with these human rights standards.

No matter what reason a government gives for executing prisoners and what method of execution is used, the death penalty cannot be separated from the issue of human rights. The movement for abolition cannot be separated from the movement for human rights.

### **The time has come**

The time has come to abolish the death penalty worldwide. The case for abolition becomes more compelling with each passing year. Nowhere has it been shown that the death penalty has any special power to reduce crime or political violence. In country after country, it is used disproportionately against the poor or against racial or ethnic minorities. It is often used as a tool

of political repression. Its use is arbitrary and irrevocable. It is imposed and inflicted arbitrarily. It is an irrevocable punishment, resulting inevitably in the execution of people innocent of any crime. It is a violation of fundamental human rights.

The significance of human rights is precisely that some means may never be used to protect society because their use violates the very values which make society worth protecting.

### **The march to abolition**

Many governments have recognized that the death penalty cannot be reconciled with respect for human rights. Today, 59 countries have abolished the death penalty for all offences, and 15 have abolished the punishment for all but exceptional offences, such as wartime crimes. Another 26 countries and territories which retain the death penalty in law no longer carry out executions. A hundred countries — over half of all countries in the world — have abolished the death penalty in law or in practice.

Since the Second World War, as the movement for human rights has grown, so the momentum for abolition has gathered. During the past 20 years, on average, two countries a year have eliminated the death penalty for ordinary crimes or for all crimes.

The political will to abolish the death penalty comes ultimately from within a country. International human rights treaties establish restrictions and safeguards on the use of the death penalty in countries which have not abolished it. International public opinion generates pressure to stop executions. The experience of countries which have abolished the death penalty gives ample evidence that the punishment is neither desirable nor necessary. But it is the people and leaders of each country who must take the decision that a commitment to human rights and to finding genuine solutions to the problems of crime is furthered by an end to the death penalty.

Abolition sometimes comes very quickly. Dramatic political changes may create new opportunities for the promotion of human rights. Several countries have abolished the death penalty over the last decade after emerging from periods of political repression. Elsewhere, the process may be protracted, requiring extensive consultation and courageous political leadership. Individual citizens, organizations and influential leaders all have an important role to play.

### **Not a unique deterrent**

The most recent international survey of research findings on the relation between the death penalty and homicide rates, conducted for the United Nations in 1988 and revised in 1996, has concluded that this research “has failed to provide scientific proof that executions have a greater deterrent effect than life imprisonment and such proof is unlikely to be forthcoming. The evidence as a whole still gives no positive support to the deterrent hypothesis”.

Although it is sometimes claimed that the death penalty is needed to prevent prisoners from committing further crimes, it is impossible to determine whether those executed would actually have repeated the crimes of which they were convicted. Unlike imprisonment, which also incapacitates, the death penalty entails the inherent risk of judicial errors which can never be corrected.

When retribution is used to justify the death penalty, the criminal justice system becomes an instrument of vengeance. Even if such a goal were acceptable, the use of the death penalty would not achieve just results. No criminal justice system has shown itself capable of consistently and fairly selecting who should live and who should die in all cases. Experience demonstrates that whenever the death penalty is used some people will be killed while others who have committed similar or even worse crimes will be allowed to live.

### **Arbitrary, unjust and irrevocable**

The reality of the death penalty is that who is executed and who is spared is often determined not only by the nature of the crime but also by the ethnic or social background, the financial means or the political opinions of the defendant.

The vulnerability of all criminal justice systems to discrimination and error must be acknowledged. Human factors such as expediency, the exercise of discretion and the influence of public opinion can affect each stage of legal proceedings from indictment through trial and sentencing to punishment and the possible granting of clemency.

Who lives and who dies may ultimately be determined by factors not directly related to guilt or innocence: errors, misunderstandings, different interpretations of the law, or the different orientations of prosecutors, judges or jury members. The discovery of a technical error on the part of the police, prosecuting authorities or a judge may result in a sentence being quashed. A defence lawyer's lack of skill or delayed access to evidence may lead to execution.

