

Amnesty International

JAMAICA
THE DEATH
PENALTY

REPORT OF AN
AMNESTY INTERNATIONAL
MISSION TO JAMAICA

**JAMAICA
THE DEATH
PENALTY**

REPORT OF AN
AMNESTY INTERNATIONAL
MISSION TO JAMAICA



Amnesty International Publications

First published 1984 by Amnesty International Publications
1 Easton Street, London WC1X 8DJ, United Kingdom

Copyright Amnesty International Publications 1984

ISBN 0 86210 076 3
AI Index: AMR 38/07/84
Original Language: English

Printed by Shadowdean Limited, Mitcham, Surrey

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording and/or otherwise, without the prior permission of the publishers.

Contents

Preface	1
General background	3
The death penalty in Jamaican law	3
Conditions under which prisoners under sentence of death are held	4
Studies and debates on the death penalty in Jamaica	5
The Barnett Commission of Inquiry, 1975	6
Parliamentary debates on the death penalty	7
Executions in Jamaica 1979/1984	11
Decision of the Judicial Committee of the Privy Council in England in the cases of Noel Riley and others	12
Executions after June 1982	16
Some further information on four prisoners executed between 1981 and 1983	17
The Fraser Committee on capital punishment and penal reform	21
Findings of the research team	22
Types of murder and weapons used in the cases of 40 men on death row in 1979	23
Patterns of murder in Jamaica since 1964	24
Characteristics of men on death row in August and September 1979	27
The prerogative of mercy	29
Workings of the Privy Council	30
Reasons for granting clemency	30
Statutory commutation of death sentences	32

Some general considerations on the death penalty	35
The death penalty as a deterrent to crime	35
Public opinion and the death penalty	36
Mandatory death sentences	38
Other considerations	38
The death penalty and international human rights standards	40
Conclusions and recommendations	42
Summary and conclusions	42
Recommendations	44
Appendices	
Appendix I: List of prisoners under sentence of death in Jamaica as of 15 August 1982 and prisoners executed since 1980	46
Appendix II: Statistics on criminal homicide in Jamaica 1962/1982	53
Appendix III: Letter from Amnesty International to the Jamaican Government dated 5 November 1983	54
Appendix IV: Letter from the Jamaican Government to Amnesty International dated 29 March 1984	57
Amnesty International — a worldwide campaign	59

Preface

Amnesty International opposes the death penalty in all cases without reservation on the grounds that it is a violation of the right to life and the right not to be subjected to cruel, inhuman or degrading treatment or punishment as proclaimed in the Universal Declaration of Human Rights and other international human rights instruments. Amnesty International appeals for clemency for prisoners in danger of execution and works for the abolition of the death penalty throughout the world. In pursuance of these objectives it sent a mission to Jamaica in November 1983. The purposes of this mission were to convey Amnesty International's concern about the death penalty to government officials and to gather information and views on its abolition.

The mission comprised Dr Ezzat A. Fattah, Professor of Criminology, Simon Fraser University, Vancouver, Canada, and Martin Ennals, former Secretary General of Amnesty International, London, England.

The mission met His Excellency, The Most Honourable Florizel Glasspole, Governor-General of Jamaica, The Honourable Edward Seaga, Prime Minister of Jamaica, and The Honourable Winston Spalding, Minister of National Security and Justice. The mission also met Dennis Daly, President of the Jamaica Council for Human Rights and others.

Amnesty International's major concern in sending the mission was an increase in executions after 1980. This followed a period of more than four years (April 1976/August 1980) in which no executions had been carried out. During this period, parliament had set up a committee to consider whether or not the death penalty should be abolished. In January 1979 the House of Representatives voted by a narrow majority to retain capital punishment, but recommended unanimously that all outstanding death sentences be reviewed. In February 1979 the Senate passed a resolution recommending that capital punishment be suspended for a further 18 months while another committee sat to examine the issue in greater depth. Although this second committee (*The Fraser Committee on Capital Punishment*

and Penal Reform), referred to hereafter as the Fraser Committee) sat from June 1979 until March 1981, executions resumed in August 1980.

Twenty-four prisoners were executed between August 1980 and July 1984. Nearly all those executed had been sentenced to death either before or during the period in which executions were held in abeyance while parliament considered the issue. Most had spent long periods – of up to nine years – on death row.¹ The executions were carried out despite a recommendation of the Fraser Committee in December 1981 that all death sentences passed before 31 March 1981 be commuted to life imprisonment.

At the time of the mission there were more than 150 prisoners under sentence of death in Jamaica. The last execution was on 23 July 1984.

The Jamaican Government expressed the view to Amnesty International's delegates that public opinion and the high rate of violent crime in Jamaica made total abolition of the death penalty impossible at the present time, but it expressed a willingness to consider moves toward limiting the offences for which the death penalty could be imposed. There are a number of factors regarding the death penalty in Jamaica which Amnesty International hopes the government will take into consideration in moving towards the abolition of the death penalty. These are described in this report, which was submitted to the Jamaican Government on 24 July 1984.

¹ A separate part of the prison where prisoners under sentence of death are held until their execution.

General background

The death penalty in Jamaican law

The death penalty in Jamaica is mandatory on conviction of murder. This is provided under Section 3(1) of the Offences against the Person Act, 1864, with amendments enacted in 1953 and 1958.

The death sentence may not be passed on a pregnant woman or on any person under 18 years of age at the time of the commission of the offence. These provisions are in keeping with Jamaica's obligations under the International Covenant on Civil and Political Rights and the American Convention on Human Rights.

After a death sentence has been passed by the trial court (which sits with a judge and jury) the accused may apply within one month for leave to appeal to the Jamaica Court of Appeals. If the sentence is upheld, the prisoner may appeal to the Jamaica Supreme Court. The final court to which a prisoner may appeal is the Judicial Committee of the Privy Council in England.²

Sections 90 and 91 of the Jamaica Constitution of 1962 provide for the prerogative of mercy to be exercised by the Governor-General, acting on the recommendation of the Privy Council of Jamaica.³

The Privy Council usually reviews a case after the sentence has been upheld by the Jamaica Court of Appeals, although a decision will be deferred pending any further appeals. In cases where clemency is not granted, warrants for execution are issued by the Governor-General, 15 days before the date set for execution.

Execution in Jamaica is by hanging.

² The Judicial Committee of the Privy Council serves as a final court of appeal in a number of Commonwealth countries, including Jamaica. It is composed of five judges from the House of Lords (part of the United Kingdom Parliament). The Judicial Committee represents Her Majesty Queen Elizabeth II, in her capacity as Head of State of the Commonwealth country concerned.

³ The Jamaica Privy Council consists of six members appointed by the Governor-General. The Privy Council's function is *inter alia* to advise the Governor-General on the exercise of the Royal Prerogative of Mercy.

Conditions under which prisoners under sentence of death are held

All prisoners sentenced to death are immediately placed on conviction and sentencing in a special unit of St Catherine District Prison known as "death row". Unless their sentence is overturned on appeal, or commuted to a lesser sentence, prisoners under sentence of death are held on death row until their execution. Once a date for execution has been set, the prisoner is taken to a special cell on death row used exclusively by men whose execution is imminent. A number of prisoners have spent several days in this cell before receiving a stay of execution shortly before the date set for their hanging.

In 1975 a commission of inquiry (the Barnett Commission) strongly criticized conditions on death row, citing among other things the lack of provision for work, recreation or regular exercise for prisoners under sentence of death. Five years later, the Fraser Committee recommended that a work project involving men on death row be introduced as an experiment, to see if this could have a rehabilitative influence. However, the Department of Corrections reportedly refused to agree to such a project. (In its report to the government in 1981 the Fraser Committee said it was "of the opinion that the policy whereby the men in the condemned cells are prohibited from doing any kind of work whatsoever, whether voluntary or otherwise, is wasteful of human resources.") Although some craft activities are available to prisoners under sentence of death, Amnesty International has been told that they spend long periods confined to their cells and, unlike most other prisoners, have no provision for regular work and few facilities for recreation, education or other rehabilitative programs. Although other prisoners in maximum security units are held in similar conditions in Jamaica, such facilities are denied to death row prisoners solely by virtue of their being under sentence of death.

Studies and debates on the death penalty in Jamaica

During the 30 years following the end of the Second World War until 1976 there were, on average, five executions annually in Jamaica. There then followed a period of more than four years -- from April 1976 until August 1980 -- in which no executions were carried out, although death sentences continued to be passed in murder trials. During the greater part of this period, until early 1979, executions were suspended while the question of capital punishment was under consideration by parliament.

Although executions were not formally suspended by act of parliament or government directive, the government has told Amnesty International that the Privy Council of Jamaica "suspended taking a decision as to whether or not the law should take its course"⁴ while the matter of capital punishment was before a parliamentary committee established in 1977. The committee submitted its final report to parliament in October 1979, and the suspension of executions continued until parliament had debated the matter in January 1979. It appears that, in effect, executions were held in abeyance from the time of the last execution in April 1976, possibly in anticipation of the government's intention at that stage to put the matter before parliament. The Judicial Committee of the Privy Council in England, in a decision given in June 1982 on the case of a number of prisoners sentenced to death in the 1970s in Jamaica, stated that "political factors in Jamaica led to the execution of sentences of death being held in abeyance from April 1976 until early 1979 during a period of acute controversy over capital punishment".

The result of this *de facto* suspension of executions was that a number of prisoners under sentence of death whose appeals were dismissed by the Jamaica Court of Appeals were not immediately issued with warrants for execution as would otherwise have been the case.

⁴ In a letter from the Minister of Justice dated 29 March 1984.

The Barnett Commission of Inquiry, 1975

Capital punishment in Jamaica had, indirectly, been the subject of an inquiry as early as 1975. The Barnett Commission (chaired by Dr Lloyd Barnett) was established on 31 December 1974 to examine the causes and circumstances surrounding incidents that occurred on 27 December 1974 in the high security wing of St Catherine District Prison, where death row inmates are held. The disturbances were described by the prison authorities as an "attempted mass break-out" and involved the taking hostage of a warder by a group of death row prisoners. The commission was assisted by a team of two psychiatrists, a psychologist, and two social workers, who interviewed the 36 prisoners under sentence of death at that time.

The commission's report, which was submitted to the government in June 1975, described the very poor conditions prevailing in the institution at that time, particularly on death row. Prisoners on death row slept on the floor with only a mattress and a blanket and lived in generally unhygienic conditions, had little or no provision for work, healthy recreation or regular exercise, and were housed in a unit which was poorly ventilated and inadequately lit. There was no regular system for medical examination in the prison and no suitable provision for the treatment of the mentally ill. The commission found that two-thirds of the prisoners on death row were first offenders, and that 83 per cent came from poor socio-economic backgrounds and had parental or other family problems. They also noted the inadequacy of legal representation in most of the cases and the lengthy delays in the legal process, expressing the view that "the long interval which separates imposition of sentence from execution imposes a severe strain on the condemned men, and is a major factor for tension in the prison". They also expressed the view that "the long delay in the execution of the death penalty after it has been pronounced constitutes cruel and inhumane punishment". The commission found that the conditions of their confinement and the "apprehensions that troubled the minds of the condemned men as to the manner of the execution of the death penalty" created a state of anxiety among death row inmates that was a major cause of the disturbances of December 1974. As well as being "in terror of the prospect of hanging" many of the prisoners told the commissioners that they believed they would be assaulted or even beaten to death on the way to the gallows. The commission found that "Fantasy is given credence, and the men's fears are reinforced and magnified by the physical beatings, taunts and threats they regularly receive from the warders."

The commission made a number of recommendations for speeding up the legal process and improving conditions on death row. It also

stated in its report:

"This team questions fundamentally the use of hanging as a deterrent against murder, or a deterrent against violent crime. We feel that most men who commit the crime of murder can be adequately rehabilitated to lead normal productive lives. It is felt by this team that hanging as a punishment is regarded by most people as a revenge and does not serve the purpose for which it was devised."

Amnesty International does not know what measures have been taken to improve conditions on death row since the Barnett Commission's report was submitted to the government. In its report, the commission had noted that severe overcrowding was a major problem in the prison. Amnesty International does not know whether extra facilities have been made available to death row prisoners, whose number had grown from 36 at the time of the Barnett inquiry to more than 150 in July 1984.

Parliamentary debates on the death penalty

A House of Representatives Select Committee on National Security was formed in May 1977 to consider the question of capital punishment in the context of the general security of the country, with a view to recommending retention or abolition of the penalty. The committee reportedly decided without discussion in November 1977 that the law governing capital punishment should not be changed at that time. Opposition members of the Jamaica Labour Party (JLP) on the committee reportedly opposed this decision on the grounds that further study was needed. The cabinet decided to re-commit the issue to the committee in early 1978. A majority of the select committee, which reported to the House of Representatives in October 1978, again recommended retention of the death penalty in view of the serious problem of violent crime in Jamaica. However, the committee noted that it had not had the resources or expertise to carry out a thorough study of its effect as a deterrent to major crime, and that the expert assistance it had requested had not been provided. The Minister of Justice, the Honourable Carl Rattray, submitted a minority report in which he called for a period of further suspension of the penalty, pending a detailed study of the causes of violence and the effects of the death penalty on Jamaican society.

The report of the Select Committee led to a motion to retain the death penalty, which was introduced into the House of Representatives in January 1979. An amendment to the motion was presented by Dr Mavis Gilmour (a member of the opposition JLP) calling for a suspension of the death penalty pending a further study. The Prime

Minister, Michael Manley, was among the 13 government members who supported this amendment, together with seven opposition members who were present for the vote. The amendment was defeated by a narrow majority of 23 to 20, with one abstention. The House of Representatives also voted by a majority of 24 to 19 to retain capital punishment. The vote was according to conscience, not party allegiance, and there were members from both parties who voted for abolition.

The House of Representatives then voted unanimously for a second motion recommending that the Governor-General and the Jamaica Privy Council review the cases of all 79 prisoners then on death row. It appears from reports of the debates that this resolution reflected a widespread concern in parliament at the length of time many prisoners had by then spent on death row.

Shortly after the debate in the House of Representatives, the Senate passed a resolution by a majority of 10 to five recommending that "capital punishment be suspended for a period of 18 months pending a detailed study and assessment . . . of the sociological and psychological effect of capital punishment in Jamaican society". This resolution was identical to the amendment proposed by Dr Mavis Gilmour in the House of Representatives and was similarly based on the Minister of Justice's minority report to the Select Committee.

In opening the debate in the Senate, the Minister of Justice stated that he had received a petition signed by some 2,000 individuals calling on the government to set up a committee to examine the justification for retaining capital punishment. He stated that,

"Whatever action Parliament takes should be action supported by research and not action taken by emotionalism and not action of people floundering in the dark . . . What we as Parliamentarians can do is to ask that capital punishment be suspended and a committee set up by persons who will dedicate themselves to find out what the true facts on this matter are so that Parliament can move from a platform to see whether capital punishment should still be allowed in the jurisprudence of the nation."

Although the Senate resolution had no binding effect on whether executions would continue to be carried out, the Minister of Justice was quoted as saying that he hoped the motion would have an effect on the Governor-General and the Privy Council in exercising the prerogative of mercy in the cases of the prisoners then on death row.

Following the passage of the above resolution, the Minister of Justice appointed a non-parliamentary Committee on Capital Punishment and Penal Reform with the following terms of reference,

"To consider and report within a period of 18 months whether liability under the criminal law in Jamaica to suffer death as a penalty for murder should be abolished, limited or modified and if so, to what extent, by what means and for how long and under what conditions persons who would otherwise have been made to suffer capital punishment should be detained and what changes in the existing law and the penal system would be required."

The committee, which was chaired by Sir Aubrey Fraser, a former appeal court judge, sat from June 1979 until early 1981. By this time there had been a change of government in Jamaica and the Honourable Carl Rattray was no longer Minister of Justice.⁵

The findings and recommendations of the Fraser Committee are discussed in Chapter 4 of this report. Meanwhile, warrants for execution were issued in the cases of a number of prisoners who had been sentenced to death before or during the period in which the death penalty was under consideration by parliament.

⁵The People's National Party, led by Michael Manley, was defeated in the general elections in October 1980, when the Jamaica Labour Party came to power.

Executions in Jamaica 1979/1984

During the period in which executions were held in abeyance the number of prisoners on death row more than doubled, from 36 at the time of the Barnett Commission, to 79 in January 1979.

After the House of Representatives voted to retain capital punishment the Jamaica Privy Council met and decided to issue warrants for execution in a number of cases on which it had previously deferred taking a decision. In May and June 1979 warrants for execution were issued in the cases of Noel Riley, Anthony Forbes, Clifton Irving, Elijah Beckford and Errol Miller, who had been sentenced to death between March 1975 and March 1976; their appeals had been dismissed by the Jamaica Court of Appeals between late 1975 and early 1977. The five prisoners immediately lodged an appeal to the Jamaica Supreme Court on the ground that their execution in 1979 would amount to inhuman or degrading punishment in violation of Section 17 of the Jamaica Constitution by reason both of the length and circumstances of the delay since being sentenced. Their appeals were turned down in March 1980, but they were subsequently granted leave to appeal to the Judicial Committee of the Privy Council in England. The Judicial Committee did not issue a decision in the cases until June 1982.

The appeal lodged on constitutional grounds in the above cases caused a further delay in the execution of these prisoners. It also directly affected the cases of a number of other prisoners on death row sentenced to death during the same period, for whom warrants for execution would not have been issued pending a decision by the Judicial Committee in *Riley et al.*

Meanwhile, on 27 August 1980, Conrad Dwyer became the first prisoner to be hanged since April 1976. He had been sentenced to death in 1977.

The execution of Conrad Dwyer caused considerable concern among members of the Fraser Committee, which was still sitting to consider whether there should be any change in the laws provid-

ing for the death penalty. Sir Aubrey Fraser, Chairperson of the committee, wrote to the Jamaica Privy Council on 10 October 1980, expressing "the profound concern shared unanimously by the Committee" with respect to the hanging of Conrad Dwyer. He stated in the letter that "At the time of its nomination, the Committee did not expect that any hangings would take place during the period prescribed in the terms of reference." Although noting that the Minister of Justice had not expressly stated that this would be the case, Sir Aubrey pointed out that "... it seemed to my colleagues and to me that this was a fair assumption to make having regard to the subject matter under consideration." The letter went on to request that "consideration be given to granting a stay with respect to all other executions" while the committee completed its work. The date for completion of the committee's report was subsequently extended from 31 December 1980 to 31 March 1981.

No executions were, in fact, carried out between the date of the above letter and 31 March 1981. Amnesty International does not know if this was as a consequence of the Fraser Committee's request that stays of execution be granted during this period. The Committee subsequently included among its recommendations to the government a provision that all sentences of death passed prior to 31 March 1981 be statutorily commuted to life imprisonment.

This recommendation had no effect on the cases of prisoners sentenced to death, however, and the following five prisoners were hanged between May 1981 and June 1982: Lloyd Collins, executed on 12 May 1981; Joseph Baker, executed on 17 November 1981; Sydney Campbell and Anthony Needham, executed on 16 March 1982, and Rudolf Smith, executed on 15 June 1982. All five prisoners had been sentenced to death before or during the period in which the Fraser Committee sat and there was a delay of from two-and-a-half to more than five years between sentence and execution.

Decision of the Judicial Committee of the Privy Council in England in the cases of Noel Riley and others

The applicants sought a ruling from the Judicial Committee of the Privy Council in England that "to execute the sentences of death passed upon them in 1975 and 1976 would now be, and indeed would have been at any time after the issue of the warrants in 1979, by reason both of the length and circumstances of the delay between sentence and execution, 'inhuman or degrading punishment

or other treatment' ", in violation of the Jamaica Constitution.

Section 17 of the Constitution provides that:

- (1) No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.
- (2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question authorizes the infliction of any description of punishment which was lawful in Jamaica immediately before the appointed day.

The appeal was denied by a narrow majority of three to two, in a judgment delivered on 28 June 1982.

The majority opinion⁶ reviewed the history of the five cases and acknowledged that "Apart from the delays necessarily occasioned by the appellate procedures pursued by the applicants (of which it could hardly lie in any appellant's mouth to complain) it is also a fact that political factors in Jamaica led to the execution of sentences to be held in abeyance from April 1976 until early 1979 during a period of acute controversy over capital punishment." It also stated that "Their Lordships fully accept that long delay in the execution of a death sentence, especially delay for which the condemned man himself is in no way responsible, must be an important factor to be taken into account in deciding whether to exercise the prerogative of mercy. But it is not for this Board to usurp the function allocated by Section 90 of the Constitution to the Governor-General acting on the recommendation of the Privy Council of Jamaica. The sole question for their Lordships' decision is whether the execution of sentence of death upon any of the appellants would contravene Section 17 of the Constitution."

The majority judgment based its rejection of the appeal on the provision contained under Section 17(2) of the Constitution - that nothing should be deemed to contravene the section to the extent that such punishment was already lawful in Jamaica at the time the constitution entered into effect. The majority judges found that because the sentence of death was mandatory under pre-existing law in Jamaica, and provided lawful authority for the detention of the condemned man in prison until such time as sentence was executed, then a delay in execution was *per se* lawful, and the length of the delay did not render the punishment less lawful. Thus, rather than considering whether such a delay of execution of a death sentence could in fact amount to cruel and inhuman

⁶ Given by the Lord Chancellor (Lord Hailsham of Marylebone), Lord Diplock, and Lord Bridge of Harwich.

treatment, the judges found that Section 17(2) automatically negated such a claim.

The two dissenting judges—Lords Scarman and Brightman—found that the majority opinion was based on an interpretation of 17(2) that amounted to an "austere legalism" which they believed had been erroneously applied to these cases. The error, in their opinion, lay in the majority judges' failure to recognize that the act of the state which was challenged in the proceedings was not the sentence of the court, but its execution after a prolonged delay. They noted that the primary purpose of Chapter III of the Constitution (containing the Jamaican charter of fundamental rights and freedoms) "is the protection of the individual against abuse of power by act of the State, whether the act be legislative, judicial or executive." They went on to state "It follows that the fact that in these five cases the death sentence when passed was in accordance with the law cannot be determinative of the appeals. The challenge is not to the judicial sentence but to the decision of the executive to carry it out at the time fixed and in the circumstances which had arisen."

The dissenting judges pointed out that the delay in execution of the appellants' sentences arose from the exercise of an executive power (by which the Governor-General, acting on the rule of the Jamaica Privy Council, reviewed death sentences with a view to deciding on clemency) conferred not by a pre-existing law, but by the Constitution. They stated "Clearly, it would be an improper exercise of the power conferred by Sections 90 and 91 of the Constitution if it should result in subjecting a condemned man to inhuman or degrading punishment or treatment. Indeed, it would be a travesty of the law if powers intended to enable mercy to be shown in appropriate cases were so used." The only remedy against an abuse of power conferred by the Constitution, if found, lay in the protective powers of Chapter III of the Constitution: in this case Section 17.

The dissenting judges found that the appellants had, in their opinion, "proved that they had been subjected to a cruel and dehumanising experience" and that "the execution of the respective death sentences in May and June 1979, against the background of the lapse of time since conviction, would have been 'inhuman treatment' within the meaning of subsection (1) of Section 17 and would not have been saved from being unconstitutional or illegal by subsection (2)."

Their Lordships further stated that "a period of anguish and suffering is an inevitable consequence of sentence of death. But a prolongation of it beyond the time necessary for appeal and considera-

tion of reprieve is not. And it is no answer to say that the man will struggle to stay alive. In truth, it is this ineradicable human desire which makes prolongation inhuman and degrading. The anguish of alternating hope and despair, the agony of uncertainty, the consequences of such suffering on the mental, emotional and physical integrity and health of the individual are vividly described in the evidence of the effect of the delay in the circumstances of these five cases . . ."

In arriving at the above opinion, the dissenting judges reviewed not only the appellants' actual circumstances, but also decisions in a number of other countries in which the courts had "recognized the inhumanity and degradation a delayed death penalty can cause".⁷ The judges also referred to a case previously reviewed by the Judicial Committee of the Privy Council in England (*Abbott v the Attorney General of Trinidad and Tobago*, 1979) in which the Judicial Committee recognized that inordinate delay might mean that the taking of a condemned man's life would not be "by due process of law".

They concluded that:

"It is no exaggeration, therefore, to say that the jurisprudence of the civilised world, much of which is derived from common law principles and the prohibition against cruel and unusual punishments in the English Bill of Rights, has recognized and acknowledged that prolonged delay in executing a sentence of death can make the punishment when it comes inhuman and degrading."