When the ability to obtain good legal representation becomes one of the most important factors in determining the outcome of a trial, questions of race, class and poverty can have a considerable effect upon the administration of justice. The wealthy, the politically well connected and members of dominant racial and religious groups are far less likely to be sentenced to death and even less likely to be executed for offences of comparable severity than are the poor, supporters of the political opposition and members of unpopular racial or religious groups.

The possibility of judicial error, for whatever reason, assumes even greater importance in cases involving capital crimes because the death penalty is an irreversible punishment. Because it is irreversible the death penalty has always been recognized as qualitatively different from all other forms of punishment. Once carried out it can never be corrected. The imposition of the death penalty negates modern concepts of penology which are based on the belief that rehabilitation of the individual criminal is possible and desirable.

Defendants on trial for their lives must obviously be afforded scrupulously fair trials. When accepted standards for a fair trial are ignored or set aside, the death penalty becomes open to political abuse and the risk of executing the innocent is increased.

Despite the undisputed acceptance at the international level of safeguards for fair trials in all death penalty cases, thousands of prisoners have been executed after procedures which were manifestly unfair. Cases have been heard in secret, without adequate legal representation for the defendant and sometimes no legal representation at all, and before judges who are not always competent or independent. Proceedings have been speeded up, leaving insufficient time to prepare a defence. Defendants have been denied the right to appeal against conviction and sentence.

**An execution cannot be used to condemn killing; it is killing.**

### **A tool of political repression**

The full meaning of the irreversibility of the punishment is underlined in countries that make a practice of condemning political dissenters to death. Imposition of the death penalty in such cases can amount to the carrying out of government policy by courts which are unlikely to have judicial independence. The political crimes for which the death penalty may be imposed under such circumstances can be defined by the authorities in such a way that virtually any political activity inconsistent with government policy becomes a capital offence

The death penalty is frequently used after military coups against people connected with the former government, and, after coup attempts, against the alleged plotters. Those accused are usually tried in haste and without proper safeguards for a fair trial. Sometimes they are sentenced to death under legislation hurriedly introduced with retroactive effect.

### **Two ‘special cases’ – drug-trafficking and terrorism**

Thousands of prisoners convicted of drug offences have been executed around the world. The rationale for using the death penalty is that it will deter drug traffickers more effectively than other punishments. But despite thousands of executions there is no clear evidence of a decline in drug-trafficking which could clearly be attributed to the threat or use of that penalty.

It is sometimes said that the death penalty is a useful tool in the state’s efforts to deal with political violence – that the prospect of execution will deter violent political opposition. Yet, men and women convinced of the legitimacy of their cause are often prepared to sacrifice their lives for their beliefs. As public officials responsible for fighting such crimes have pointed out, executions are as likely to increase acts of terror as to stop them.

Amnesty International deplores torture and murder for political motives whether such acts are committed by government or armed groups. But conflicts which have led to the eruption of political violence cannot be resolved by executing prisoners. Nor, as a matter of principle, should the horror of the crimes committed be used to justify a resort to the ultimate cruel, inhuman and degrading punishment, the death penalty.

### **Towards a world without executions**

**Amnesty International calls on all countries which retain the death penalty to:**

- \* stop all executions, immediately and permanently;**
- \* commute all death sentences;**
- \* abolish the death penalty for all crimes under the country’s laws and constitution.**

**In accordance with internationally agreed human rights standards, governments which have not yet abolished the death penalty are obliged to ensure that:**

- \* every prisoner accused of an offence punishable by death is afforded all facilities for a fair trial;**

- \* everyone sentenced to death has the right to appeal to a court of higher jurisdiction;
- \* everyone sentenced to death has the right to seek pardon or commutation of sentence;
- \* the death penalty is not used against people who were under 18 years old at the time of the offence;
- \* the death penalty is not used against the insane or mentally retarded;
- \* the scope of the death penalty does not extend beyond the “most serious crimes” — those with lethal or other extremely grave consequences.

Amnesty International welcomes any measures which save the lives of prisoners who would otherwise have been executed and which bring closer the goal of worldwide abolition. Such measures include:

- \* instituting a moratorium on executions;
- \* progressive restriction of the number of offences punishable by death;
- \* no forcible return of people to a country where they risk facing the death penalty;
- \* establishment of official commissions or similar bodies with the task of preparing the way for the abolition of the death penalty.