The dissenting judges summed up their opinion with the following paragraph:

"We answer, therefore, the question as to the meaning and effect of Section 17(1) as follows. Prolonged delay when it arises from factors outside the control of the condemned man can render a decision to carry out the sentence of death an inhuman and degrading punishment. It is, of course, for the appellant for constitutional protection to show that the delay was inordinate, arose from no act of his, and was likely to cause such acute suffering that the infliction of the death penalty would be in the circumstances which had arisen inhuman or degrading. Such a case has been established, in our view, by these appellants. Accordingly in our opinion these appeals should be allowed."

⁷ Citing cases from the US Supreme Court; the California Supreme Court; the Indian Supreme Court and a case before the European Commission on Human Rights (*Tyrer v. UK*).

Amnesty International has considered it worth summarizing some of the arguments in what was a detailed and complex judgment, particularly the minority opinion of Lords Scarman and Brightman, who addressed the issue in far greater depth than did the majority Lords. As shown, the appeal was lost by the narrowest of margins and the vigour of the dissent reveals the controversial nature of the issue. It is also noteworthy that the majority decision, while rejecting the appeal on what amounted to a technicality, found that a long delay in the execution of a death sentence for which the condemned man was in no way responsible, must be an important factor in the exercise of the prerogative of mercy.

Shortly after this decision a British barrister, Geoffrey Robertson, wrote in the *Guardian* newspaper in the United Kingdom on 4 September 1982 that there had been an established practice in Great Britain of commuting the death sentence in the event of any judicial disagreement. He went on to state that this convention was expressly accepted by the British Home Secretary in a leading case involving a disputed judgment in 1960, and that the Jamaican authorities had also followed this practice in the cases of a divided Privy Council decision in 1974.

Nevertheless, clemency was not granted in the cases of Noel Riley and the other appellants in the above case.

Executions after June 1982

The five appellants in the above case – Noel Riley, Anthony Forbes, Clifton Irving, Elijah Beckford and Errol Miller – were executed on 7, 9 and 16 September 1982, after spending more than six years on death row. Two other prisoners, Vincent O'Sullivan and Enos Henry, were also executed on 19 September 1982. These last two prisoners had been sentenced to death in 1976 and had lost their appeals to the Jamaica Court of Appeals in early 1977, that is, in the early part of the period in which executions were suspended.

Eight prisoners were executed in 1983: Lloyd Aitken and Anthony Hewitt, executed in May 1983; Junior Whyte and Stafford Pyne, executed in June 1983; Clive Hayles and Ransford Thomas, executed in July 1983 and George McLeish and Fernando Marks, executed in August 1983. As with the other prisoners named above, all had been sentenced to death and/or had exhausted their normal appeals during the period in which executions had been held in abeyance (Ransford Thomas was sentenced to death in 1974, the others between 1975 and 1978).

Two prisoners – Allen McKenzie and Nathaniel Lewis – were executed on 21 February 1984. They had been sentenced to death in

November 1980 and March 1981 respectively. Derrick Wallace, convicted of murder in June 1981, was executed on 3 July 1984.

A total of 24 prisoners have been hanged in Jamaica since executions resumed in August 1980. The rate of executions between September 1982 and July 1984 (when 18 prisoners were hanged) is far higher than in any similar period in Jamaica since the war.

The executions were carried out despite a recommendation in December 1981 made by the Fraser Committee (established by the former Minister of Justice in 1979) that all death sentences passed before 31 March 1981 – the date to which the Committee sat – be statutorily commuted.

As of 23 July 1984 there were more than 150 prisoners under sentence of death in Jamaica, of whom some 60 were sentenced prior to March 1981.

Some further information on four prisoners executed between 1981 and 1983

i) The case of Stafford Pyne.

Amnesty International had appealed for clemency in the cases of all those executed after August 1980. In the case of Stafford Pyne, Amnesty International also referred to a psychiatric report in which the prisoner was said to be suffering from mental illness at the time of his execution.

Stafford Pyne was convicted of murder in May 1977 and his appeal was denied in November 1977. He was examined by a psychiatrist on 25 June 1983, shortly before his execution after six years on death row. In his report, the psychiatrist made reference to a number of previous medical reports both before and during his imprisonment, in which Pyne had been found to be suffering from symptoms of schizophrenic illness. Stafford Pyne had, in fact, been treated in the Bellevue mental hospital as early as the age of 14. He told the psychiatrist that, while awaiting trial in 1977, he had also been taken to Bellevue hospital for treatment. During the 1983 examination, the psychiatrist noticed features of anxiety and depression in keeping with the approaching execution. However, he also found evidence of schizophrenic disturbance in the form of thought disorder and paranoid thinking. He concluded that: "It is my opinion, based on the foregoing, that at the time of my examination on 25 June, Stafford Pyne was suffering from severe psychiatric disturbance, namely schizophrenic illness. A review of his history suggests that he had a basic liability to suffer from schizophrenic disturbance in response to appropriate stresses."

In discussing mental illness in relation to the death penalty, several United Nations (UN) surveys have pointed to the widespread recognition of mental illness or insanity as a ground for exclusion from imposition or execution of a death sentence. In a series of "safeguards guaranteeing protection of the rights of those facing the death penalty", adopted by the UN Economic and Social Council in May 1984, there is included a provision that the death sentence shall not be carried out "on persons who have become insane" (ECOSOC Resolution 1984/50 of 25 May 1984).

Although Stafford Pyne had an early history of mental illness, and was reportedly found to be suffering from symptoms of mental illness shortly after his arrest, Amnesty International does not know whether this was a factor that was introduced at his trial.

ii) A letter to Amnesty International from a prisoner on death row dated August 1979. Fernando Marks was executed in August 1983.

"My Dear Sir,

My greetings and best wishes to you and all the other members of your organization. I would like also to congratulate you all for what you are doing and what you have done so well.

The significance of my missive to you is that, I am an inmate presently on death row, for the murder of Alex Parker, and one who has lost my first appeal, and now pending the decision of the Jamaica Privy Council. I hereby request that as a humanitarian, noble and highly recognizable organization, you write to the Jamaica Governor-General and Privy Council asking that my death sentence be commuted to life & etc. I hereby promise that you will hear of my deeds in the fields of rehabilitation, with the launching of my poems, paintings, and craft, and in future send you some. I was before a printers' proof reader and compositor. Presently I am hoping to have two songs released by 5 Star Music Masters, Boston, Massachusetts, USA.

I pray your help will be successful on my behalf. And may God bless and guide you all.

Yours truly,

Fernando Marks."

iii) Extract from a news release issued by the Jamaica Council for Human Rights on 11 May 1981, shortly before the execution of Lloyd

Collins. (Lloyd Collins was hanged on 12 May 1981).

"Lloyd Collins, 26 years old, formerly resident in Bull Bay, father of three children, will face the hangman tomorrow morning at the St Catherine District Prison.

Collins will hang although there is significant doubt about his guilt. The sole witness whose evidence linked Collins to the scene of the crime, was only able to claim that the voice of one of the men he saw, sounded like Collins. The way in which Collins' trial was conducted gave rise to sufficient doubt among the three judges hearing his appeal, to cause one of them to disagree with the final judgment that his conviction should be upheld.

Petitions were made on Collins' behalf to the Privy Council, asking them to exercise the prerogative of mercy, in light of the questionable nature of the evidence which convicted him. They also pointed out that the Ministerial Committee on Capital Punishment is in the final stages of preparing its report. They stated that in many countries, capital punishment is suspended during such investigations.

The Privy Council, however . . . have instructed that the law should take its course.

So Lloyd Collins, a mason by trade; a young man to whom more than one hundred citizens from Bull Bay asked that mercy be shown; a young man who taught himself woodcarving during the over four years of his imprisonment, will pay the ultimate price for the first offence he ever committed."

iv) Extract from a news release issued by the Jamaica Council for Human Rights dated 15 March 1982 on the case of Anthony Needham, who was executed on 16 March 1982.

"Anthony Needham earned a Scholarship to attend Kingston College in 1969. In 1973 he was forced to leave school due to financial difficulties being experienced by his parents.

Despite leaving school prematurely, Needham did his National Youth Service in 1974. His behaviour was such that his supervisor has also petitioned the Governor-General and the Privy Council for Mercy.

Charged with the killing of his girlfriend in 1976, Needham was granted bail until the end of his trial in 1977, during which time he was faithful to the terms of his bail and received instructions in welding in his quest for knowledge and the means of economic independence.

Evidence at the time disclosed that the deceased was unfaithful to Needham, he had been the subject of ridicule by his associates, all of which contributed to his extreme action, and the chief witness was the person with whom the deceased had been unfaithful.

Needham had never previously been in conflict with the Law. He was 18 years and one month old at the time of the offence. Had he been less than two months younger the sentence of death could not have been passed.

The Council was therefore of the view that based on the above considerations, this was a fitting case in which to demonstrate the magnanimity of the State.

The infliction of the death penalty cannot in this case serve as a deterrent or otherwise further the cause of justice."

The Fraser Committee on capital punishment and penal reform

The Fraser Committee on Capital Punishment and Penal Reform, which was established by the Minister of Justice in June 1979, was mandated:

"To consider and report within a period of eighteen months whether liability under the criminal law in Jamaica to suffer death as a penalty for murder should be abolished, limited or modified and if so, to what extent, by what means and for how long, and under what conditions persons who would otherwise have been made to suffer capital punishment should be detained and what changes in the existing law and the penal system would be required."

The committee was chaired by H. Aubrey Fraser, Director of Legal Education at the Norman Manley Law School and a former judge of the Trinidad and Tobago Supreme Court. The six other members of the committee were an attorney-at-law, a psychologist, a social educator, a methodist priest, a journal editor and a psychiatrist (the latter resigned from the Committee in June 1980). The committee appointed a research team, headed by Delroy Chuck, a lecturer in law and criminology at the University of the West Indies.

The committee considered data from three sources: research carried out by the research team; submissions made during public and private sittings; and an extensive body of individually submitted or published material. The committee also visited death row in St Catherine Prison, inspected the facilities and spoke with prisoners under sentence of death.

The committee stated in its report that it was "... of the opinion that death as a penalty for murder should be abolished". However, it concluded that "... a proposal to wholly abolish capital punishment would not now be generally accepted by the Jamaican public, having regard especially to the state of violent crime in the society". It recommended that moves toward abolition of the death penalty be undertaken "as a part of a comprehensive system of penal reform which should commence without delay".

The committee went on to recommend as an immediate first step that:

"All sentences of death imposed prior to December 31, 1980, which was the date originally prescribed for submitting the Committee's report, or alternatively, prior to March 31, 1981, to which time it was extended, should be statutorily commuted to sentences of life imprisonment."

The committee noted that as of 31 March 1981 there were 97 men on death row, of whom 54 had been sentenced to death during the period 1973/1978 and the others during the period in which the committee sat.

The committee also recommended that the present application of the death penalty be modified to restrict it to a limited class of homicide. It recommended that, for an interim period of five years, capital punishment should be retained as a penalty for murder only with respect to murder committed by use of a firearm or explosive. As a guideline in this respect, it recommended that the death sentence be imposed only on the person or persons found guilty of having actually used or possessed the firearm or explosive – or the principal in the first degree – and should not be imposed on unarmed accomplices. The committee further recommended that prisoners committed to prison for the offence of murder be required to undertake productive and rehabilitative work, part of the proceeds of which should go toward compensation for the dependents of the victims of murder.

Findings of the research team

It is worth summarizing some of the findings of the research team which assisted the Fraser Committee. As the team itself acknowledged, some of its research was limited by a lack of comprehensive data on the murder cases or homicide statistics studied. Also, its observations regarding prisoners on death row were based to a large extent on the prisoners' own subjective accounts of the various factors involved in their crimes, although the team was able to cross-check much of this information from court records of their cases. Despite such limitations, their report gives a valuable insight into the types of killings from which murder prosecutions have resulted and how the criminal justice system has dealt with such cases.

The team interviewed 40 of the 81 prisoners on death row in August and September 1979.⁸ They studied the socio-economic background of the prisoners and, from court records of their cases,

⁸ The team's original proposal was to collect information on all the men on death row.

listed the types of crimes for which they had been sentenced to death.

The team also made a survey of the patterns of murder in Jamaica during the previous 20 years by studying *inter alia* the cases of recorded killings, prosecutions for murder and conviction rates.

Types of murder and weapons used in cases of 40 men on death row in 1979

The research team found that in 12 cases (30 per cent of the sample) the condemned prisoners were convicted of murder committed during the course of a robbery; these were also the cases in which guns were most often used in the commission of the murder, and accounted for 10 of the 12 cases. However, in nine of the 10 robberies in which guns were used, the prisoners on death row had been charged as accomplices only in the murder and had not discharged the firearm that killed the victim. They were convicted on the same basis as the principal perpetrator of the murder. The statistics do not show how many of the condemned prisoners were also carrying firearms during the commission of the robbery.

The second most common type of crime was murder committed during or after a fight, quarrel or dispute. These accounted for 11 of the 40 cases (or just under 30 per cent of the sample). The fatal injuries in these cases were inflicted with what the research team called "traditional instruments of murder": knives, batons, cutlasses and, in one case, a bottle. One of the prisoners falling within this category was convicted as an accomplice in a fight. The team reported that "Some of these cases are consistent with slight provocation by the victims, interference with the offenders' personal property by the victims and other contributing activities by the victims which caused the offender to react in the manner which caused death." (Amnesty International does not know how far this statement was based on the prisoners' own accounts or from information gained from court records of the trials.)

In a further six cases, the circumstances in which the murder was committed were classified by the team as being due to "emotional factors". The exact circumstances in which this type of crime was committed were not revealed in the report. However, it was recorded that, of the total sample of 40 cases, seven of the murder victims were the wives or girlfriends of the offender. Amnesty International assumes that some of these victims fell either under this category or

but their visits to the prison were curtailed due to bad weather and they were unable to complete the interviews. Thus, the sample cannot strictly be said to be selected "at random" although the team expressed the view that the 40 men interviewed (nearly 50 per cent) constituted a reasonable sample.

under the above category of murder committed during a quarrel or dispute.

Four of the 40 cases (10 per cent of the sample) involved killings during gang warfare or political conflicts, the latter also usually between rival gangs. Guns were used in three of these four cases.

In the remaining seven cases, either the type of crime or the murder weapon was unknown.

From the above statistics, the research team distinguished two broad categories or types of murder. They found that the majority of gun murders – those committed during the course of a robbery, and the smaller sample of rival gang/political conflicts – were carried out by persons operating in a group (this was borne out by the large number of accomplices among the condemned men in the sample). The team noted that the offenders in this type of crime “are very often members of juvenile gangs, or members of a clique associated with committing crimes for a specific purpose . . .” and that they “prove themselves by engaging in crimes which bring them status and recognition by the peer groups”. The team noted that this type of offender rarely acted alone and that “. . . as sociologists and psychologists have pointed out, these offenders would rarely pursue this form of career without direct or indirect cooperation of others.” Many of the crimes falling under this category were planned rather than spontaneous.

The second broad category of murder defined by the team, comprised most of the killings committed during a quarrel or fight (as distinguished from gang/political conflicts) and those due to “emotional factors”; these were what the research team described as “individual crimes”. They found that most of the offenders in this category were influenced by personal and emotional factors, and the crimes were usually committed on impulse. The type of weapons used in this category of murder were usually those most readily available. (Elsewhere in their report, the team remarked that a restriction in the widespread practice of carrying knives might reduce this type of killing.) These crimes also accounted for most of the cases in which the victim was known to the offender (of the total sample of 40 cases, 17 of the murder victims were known to the murderer). Taken together, murders arising from disputes, quarrels or fights, and those attributed to “emotional factors”, accounted for just over half of the crimes for which the prisoners in the sample had been sentenced to death.

Patterns of murder in Jamaica since 1964

From a study of prosecutions for murder taken at four-year intervals

between 1964 and 1976⁴, the research team found that there had been an increase in the number of prosecutions for murder committed with guns. However, they did not find that an overwhelming number of gun murderers were prosecuted. On the contrary, they found that the increased rate of prosecutions for gun murders did not match the very high increase in the incidence of this type of crime during the 1970s (when there was a dramatic increase in both armed robberies and political/gang killings). In fact, their statistics showed a particularly low rate of apprehension and prosecution for this type of killing. This, they found, was partly accounted for by the fact that many of the perpetrators were themselves killed in gun battles between gangs or in shoot-outs with the police. There was also evidence of silence and intimidation at the local level, which inhibited efforts to bring to justice those responsible for political killings in particular. The fact that some of these crimes were planned with precision might also have made apprehension more difficult.

Taking the period as a whole, the team found that the overwhelming number of murders which resulted in *prosecutions* were those arising from quarrels or fights between friends, neighbours or associates; private domestic quarrels or business disputes. Together, these accounted for some 60 per cent of all murder cases prosecuted during the period reviewed. The team found that these killings arose largely from spontaneous reactions to a situation in which emotions were aroused and the killers acted on impulse. The team observed that “it is unlikely that any penalty will deter these actions . . . They are situational offences which occur because of the impulsive reaction of the offender”. Their observations appeared to be confirmed by the victims of murder: they found that acquaintances, friends, associates and colleagues were the main victims of murder, closely followed by wives, common-law spouses, girlfriends and close relations. In cases prosecuted, knives remained the most common murder weapon throughout the period covered. The team commented that the detection rate tended to be higher with this sort of crime, precisely because of its spontaneous nature and the fact that the murderer was known to the victim.

The team noted that the above statistics were taken only from a record of cases prosecuted, and that the acquittal rate was probably higher in cases involving fights or disputes with associates or relatives. Nevertheless, a significant proportion of prisoners on death row had been convicted of this type of crime, according to the research team’s findings.

⁴ The research team examined a sample of 40 cases each from the years 1964, 1968, 1972 and 1976, taken at random from the Director of Public Prosecutions’ office records of prosecution only. The outcome of trials was not known in many cases.

The team went on to look at the statistics for criminal homicide cases recorded by the police from the years 1962/1978. They noted that these figures did not give a true picture of the actual murder rate in Jamaica at the time, since not all killings could be classified as murder in the legal sense¹⁰. They thus compared the number of cases reported to the police with, first, the "clear-up" rate (also taken from police records) and, secondly, the number of prosecutions for murder (taken from the Director of Public Prosecutions' office) over the same period. They found that there had been a progressive decline in the percentage of all cases cleared-up or prosecuted, although the number of reported killings of all types had increased greatly over the period covered. For example, the clearance rate had dropped from 90 per cent in 1962/1966 to 60 per cent in 1973/1978, whereas the number of killings had risen from 341 cases in the earlier period to 1,845 in 1973/1978. The prosecution rate had also dropped from 71.6 per cent (1964/1968) to 32.2 per cent (1974/1978).

The research team stated that "The impact of the cleared-up figure is of extreme importance. Criminologists now recognize that the most important factor in deterring crime is the surety of being caught."

The team also looked at figures giving the outcome of murder cases prosecuted. They found that convictions for murder averaged only about 25 per cent throughout the period reviewed (from 1964). A number of these prosecutions resulted in convictions for a lesser offence, such as manslaughter. There was also a high acquittal rate of 38.4 per cent in murder trials from 1974/1978.

They further found that 30 per cent or less of convicted murderers were actually hanged. Some had their sentences overturned on appeal, others were granted clemency and had their sentences commuted to life imprisonment by the Governor-General and the Jamaica Privy Council.

The team suggested that a number of factors apart from the severity of crime and degree of guilt of the offender could have affected the outcome of the trial, including the socio-economic background of the defendant and the quality of his defence. They quoted a passage from material submitted by Amnesty International to the Fraser Committee which, while not referring specifically to Jamaica, made the following general comment:

"When the ability to obtain good legal representation becomes one of the most important factors in determining

¹⁰ It was also not clear from these statistics whether the "case" recorded by the police included some multiple killings under one case, or whether each one homicide was recorded separately.

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 executed for offences of comparable severity than are the poor, supporters of the political opposition and members of unpopular racial and religious groups."¹¹

They also cited the findings of statistics into types of offender that had received the death penalty in California, United States, during the 1950s and 1960s, according to which 42 per cent of blue collar workers charged with first degree murder were sentenced to death whereas only five per cent of white collar workers so charged received the death penalty.

The team found that their own assessment of the background of the 40 men on death row in August and September 1979 appeared to show similar results, noting that: "They were men from low socio-economic backgrounds, low job stability, and mainly men who wore dreadlocks at the trial. The effect of these extraneous factors on the juries' perception of the culpability of the murder charge, cannot be underestimated."

Characteristics of men on death row in August and September 1979

From their interviews with 40 men on death row in August and September 1979, the research team noted the following¹²:

- a) In accord with the findings of the Barnett Commission, the research team found that men on death row were mainly from the lower socio-economic strata. They grew up in neighbourhoods characterized by frequent violence, gang warfare, and political conflicts. The dominant faith among the condemned men was found to be the Rastafarian religion. They wore their dreadlocks throughout the court procedures until they were shaved on entering prison. Many of them believed that their appearance caused the judge and jury to be biased against them. They were convinced that their failure to get proper justice was due to their way of life, their style of dress, their manner of speech, etc., to the fact that they were

¹¹ *Amnesty International and the Death Penalty*, a booklet published in June 1979.

¹² The team pointed out that, while the data was based almost solely on the interviews, the prisoners' antecedents were available to the team in most cases, and that the court records of the preliminary inquiry and trial tended to corroborate their stories, although placing a different emphasis on some of the accounts.

different from the men in the jury box or others who participated in the trial. Many of them expressed the belief that the police had framed them, and several claimed that they had been wrongly identified.

Of the 40 men interviewed, four were completely illiterate and 21 were semi-illiterate who dropped out before finishing primary school and were barely able to read and write. Thirty-one were characterized by the team as unskilled and only nine were deemed skilled or semi-skilled.

Only 10 of the men had previous criminal convictions recorded against them. Four of the 10 had only single convictions prior to their death sentence.

b) Thirty-three of those interviewed were represented by legal aid lawyers. Only four retained private lawyers while the information was not available on the remaining three. The team found that many legal aid lawyers appointed in murder cases spent very little time investigating their clients' defence and many never discussed the case with their client in any great detail; witnesses for the defence often did not turn up to give evidence, frequently because they were not notified¹³.

The research team also observed that many of the death row inmates interviewed displayed scars, bruises and other signs of injury, which they alleged had been inflicted by police officers. A number of the prisoners alleged that they had been beaten in order to elicit confessions.

The team also cited the assertions of innocence made by all of the prisoners it interviewed, and pointed to the possibility that at least some of these assertions might be true.

¹³ Delroy Chuck, the leader of the research team, was so concerned by his findings regarding the quality of legal representation in most of the cases examined, that he wrote to the general Legal Counsel and Bar Association on 25 October 1979. In his letter he stated *inter alia* that "... my research revealed that many defence counsel appointed by legal aid spend very little time investigating the cases assigned to them. Many, it seems, never discuss the case with their clients in any great detail. There are many areas of discrepancies, inconsistencies and flaws in a trial which defence counsel never see because they know very little about the case they are actually defending. It is crystal clear that in some trials the case for the defence is a half-hearted effort. When such a state of affairs exists in the legal profession, justice is rarely done, and the profession is brought into disrepute. Your urgent attention to this problem is sought."

The prerogative of mercy

Although executive clemency cannot eradicate all defects in the administration of the death penalty, and is no substitute for justice at the judicial level, it can play a crucial role in mitigating the rigidity of a death sentence, particularly mandatory sentences.

The power of executive clemency in Jamaica is vested in the Governor-General, acting on the recommendation of the Privy Council. Section 91 of the Jamaica Constitution provides that:

1. Where any person has been sentenced to death for an offence against the law of Jamaica, the Governor-General shall cause a written report of the case from the trial judge, together with such other information derived from the record of the case or elsewhere as the Governor-General may require, to be forwarded to the Privy Council so that the Privy Council may advise him in accordance with the provisions of section 90 of this constitution.
2. The power of requiring information conferred on the Governor-General by sub-section (1) of this section shall be exercised by him on the recommendation of the Privy Council or, in any case in which in his judgment the matter is too urgent to admit of such recommendation being obtained by the time within which it may be necessary for him to act, in his discretion.

Section 90 of the Constitution provides that:

1. The Governor-General may, in Her Majesty's name and on Her Majesty's behalf -
 - a) grant to any person convicted of any offence against the law of Jamaica a pardon, either free or subject to lawful conditions;
 - b) grant to any person a respite, either indefinite or for a specified period, from the execution of any punishment imposed on that person for such an offence;
 - c) substitute a less severe form of punishment for that imposed on any person for such an offence; or
 - d) remit the whole or part of any punishment imposed on any

person for such an offence or any penalty or forfeiture otherwise due to the Crown on account of such an offence.

2. In the exercise of the powers conferred on him by his section the Governor-General shall act on the recommendation of the Privy Council.

Workings of the Privy Council

After a death sentence has been upheld on appeal, the case is reviewed by the six members of the Jamaica Privy Council. Each member receives a file on the case, with notes of the evidence, report of the trial and appeal, and a separate report from the judge who passes sentence. There is some delay in preparing a case for the Privy Council. As the list of prisoners in Appendix I shows, appeals to the Jamaica Court of Appeals are usually disposed of within about one year after sentencing but, even if no further appeals are lodged, the case may not be reviewed by the Jamaica Privy Council for some time after this. Once the privy councillors have looked at a case, the council meets and discusses the matter. The Governor-General takes part in these discussions, but is only called upon to vote in the event of a tie. In keeping with the entirely discretionary nature of executive review, all the deliberations are in private and no reasons are given for the decisions taken. If the Privy Council gives a negative decision in the case, a warrant for execution is issued. If the prisoner then indicates that he intends to lodge a further appeal – for example to the Judicial Committee of the Privy Council in England – a stay of execution will be granted.

Reasons for granting clemency

Amnesty International tried to discover what criteria, if any, were used by the Privy Council in deciding whether or not to recommend clemency in death penalty cases. It found that the Privy Council does not have a clear set of written guidelines for the exercise of clemency in such cases.

His Excellency the Governor-General told Amnesty International that clemency would always be granted in the case of a woman sentenced to death, and in cases where there was doubt about the prisoner's guilt. His Excellency also indicated that murders arising out of domestic jealousy and those where there was evidence of mental illness were cases in which clemency would usually be granted. The Governor-General also stated that the Privy Council did take account of lengthy periods spent on death row but would be disposed to take this as grounds for granting clemency only if the delay

was not provoked by the prisoner's own lawyer in lodging appeals for the purpose of prolonging the prisoner's life.

In Amnesty International's view, it would certainly be perverse to penalize a prisoner on this last ground: indeed, a lawyer would be liable to an accusation of gross negligence if he or she did not pursue all legal avenues available to the prisoner which might prevent his execution, and the granting of leave to appeal in a case indicates at least *prima facie* grounds for judicial challenge to the sentence; some delays might also have been occasioned by inadequacy of defence counsel, at the trial or at a later stage of the appeal procedure.

Amnesty International does not know why clemency was not granted in the case of Stafford Pyne (where there was evidence of mental illness, even before his trial) or in the cases of Noel Riley and five others (executed in June 1982 after six to seven years under sentence of death, a crucial part of which time was caused by the *de facto* suspension of executions). These executions would appear to be at variance with some of the criteria reportedly considered by the Privy Council in recommending clemency.

In the case of Riley and others, Amnesty International finds it disturbing that clemency was not granted both in view of the narrowly divided judgment of the Judicial Committee of the Privy Council in England and the majority opinion that a long delay for which the condemned man is in no way responsible must be an important factor in exercising the prerogative of mercy. Amnesty International finds that particularly regrettable, in view of the fact that the appeal itself had occasioned a further prolongation of the period spent under sentence of death, not only in the cases of the five appellants, but also in the cases of most of the 10 other prisoners executed between September 1982 and August 1983, who had been sentenced to death during a similar period. Since the appeal in the case of Noel Riley and others concerned a matter of constitutional law of crucial and direct relevance to these cases also, the prisoners themselves could hardly be held responsible for the further delay (from 1979 to 1982) in the execution of their sentences pending this appeal.

The Governor-General told Amnesty International's delegates that he views his role and that of the Jamaica Privy Council as "applying the law of murder as it stands unless there are exceptional extenuating circumstances" and believes that, otherwise, the law should take its course. As stated above, the Privy Council in Jamaica does not have a clear set of written guidelines for exercising clemency, and decisions appear to be taken largely on an *ad hoc* basis.

It is worth noting that some other countries have laid down clear criteria for the consideration of clemency in death penalty cases. Those used by the British Home Secretary prior to abolition are cited

in the following extract from the Report of the Royal Commission on Capital Punishment in the United Kingdom (1953). It is possible that some of these factors may have been present in cases in which clemency has been denied in Jamaica:

"Apart from three classes of case we have mentioned in which it has long been the established practice to recommend the commutation of the death penalty¹⁴, certain types of murder are recognized as needing specially close scrutiny to see whether there are such extenuating circumstances as would justify a reprieve. Among such cases are unpremeditated murders committed in some sudden excess of frenzy, where the murderer has previously had no evil animus towards his victim, especially if he is weak-minded or emotionally unstable to an abnormal degree; murders committed under provocation which, though insufficient to reduce the crime to manslaughter, may be a strongly mitigating circumstance; murders committed without intent to kill, especially where they take place in the course of a quarrel; murders committed in a state of drunkenness falling short of a legal defence, especially if the murderer is a man of hitherto good character; and murders committed by two or more people with differing degrees of responsibility . . .

Finally there are three rare classes of case in which reprieves may be granted. One is where the Home Secretary feels that despite the verdict of the jury there is a "scintilla of doubt" about the prisoner's guilt. Secondly . . . it has occasionally been felt right to commute the sentence in deference to a widely spread or strong local expression of public opinion, on the ground that it would do more harm than good to carry out the sentence if the result was to arouse sympathy for the offender and hostility for the law. Lastly, it is occasionally, though very rarely, necessary to commute the sentence if the physical condition of the prisoner is such as to give ground for thinking that it could not be carried out expeditiously and humanely."

Statutory commutation of death sentences

Both the Prime Minister and the Minister of Justice were clearly concerned by the length of time many prisoners had spent on death

¹⁴ These were given in the commission's report as being mercy killings; survivors of genuine "suicide pacts" and certain cases of infanticide.

row. However, the Minister of Justice stated that the recommendation by the Fraser Committee that death sentences passed prior to March 1981 be statutorily commuted would be unconstitutional, since the prerogative of mercy was vested exclusively in the office of the Governor-General and the Jamaica Privy Council. However, the Governor-General himself expressed the view to Amnesty International that Parliament was sovereign in all matters regarding prisoners and that, although executive clemency rested in the hands of the Governor-General, there would be nothing unconstitutional in Parliament passing a bill either to restrict application of the death penalty or to commute existing sentences.

Following its mission to Jamaica Amnesty International wrote to the Minister of Justice on 5 November and stated *inter alia*:

"In the light of our conversation with the Governor-General, we are convinced that Parliament is sovereign in all of these areas under discussion. It follows, therefore, that any decision taken by Parliament with regard to the commutation of sentences of those awaiting execution, or limiting the crimes for which the penalty of death is applicable, would be constitutional . . ."

Amnesty International also stated in its letter that:

" . . . a decision by the Cabinet to restrict the offences for which death is the penalty would be influential in the deliberations of the Privy Council without impinging upon their integrity and independence".

Some general considerations on the death penalty

The death penalty as a deterrent to crime

One of the most common arguments for retaining the death penalty is that it acts as a deterrent to murder. The state of violent crime in Jamaica was one of the main reasons given by the House Select Committee for recommending retention of the death penalty in 1978. The high incidence of gun murders was a factor which influenced the Fraser Committee in avoiding a recommendation to abolish the death penalty completely for the present time. The high rate of crime in Jamaica and strong public support for capital punishment were reasons given by the Jamaican Government, in discussions with Amnesty International's delegates, for retaining the death penalty.

Figures for reported murders from 1976 to 1982 (given in Appendix II)¹⁵ suggest that neither the suspension nor the resumption of executions in Jamaica had any significant effect on the criminal homicide rate, which remained high throughout the period. The marked increase in gun killings in the year 1980 is believed to have been due to violence between rival political gangs claiming to support one or other of the two main political parties before and during the October 1980 general election. In 1981 and 1982 there was a decrease in gun murders; this is believed to have been due to the decline in political violence after the elections, a factor unrelated to the death penalty. Were the death penalty to have a unique deterrent effect, the resumption of executions in 1980 after more than four years might have been expected to produce a drop in other types of murder, which was not the case. In fact, the overall criminal homicide rate in

¹⁵ The statistics up to 1978 are those for murders reported to the police, compiled from police records by the Fraser Committee's research teams. Amnesty International's delegates were unable to obtain official statistics for the period 1979/82; these latter figures were taken from a report published in the *Daily Gleaner* on 16 March 1983, which gave a breakdown of murders into killings by gunmen, killings other than by the gun and killings of members of the security forces (many of which may also have been carried out by the use of guns).

1982 did not differ greatly from that in 1976. Figures for the earlier period show that the murder rate rose progressively from the mid 1960s to 1966/67, despite the regular use of capital punishment during most of this period.

Despite careful research in a number of other countries, the death penalty has never been shown to act as a unique deterrent to violent crime: this conclusion is borne out by the experience of Jamaica. As described in Chapter 4 of this report, the Fraser Committee's research team found that many murders in Jamaica were unplanned and committed in circumstances in which it is doubtful that the death penalty would act as a deterrent. Such murders were among those in which the perpetrator was most likely to be apprehended. The team also found that the low clearance rate for murders generally, and especially for the case of gun killings, lessened the deterrent effect of any penalty. Research into criminal homicide in Jamaica suggests that - as in many other countries - the murder rate is affected less by the death penalty than by social and other factors.

Dr Carl Stone, a Jamaican journalist who has carried out research into the death penalty, made the following observations in an article which was published in the *Daily Gleaner* on 4 October 1982. The figures he quotes are similar to those given by the Fraser Committee's research team.

"The suggestion that hanging deters murder and violence has no basis in fact. Most murderers are not caught and the probability of being caught is so low that hanging in our society is not an effective deterrent.

Over the 1970-71 to 1978-79 period murder convictions represented only 20% or about one-fifth of the murders reported. Over the period only 58% of the reported murders had in fact led to arrests: and there was a high rate of acquittals. Over the period more persons were acquitted of murder than the number found guilty. Between 1970-71 and 1976-77 when the last executions took place in the 1970s only about 14% of the murders committed resulted in execution sentences . . ."

Public opinion and the death penalty

Polls indicate that public opinion in Jamaica favours the retention of capital punishment. One such poll, conducted in October 1982, found that 86 per cent of people polled were in favour of hanging convicted murderers, with 13 per cent against.

However, a significant body of informed opinion is opposed to the

death penalty in Jamaica. As described above, there was strong support for abolition among members of both houses of Parliament and from both major political parties during the 1970s. A number of other organizations and individuals have also spoken in favour of abolition. Seventy-seven lawyers signed a petition prepared by the Jamaica Council for Human Rights in 1973, calling for an end to capital punishment on the ground that the "cold and deliberate execution", or infliction by the state of severe and painful injury upon a captive victim, was inconsistent with a civilized and humane penal system. The Jamaica Council for Human Rights since 1979 has repeatedly urged the government to reintroduce a parliamentary motion to abolish the death penalty. The Jamaica Council of Churches protested against a resumption of hangings when warrants for execution were issued in the cases of Noel Riley and others in 1979. The Jamaican branch of the American Association of Jurists called for suspension of capital punishment in 1982, while the findings of the Fraser Committee were considered. In November 1982 the Ombudsman for Jamaica, while decrying the increase in violent crime, called for an end to the death penalty¹⁶.

Public opinion, while showing support for capital punishment, may often not be well informed about the ways in which the criminal justice system works in practice; of the effectiveness or fairness of the penalty, or of the types of persons who are executed. The Jamaican public is probably far more likely to be influenced by the frequent press reports of gun killings than by informed opinion on the actual use of the death penalty.

It is relevant here to quote the following passage from the Ceylon Commission of Inquiry on Capital Punishment, 1959:

"Even if public opinion is assumed to be in favour of capital punishment, this would not be a conclusive argument in favour of the reintroduction of this punishment. Unless public opinion is itself based on rational and informed grounds (and this our experience has shown to be unlikely), the existence of a public opinion strongly favouring capital punishment may be a reason, from the standpoint of practical politics, why that punishment is retained, but it cannot be a rational justification for retention . . . Where public opinion is neither informed nor clearly ascertained, the social wisdom of a suggested legislative step must be determined by reference to considerations other than the belief of the public in the wisdom of that step."

¹⁶ In an address to an award dinner of the Shell Company (West Indies).

Mandatory death sentences

Jamaican law provides for a mandatory death sentence on conviction of murder. The question of mandatory death sentences has been addressed in a number of countries, in view of the irrevocable nature of the punishment. The US Supreme Court has ruled, for example, that mandatory death sentences (imposed regardless of mitigating or aggravating circumstances of the individual offence) are *per se* a denial of due process of law¹⁷.

It is widely acknowledged that executive clemency, while mitigating the rigid application of the death penalty in certain cases, does not provide an adequate substitute for safeguards at the judicial stage of the proceedings. It has also been recognized that mandatory death sentences can exercise an inhibitory effect on judges and juries. A jury's belief that a death sentence may not be deserved or appropriate in a particular case can interfere with their assessment of the guilt or innocence of the accused leading to an artificially high rate of acquittal in such cases.

The Minister of Justice expressed concern about mandatory death sentences in Jamaica and told Amnesty International that he was seeking advice on how this could be changed.

Other considerations

In the course of its work for abolition of the death penalty, Amnesty International monitors the use of it throughout the world. Its conclusions include the following:

- The death penalty violates the right to life. Concern for the victims of crime must not be used to justify the state deliberately taking the life of a prisoner.
- The death penalty is the ultimate cruel, inhuman and degrading punishment. Those sentenced to death often suffer acute anguish, both physical and mental, before execution. There is no means by which a person can be executed "humanely". Many means, including hanging, may not kill instantly.

¹⁷ This ruling was given in a number of different decisions. In *Gregg v. Georgia, 1976*, the US Supreme Court ruled that mandatory death sentences for a broad category of homicide constituted "cruel and unusual" punishment and were unconstitutional. In later rulings (*Woodson v. North Carolina, 1976; Roberts (Stanislaus) v. Louisiana, 1976*, and *Roberts v. Louisiana, 1977*) the Court ruled that mandatory death sentences, even when applying to a more restricted category of homicide, were a denial of due process of law.

- The death penalty is irrevocable and can be inflicted on the innocent, despite the most stringent judicial safeguards.
- No means of limiting the death penalty can prevent its being imposed arbitrarily or unfairly.

The impossibility of drafting legislation which would distinguish fairly between those offences which are punishable by death and those which are not was expressed most recently in the parliamentary debates on a motion to reintroduce the death penalty in the United Kingdom in July 1983¹⁸. During this debate, a number of members of Parliament pointed to the problems created by the Homicide Act of 1957, which had attempted to restrict the death penalty in Britain to a limited class of "capital" murders. The Act created anomalies which were followed by the suspension and later the abolition of the death penalty in Britain for all categories of murder. As the British Home Secretary commented in the 1983 parliamentary debate:

"Although attempts can be made to single out from other crimes murders that are specially prevalent, or that are believed to be deterrable by the death penalty, the problem remains that any such differentiation, when put into practice, is likely to lead fairly quickly to growing feelings of injustice. There will soon be cases outside, whatever criteria is used, that are felt to be more grave than those within them."

A former Prime Minister said in the same debate that the 1957 Homicide Act had:

"failed because the general public was not prepared to support an Act - nor was the judiciary for that matter which said that one kind of murderer was worthy of the death penalty and another was not".

The problem of distinguishing fairly between capital and non-capital offences applies to other countries as well. The giving of unguided discretion to a jury to decide whether or not to impose a death sentence was ruled unconstitutional by the US Supreme Court (*in Furman v. Georgia, 1972*) on the ground that this had led to arbitrary and capricious sentencing. Such a system has also been criticized on the grounds that this could lead to discrimination against an offender on the grounds of race, class or other factors. An alternative judicial process of "guided discretion" (used in the United States and elsewhere) through an assessment of pre-defined "aggravating" or "mitigating" circumstances does not resolve the problem, since it is impossible to specify in advance all the characteristics of a

¹⁸ The motion was defeated by a large majority.

given crime and weigh their relative importance. As Amnesty International stated in its *Report on the Death Penalty, (1979)*, "No legal provision can classify fairly the emotional, social and other factors which may have a bearing upon the commission of a capital offence". Such a process does not exclude discrimination on extraneous grounds such as race, and may work for the further disadvantage of those with less adequate legal counsel.

There are many ways in which the death penalty is unfairly applied. The distinction between one prisoner who is executed and another who is not depends not only on the crime but also on a series of recommendations and decisions made by the prosecutor, the defending lawyer, the judges and/or jurors and those who exercise clemency. It is impossible to rule out the possibility that, somewhere along this chain of decision, a step will be taken leading to one person being executed while another, having committed a similar crime in similar circumstances, is not. Along this chain of decision, it is also possible that - intentionally or not - the death penalty will inconsistently be inflicted in a way that discriminates by race, economic or educational or other social factors.

The death penalty and international human rights standards

The right to life and the right not to be subjected to cruel, inhuman or degrading treatment or punishment are enshrined in the Universal Declaration of Human Rights and other international human rights documents. There is growing international consensus that the death penalty is incompatible with those standards. In December 1971 the UN General Assembly adopted resolution 2857 (XXVI) in which it affirmed that:

"... in order fully to guarantee the right to life, provided for in Article 3 of the Universal Declaration of Human Rights, the main objective to be pursued is that of progressively restricting the number of offences for which capital punishment may be imposed, with a view to the desirability of abolishing this punishment in all countries".

This decision was re-affirmed by the General Assembly in Resolution 32/61 of 8 December 1977. The UN Secretariat has further stated that the death penalty constitutes "cruel, inhuman or degrading punishment" and the UN Secretary-General stated in 1980 that the death penalty "clearly violates the right to life".¹⁹

¹⁹ From a statement by Secretary-General Kurt Waldheim at the opening of the Sixth

The American Convention on Human Rights lays down standards for the application of the death penalty in countries that have not abolished it, and also provides, under Article 4(3), that "the death penalty shall not be re-established in states that have abolished it". The Inter-American Commission on Human Rights, whose principal function is to promote the observance and protection of human rights in the Americas region, recommended in its Annual Report of 1981-1982 that "the Government of Jamaica suspend the execution of those persons sentenced to death and consider the abolition of the death penalty".

Today 26 states have abolished the death penalty for all offences and 18 have abolished it for ordinary offences, but retain it for exceptional offences such as crimes in wartime. Information gathered by Amnesty International indicates that, in recent years, at least one country a year abolishes the death penalty or, having done so for ordinary offences, goes on to abolish it for all offences. The trend in other countries in the Caribbean shows a decline in the use of the death penalty. In the Dominican Republic use of the death penalty is prohibited under the 1966 Constitution. The practice in Guyana for the past decade has been to commute all sentences of death passed in the courts to life imprisonment. No executions have been carried out for more than five years in Dominica, Grenada and Trinidad and Tobago.

Jamaica has ratified both the International Covenant on Civil and Political Rights and the American Convention on Human Rights, and has generally been prominent in promoting human rights standards in the region. The resumption and increase in the rate of hangings in the 1980s in Jamaica would appear to be incompatible with internationally recognized objectives to restrict the use of the death penalty, with a view to its ultimate abolition. Any further moves towards abolition in Jamaica - such as appeared to take place during the 1970s - would clearly be in keeping with these objectives.

UN Congress on the Prevention of Crime and the Treatment of Offenders, 25 August 1980.

Conclusions and Recommendations

Summary and Conclusions

- The death penalty has been the subject of acute debate in Jamaica in recent years. A significant body of informed opinion there, including penologists, criminologists, lawyers and politicians, have expressed support for the abolition of the death penalty.
- From April 1976 until January 1979 executions in Jamaica were held in abeyance while a parliamentary committee considered whether or not the death penalty should be abolished. In January 1979 the House of Representatives voted by a narrow majority to retain the death penalty, but recommended unanimously that all existing death sentences be reviewed.
- Two extra-parliamentary official committees have considered the death penalty in Jamaica, both of which were critical of its current application. In 1975 the Barnett Commission questioned the effectiveness of hanging as a deterrent to violent crime and criticized conditions under which prisoners under sentence of death were held. The Fraser Committee, which submitted its report to the government in December 1981, expressed the view that "death as a penalty for murder should be abolished" and recommended, as a first step toward abolition, restrictions in the circumstances in which it should be imposed. The committee also recommended that all death sentences passed prior to 31 March 1981 (the period to which it sat) be commuted to life imprisonment.
- Despite the recommendation made in 1981 that the death penalty be modified, Jamaica retains a mandatory death penalty on conviction of murder.
- Hangings resumed in August 1980. Twenty-four prisoners were hanged between August 1980 and July 1984. Nearly all those executed had been sentenced to death before or during the early part of the period in which executions were held in abeyance. Most had spent long periods - of up to nine years - on death row. The executions were carried out despite recommendations that their sentences be reviewed or commuted.

- There are currently more than 150 prisoners under sentence of death in Jamaica, of whom some 60 were sentenced before 31 March 1981.
- An opinion given in June 1982 by the Judicial Committee of the Privy Council in England reflects the concern expressed by politicians and others at the length of time prisoners had spent under sentence of death while the penalty was under review. The Judicial Committee considered final appeals in the cases of five prisoners who had been sentenced to death in Jamaica between March 1975 and early 1977. Although the prisoners' appeals were rejected on technical grounds (by a majority of 3-2), the majority opinion stated that "long delay in the execution of a death sentence, especially delay for which the condemned man is himself in no way responsible, must be an important factor to be taken into account in deciding whether to exercise the prerogative of mercy." Despite this opinion, clemency was not granted in these cases.
- Studies of prisoners sentenced to death in Jamaica have shown that such prisoners have come overwhelmingly from the lower socio-economic sectors of society; a majority had received little or no education; most were first offenders; many may not have had the benefit of adequate legal counsel.
- There is no evidence that the death penalty deters crime more effectively than other punishments. Research carried out in Jamaica suggests that many murders arise from quarrels or fights between relatives or associates, and are committed on impulse, in circumstances in which the perpetrator is therefore unlikely to be deterred by the legal consequences. Statistics on criminal homicide also show a low rate both of conviction and apprehension in murder cases in Jamaica which inevitably lessens the deterrent effect of any penalty. The low apprehension rate applies particularly to cases of gun killings, which have accounted for a large proportion of the murders committed in recent years.
- The executive, in applying the prerogative of mercy in Jamaica, takes the view that the law should take its course unless there are exceptional circumstances, such as doubt about the guilt of the offender. The Jamaica Privy Council has no set of written guidelines for exercising clemency in death penalty cases. Some prisoners have been denied clemency in the presence of factors which would seem to constitute especially strong grounds for exercising mercy.
- The Jamaican government has expressed the view that total abolition of the death penalty cannot be introduced in Jamaica in view of the high rate of violent crime and apparent public support for capital

punishment. However, the Minister of Justice was concerned to seek ways in which the present laws may be modified.

Recommendations

On the basis of the visit of its representatives to Jamaica, Amnesty International recognizes that there are deeply rooted convictions held by all concerned with the issue of the death penalty and that, despite continued division in public opinion, a significant proportion of informed opinion supports the cause of abolition or the need for radical changes in the current laws governing the death penalty. The organization believes that changes in legislation falling short of total abolition of the death penalty, as have been introduced in some other countries, have served neither to eliminate the inherent unfairness in its application nor reduce controversy on the issue. Amnesty International therefore respectfully submits the following recommendations to the Jamaican Government:

1. All executions should cease, permanently. Amnesty International believes that this could be achieved by the introduction by the government of an appropriate parliamentary resolution which would stop the execution of those already under sentence of death and suspend all future executions, pending changes in the laws providing for the death penalty. Such a resolution might, for example, call upon the Jamaica Privy Council and the Governor-General to commute all death sentences coming before them, or to suspend the issuing of warrants for execution, pending legislative changes. All sentences that are suspended in this way should be commuted *ex post facto* upon the introduction of changes to the law.

An alternative measure, which Amnesty International believes would be constitutionally acceptable, would be the introduction of a bill to statutorily commute all existing and future death sentences, pending the introduction of changes to the law.²⁰

2. The death penalty should be abolished for all offences. Legislation should be prepared for submission to Parliament whereby alternative penalties be established for crimes of murder or other offences which presently warrant the death penalty.

As one means to this end, Amnesty International suggests that a detailed study be commissioned with full governmental support which would examine all aspects of the death penalty as currently applied in Jamaica. Such a study should include an examination of the social

²⁰ These options, including the latter, are discussed in Chapter 5 of this report, and were also raised in a letter from Amnesty International to the Jamaican Government, attached in Appendix III to this report.

and economic background and circumstances of all those accused of crimes for which death is the penalty; those who have been sentenced to death and those who have been executed in recent years, to assess whether the death penalty is a punishment which affects principally the poor, the underprivileged and the uneducated from which those with resources can escape. The study should examine the relevance of the death penalty to the level of crimes of violence and alternative measures by which such crimes may be dealt with effectively.

3. In preparation for abolition of the death penalty, the government should inform the public about criminological and penal issues related to the death penalty, including its lack of special proven deterrent effect. This is in line with a recommendation of the UN that "... seems to be an important task of governments, the academic community, the mass media and other publicly minded organizations ... to educate the public as to the uncertainty of the deterrent effect of capital punishment."²¹

4. Pending the introduction of measures to suspend or commute the sentences of those currently under sentence of death, the Minister of Justice should review arrangements for the treatment and custody of such prisoners, to ensure that they do not exacerbate the already cruel, inhuman and degrading experience of being under sentence of death.

²¹ Capital Punishment: Working Paper Prepared by the United Nations Secretariat for the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Caracas, Venezuela, 25 August - 5 September 1980 A/CONF 87/9.

APPENDIX I

*List of prisoners under sentence
of death in Jamaica as of
15 August 1982 and prisoners executed
since 1980*

Name	Date of Conviction	Date of Appeal to Jamaica Court of Appeals	Result
Rainford Thomas	30.4.74	6.5.74	21.1.75 Appeal refused
Roosevelt Edwards	22.1.74	27.1.75	4.76 Appeal refused
Fernando Marks	1975		
Noel Riley	7.3.75	11.3.75	23.3.76 Appeal refused
Anthony Forbes	7.3.75	11.3.75	23.2.76 Appeal refused
David Chamberlain	19.4.75	24.4.75	3.12.75 Appeal refused
Elijah Beckford	10.5.75	13.5.75	6.11.75 Appeal refused
Errol Blake	17.5.75	20.5.75	15.1.76 Appeal refused
Errol Miller	28.10.75	1.11.75	5.1.76 Appeal refused
Vincent O'Sullivan	22.3.76	24.5.76	10.1.77 Appeal refused
Clifton Irving	9.4.76	13.4.76	22.7.76 Appeal refused
Enos Henry	9.11.76	12.11.76	5.5.77 Appeal refused
Michael Manley	22.2.77	10.5.77	
Anthony Hewitt	21.3.77	25.3.77	17.3.78 Appeal refused

Errol Thomas	22.2.77	10.5.77	23.2.78	Appeal refused
David Henry	5.5.77	10.5.77	19.4.78	Appeal refused
Stafford Pine	13.5.77	17.5.77	9.11.77	Appeal refused
Junior Whyte	27.7.77	31.7.77	14.12.77	Appeal refused
Norman Johnson	5.10.77	7.10.77	23.2.78	Appeal refused
Barrington Housen	29.11.77	6.12.77	16.3.79	Appeal refused
Lloyd Aitkens	22.11.77	28.11.77	8.5.78	Appeal refused
Elijah Kerr	8.12.77	20.12.77		
Anthony Isaacs	9.12.77	14.12.77	16.3.79	Appeal refused
George Patterson	15.12.77	20.12.77	8.5.78	Appeal refused
Clive Hector	26.1.78	1.2.78	12.1.82	Appeal refused
Delbert Holt	10.2.78	14.2.78	17.10.81	Appeal refused
Wilbert Jackson	10.2.78	16.2.78	17.10.81	Appeal refused
Ani Innis	21.2.78	24.2.78	13.7.79	Appeal refused
Gregory McGraw	21.2.78	24.2.78	13.1.79	Appeal refused
Earl Pratt	15.1.78	18.1.79	5.12.80	Appeal refused
Ivan Morgan	15.1.78	18.1.79	5.12.80	Appeal refused
Eric White	26.4.78	1.5.78	27.5.79	Appeal refused
Kerris McLeod	11.4.78	14.4.78		
Ronald Cowan	11.5.78	16.5.78	14.4.82	Appeal refused
Clive Hayles	2.6.78	6.6.78	8.12.78	Appeal refused
Olassio Bailey	25.7.78	27.7.78	29.1.81	Appeal dismissed
Randolph Barrett	27.7.78	31.7.78	12.3.81	Appeal refused
Clyde Sutcliffe	27.7.78	31.7.78	12.3.81	Appeal dismissed
Oliver Whyllie	27.7.78	31.7.78	17.12.80	Appeal dismissed
Leroy Lovell	26.9.78	3.10.78	3.7.79	Appeal dismissed
George McLeish	28.11.78	1.12.78		
Anthony Currie	8.12.78	1.12.78		
Dennis Thompson	19.12.78	23.12.78	7.8.80	Appeal dismissed

Name	Date of Conviction	Date of Appeal to Jamaica Court of Appeals	Result
Andrew Scarlet	19.12.78	23.12.78	7.5.80 Appeal refused
Francis Woodhouse	19.12.78	23.12.78	7.5.80 Appeal refused
Cecil Rentau	20.2.79	22.2.79	27.3.80 Appeal refused
Lynden Champagne	8.3.79	8.3.79	10.6.81 Appeal dismissed
Delroy Palmer	8.3.79	13.3.79	10.6.81 Appeal dismissed
Oswald Chisolm	8.3.79	13.3.79	10.6.81 Appeal dismissed
Sylvester Taylor	15.3.79	20.3.79	10.6.81 Appeal dismissed
Wesley Cuthbert	7.6.79	14.6.79	31.7.81 Appeal dismissed
Everton White	5.7.79	6.7.79	
Everton Bailey	15.11.79	20.11.79	
Derrick Wilson	15.11.79	20.11.79	
Michael Evans	14.1.80	21.1.80	
Delroy Hobson	1.2.80	5.2.80	
Ransford Taylor	1.2.80	5.2.80	
Trevor Bailey	1.2.80	5.2.80	
Opal Brown	8.2.80	12.2.80	
Loxley Griffiths	12.2.80	18.2.80	28.5.81 Appeal dismissed
Wilfred Martin	27.2.80	3.3.80	
Willard Robinson	15.4.80	24.4.80	
George Reid	26.4.80	29.4.80	
Clinton Gooden	8.7.80	11.7.80	
Eslie Luke	12.7.80	15.7.80	5.11.81 Appeal refused
Sydney Thomas	12.7.80	15.7.80	19.5.82 Appeal refused
Ronald Thompson	21.7.80	25.7.80	

Nathan Foster	22.7.80	25.7.80	5.11.81 Appeal refused
Owen Donaldson	23.7.80	28.7.80	4.11.81 Appeal dismissed
			A new trial has been ordered
Edwin Lindo	24.7.80	28.7.80	22.6.82 Appeal refused
Assenius Gardener	22.9.80	26.9.80	29.9.81 Appeal refused
Richard Scott	25.9.80	29.9.80	
Dennis Walters	25.9.80	29.9.80	
Trevor Ellis	7.10.80	13.10.80	
Barrington Maxwell	24.10.80	28.10.80	
Allen McKenzie	18.11.80	27.11.80	
Gladstone Jones	15.1.81	17.1.81	24.6.82 Appeal refused
Junior Reid	26.1.81	29.1.81	
Desmond Morrison	26.1.81	29.1.81	
Clement Francis	26.1.81	29.1.81	11.11.81 Appeal dismissed
Howard Martin	17.2.81	19.2.81	
Phillip Grey	13.3.81	16.3.81	21.4.82 Appeal dismissed
Neville Carter	13.3.81	16.3.81	21.4.82 Appeal dismissed
Bramford Buckley	21.3.81	23.3.81	
Eli Brown	21.3.81	23.3.81	
Nathaniel Lewis	24.3.81	6.4.81	
Lloyd Saunders	30.3.81	1.4.81	
Jeffrey Lawson	2.4.81	6.4.81	
Frank Robinson	2.4.81	6.4.81	
Anthony Gibson	2.4.81	6.4.81	
Errol Gentles	10.4.81	16.4.81	
Lorenzo Kerr	10.4.81	16.4.81	
Dennis Douglas	10.4.81	16.4.81	
Neville Neath	10.4.81	16.4.81	

Name	Date of Conviction	Date of Appeal to Jamaica Court of Appeals	Result
Kenneth Evans	5.5.81	11.5.81	
Lincoln Hines	12.5.81	8.6.81	
Oswald Fairclough	12.5.81	25.5.81	
Easton Bentley	12.5.81	20.5.81	
Trevor Graham	14.5.81	18.5.81	
Stanford Dinnal	14.5.81	18.5.81	
Albert Alexander	27.5.81	4.6.81	
Derrick Wallace	3.6.81	6.6.81	
Earl Blake	28.9.81	5.10.81	
Valentine Chin	9.10.81	15.10.81	
Standford Flowers	26.10.81	2.11.81	
Winston Dixon	26.10.81	2.11.81	
Bradley Graham	27.10.81	2.11.81	
Randy Lewis	27.10.81	2.1.81	
Carlton Linton	17.11.81	23.11.81	
Jeffrey Granston	17.11.81	23.11.81	
Ronald Holmes	25.11.81	30.11.81	
Robert Reid	3.12.81	9.12.81	
Leroy Anganoc	4.12.81	9.12.81	
Clifton Valentine	4.12.81	9.12.81	
Michael McLean	19.1.82	27.1.82	
Glenville Henry	19.1.82	27.1.82	
Victor Francis	20.1.82	27.1.82	
Leaford Smith	26.1.82	1.2.82	
Horace Duisy	29.1.82	1.2.82	

Leabert Pounall	2.3.82	12.3.82	
Carl Bell	2.3.82	12.3.82	
Trevor Walker	17.5.82	19.5.82	
Lawson Richards	17.5.82	19.5.82	
Winston Haye	18.5.82	21.5.82	
Eusford Alman	19.5.82	23.5.82	
Michael Black	2.6.82	4.6.82	
Ronald Anderson	10.6.82	17.6.82	
Winston Da Silva	21.6.82	28.6.82	
Wilfred Green	1.7.82	7.7.82	
Anthony Jones	13.7.82	20.7.82	
George McLeish			

Entries in the third column describe the judgment given by the Court of Appeal of Jamaica and the date of the judgment.
 Dates are given as follows: Day - month - year. Not all the relevant information was available at the time of going to press. 5

Prisoners executed since 1980

Name	Date of Execution
Conrad Dwyer	27 August 1980
Lloyd Collins	12 May 1981
Joseph Baker	17 November 1981
Sydney Campbell	16 March 1982
Anthony Needham	16 March 1982
Rudolph Smith	15 June 1982
Anthony Forbes	7 September 1982
Noel Riley	7 September 1982
Clifton Irving	9 September 1982
Vincent O'Sullivan	9 September 1982
Elijah Beckford	16 September 1982
Errol Miller	16 September 1982
Enos Henry	30 September 1982
Lloyd Aitken	31 May 1983
Anthony Hewitt	31 May 1983
Junior Whyte	28 June 1983
Stafford Pyne	28 June 1983
Clive Hayles	19 July 1983
Ransford Thomas	19 July 1983
George McLeish	30 August 1983
Fernando Marks	30 August 1983
Allen McKenzie	21 January 1984
Nathaniel Lewis	21 January 1984
Derrick Wallace	3 July 1984

APPENDIX II

*Statistics on criminal homicide in
Jamaica 1962/1982*

Number of killings reported to the police 1962/1982 ²²		1969	1970	1971						
1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	
57	66	77	76	65	102	110	153	130	145	
1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982
188	227	195	226	367	409	381	203	699	371	376

Breakdown of types of killing during period 1979/1982²³

	1979	1980	1981	1982
Killings by gunmen	93	514	215	142
Killings other than by the gun	91	143	145	226
Killings of members of security forces	19	42	11	8

²² Figures for years 1962/1978 taken from report of the research team assisting the Fraser Committee on Capital Punishment and Penal Reform.

²³ Figures 1979/1982 were published in the *Daily Gleaner*, 16 March 1983.

APPENDIX III

5 November 1983

His Excellency,
Mr Winston Spaulding,
Minister of Justice,
12 Ocean Boulevard,
Kingston Mall.

Dear Mr Spaulding,

At the end of our meeting on 3 November, you kindly suggested that you would welcome any proposals which we or Amnesty International could make with regard to the resolution of some of the problems relating to the death penalty in Jamaica.

Dr Fattah and I cannot speak on behalf of Amnesty International and we will be reporting to the International Executive Committee and the Secretary General before the end of this month. We hope that our substantive report will be submitted to Amnesty International before the end of 1983. In view of the urgency which you expressed however, we felt that before leaving Jamaica it would be useful to put in writing a few of the ideas which we have developed in the course of our meetings with HE the Governor-General, the Prime Minister and yourself.

Naturally Dr Fattah and I would urge upon the government of Jamaica the need to take immediate and positive steps toward the early and total abolition of the death penalty. We have, however, heard the arguments which have been advanced against taking this course of action, and while we cannot endorse them, we confine ourselves in this note to other, less controversial steps which seem to us to fall within the bounds of possibility as understood by your government:

1. In the light of our conversation with the Governor General, we are convinced that Parliament is sovereign in all of these areas under discussion. It follows therefore that any decision taken by Parliament with regard to the commutation of sentences of those awaiting execution, or limiting the crimes for which the penalty of death is applicable, would be constitutional. It would therefore be accepted by the Governor-General as being legitimate.
2. In the period 1976-1980 - nearly 4 years - no executions took place in Jamaica. For most of this period there was no special committee sitting and no legislation pending. Nor does the period coincide with any particular case or cases being referred to the Privy Council in London. The Privy Council of Jamaica is nevertheless

required to pronounce upon and to commute or confirm every sentence of death before execution takes place. The fact that during this period the Privy Council either commuted all sentences or postponed all or some hearings suggests that the Privy Council itself is receptive of indications of government intentions and while enforcing the law takes into account all factors of both law and public policy. In other words, a decision by the Cabinet to restrict the offences for which death is the penalty would be influential in the deliberations of the Privy Council without impinging upon their integrity and independence.

3. We share your own views about the inherent dangers in mandatory sentences. We also noted that the Prime Minister felt that the mandatory life sentences applicable by the "gun courts" have no longer any deterrent effect. The same also clearly applies to the mandatory death sentence for murder which has never been effective in reducing the tragically high rate of violent crime resulting in death in Jamaica. An early decision to remove the mandatory aspect of the sentencing policy regarding murder would be an important step in providing more scope for the exercise of discretion by the learned judges in court and in courts of appeal, and the Privy Council itself.

4. You kindly informed us that you are currently undertaking legal consultations with lawyers in the USA and elsewhere with regard to the allocation of responsibility for the exercise of discretion in the limitation of the penalty of death to a few specified murders. You also raised the question of degrees of criminality justifying various sentences for similar offences. The constitutional issues involved in such questions have been the subject of considerable analysis in a number of countries including my own but especially in other Commonwealth countries with comparable experiences to those of Jamaica. Amnesty International itself has acquired considerable experience and expertise both centrally and through its advisers in many countries. I am sure that the Secretary General would be both able and willing to obtain advisory opinions and submit them to you for your consideration as soon as possible. Dr Fattah and I will convey the substance of your concerns to Mr Hammarberg in London but if you felt able to define the questions upon which you are already seeking legal opinions then it would be very beneficial.

5. We referred to the leadership role of Jamaica in many aspects of human rights: the ratification of the International and American covenants and conventions, membership of the UN Commission of Human Rights, President of the 6th Committee of the General Assembly and widely respected traditions of civil liberties in Jamaica itself. In 1977, Jamaica supported a UN resolution which referred to

the progressive steps to be taken towards the total abolition of capital punishment (I do not have the text before me). It would, we believe, be of international significance and educational importance, if the government now reiterated its long-term intention of implementing that particular UN resolution.

I have no doubt that Amnesty International, through its Secretary General, will be communicating with the Government of Jamaica when our report has been received. In the meantime, however, Dr Fattah and I would like to take this opportunity to express our own personal appreciation of the courtesy and patience which has been extended to us during our short visit. We arrived at a time of considerable national preoccupation with other issues and we therefore valued the more, the time which was given for our discussions. This fact alone emphasizes the significance we know that you yourself attach to this issue of the death penalty and its abolition.

Finally, may I ask you to extend your patience and tolerance to my typing. It seemed better to send you a letter in its present form than to await my return to London and the consequent vagaries of the international postal system.

Thank you again.

Yours sincerely,

Martin Ennals

APPENDIX IV

29 March 1983.
Martin Ennals Esq.,
c/o Amnesty International,
International Secretariat,
1 Easton Street,
London WC1X 8DJ,
United Kingdom.

Dear Mr Ennals,

Thank you for your letter of 5th November 1983, arising out of your discussion with the Prime Minister and myself on the matter of the application of the death penalty in Jamaica. I look forward to receiving a copy of your full report to Amnesty International.

Meanwhile, I would like to comment on paragraph 2 of your letter regarding the period 1976-80 and what took place during that time.

The records disclose that four (4) executions took place in 1976. Thereafter, in March, 1977, the then Government decided that the matter of capital punishment should be introduced into the House of Representatives so that the subject could be reviewed in light of current public opinion. The matter was subsequently referred to the House Committee on National Security for examination and out of respect for the Parliamentary deliberations, the Privy Council decided to stay executions during consideration of the matter.

To say that the Privy Council either commuted all sentences during 1976-80 or postponed all or some hearings is incorrect. Although the Privy Council suspended taking a decision as to whether or not the law should take its course whilst the matter was before the House committee, the Council did not at the same time reprieve those awaiting execution. In fact, the Council was continuously pressing Government for a speedy decision as there was a growing number of cases awaiting the Council's decision.

It was on the 30th January, 1979, that the House of Representatives by a majority voted to retain the death penalty and also recommended a review of all cases on death row. After that decision was taken, the Privy Council met and in May, 1979, decided that a number of convicted prisoners should be hanged. In view of the circumstances leading to appeals to the Privy Council in England, however, stays of execution were granted. Notwithstanding your letter and paragraph 2 in particular this is a matter of fact and record.

It is also a matter of record that Warrants for the execution of five Jamaicans - Noel Riley, Anthony Forbes, Clifton Irving, Elijah Beckford and Errol Miller - were issued in 1979. Application was

then made by each of the appellants to the Supreme Court of Jamaica pursuant to Section 25(1) of the Constitution, seeking a declaration that the execution of the sentences would be unconstitutional and illegal being contrary to Section 17 of the Constitution. The applications were dismissed by the Full Court and by the Court of Appeal on the 19th March, 1980 and 25th September, 1980, respectively.

Thereafter, the appellants appealed to Her Majesty in Council following on leave granted by the Court of Appeal of Jamaica on 25th September, 1980. It is quite clear, therefore, that your statement "Nor does the period coincide with any particular case or cases being referred to the Privy Council in London" is without foundation.

In June, 1982 the Judicial Committee of the Privy Council in the United Kingdom dismissed the appeal of the five Jamaicans. In dismissing the appeal the judges said that clearly the appellants could not base their complaint on the prolongation of their lives by the delay in the execution of their sentences. The only proposition capable of sustaining the contention that the execution of the sentence would now contravene Section 17 of the Constitution must be that to carry out a death sentence after a certain delay, not occasioned by the appeal process invoked by the prisoner, would contravene the provisions of sub-section (1) and could properly be held to do so notwithstanding the provisions of sub-section (2).

Their Lordships held that they fully accepted that long delay in the execution of a death sentence, especially delay for which the condemned man is himself in no way responsible must be an important factor to be taken into account in deciding whether to exercise the prerogative of mercy. However, it was not for that Board to usurp the function allocated by Section 90 of our Constitution to the Governor General acting on the recommendation of the Privy Council of Jamaica. The sole question for their Lordships' decision was whether the execution of sentence of death upon any of the appellants would contravene Section 17 of the Constitution. The Minority judgment expressly found that "the execution of the respective death sentences in May and June, 1979, against the background of the lapse of time since conviction would have been inhuman treatment within the meaning of sub-section (1) of Section 17 and would not have been saved from being unconstitutional and illegal by sub-section (2)".

I have noted the other points mentioned in your letter and trust that you now have a better understanding of the issues before the Government on this vital subject of capital punishment. I trust, therefore, that your report will accurately reflect the history of this matter since I will be compelled to require prominent correction of any inaccuracy.

Yours sincerely,

Winston Spaulding
Minister of National Security and Justice

Amnesty International — a worldwide campaign

In recent years, people throughout the world have become more and more aware of the urgent need to protect human rights effectively in every part of the world.

- Countless men and women are in prison for their beliefs. They are being held as prisoners of conscience in scores of countries—in crowded jails, in labour camps and in remote prisons.
- Thousands of political prisoners are being held under administrative detention orders and denied any possibility of a trial or an appeal.
- Others are forcibly confined in psychiatric hospitals or secret detention camps.
- Many are forced to endure relentless, systematic torture.
- More than a hundred countries retain the death penalty.
- Political leaders and ordinary citizens are becoming the victims of abductions, "disappearances" and killings, carried out both by government forces and opposition groups.

An international effort

To end secret arrests, torture and killing requires organized and worldwide effort. Amnesty International is part of that effort.

Launched as an independent organization over 20 years ago, Amnesty International is open to anyone prepared to work universally for the release of prisoners of conscience, for fair trials for political prisoners and for an end to torture and executions.

The movement now has members and supporters in more than 160 countries. It is independent of any government, political group, ideology, economic interest or religious creed.

It began with a newspaper article, "The Forgotten Prisoners", published on 28 May 1961 in *The Observer* (London) and reported in *Le Monde* (Paris).

Announcing an impartial campaign to help victims of political persecution, the British lawyer Peter Benenson wrote:

Open your newspaper any day of the week and you will find a report from somewhere in the world of someone being imprisoned, tortured or executed because his opinions or religion are unacceptable to his government. . . . The newspaper reader feels a sickening sense of impotence. Yet if these feelings of disgust all over the world could be united into common action, something effective could be done.

Within a week he had received more than a thousand offers of support—to collect information, publicize it and approach governments. The groundwork was laid for a permanent human rights organization that eventually became known as Amnesty International. The first chairperson of its International Executive Committee (from 1963 to 1974) was Sean MacBride, who received the Nobel Peace Prize in 1974 and the Lenin Prize in 1975.

The mandate

Amnesty International is playing a specific role in the international protection of human rights.

It seeks the *release* of men and women detained anywhere because of their beliefs, colour, sex, ethnic origin, language or religious creed, provided they have not used or advocated violence. These are termed *prisoners of conscience*.

It works for *fair and prompt trials* for all political prisoners and works on behalf of such people detained without charge or trial.

It opposes the *death penalty* and *torture* or other cruel, inhuman or degrading treatment or punishment of *all prisoners* without reservation.

Amnesty International acts on the basis of the Universal Declaration of Human Rights and other international covenants. Amnesty International is convinced of the indivisibility and mutual dependence of all human rights. Through the practical work for prisoners within its mandate, Amnesty International participates in the wider promotion and protection of human rights in the civil, political, economic, social and cultural spheres.

Amnesty International does not oppose or support any government or political system. Its members around the world include supporters of differing systems who agree on the defence of all people in all countries against imprisonment for their beliefs, and against torture and execution.

Amnesty International at work

The working methods of Amnesty International are based on the principle of international responsibility for the protection of human rights. The movement tries to take action wherever and whenever there are violations of those human rights falling within its mandate. Since it was founded, Amnesty International groups have intervened on behalf of more than 25,000 prisoners in over a hundred countries with widely differing ideologies.

A unique aspect of the work of Amnesty International groups—placing the emphasis on the need for *international* human rights work—is the fact that each group works on behalf of prisoners held in countries other than its own. At least two prisoner cases are assigned to each group; the cases are balanced geographically and politically to ensure impartiality.

There are now 3,341 local Amnesty International groups throughout the world. There are sections in 43 countries (in Africa, Asia, the Americas, Europe and the Middle East) and individual members, subscribers and supporters in more than 120 other countries. Members do not work on cases in their own countries. No section, group or member is expected to provide information on their own country and no section, group or member has any responsibility for action taken or statements issued by the international organization concerning their own country.

Continuous research

The movement attaches the highest importance to balanced and accurate reporting of facts. All its activities depend on meticulous research into allegations of human rights violations. The International Secretariat in London (with a staff of 175, comprising 30 nationalities) has a Research Department which collects and analyses information from a wide variety of sources. These include hundreds of newspapers and journals, government bulletins, transcriptions of radio broadcasts, reports from lawyers and humanitarian organizations, as well as letters from prisoners and their families. Amnesty International also sends fact-finding missions for on-the-spot investigations and to observe trials, meet prisoners and interview government officials. Amnesty International takes full responsibility for its published reports and if proved wrong on any point is prepared to issue a correction.

Once the relevant facts are established, information is sent to sections and groups for action. The members then start the work of trying to protect the individuals whose human rights are reported to have been violated. They send letters to government ministers and

embassies. They organize public meetings, arrange special publicity events, such as vigils at appropriate government offices or embassies, and try to interest newspapers in the cases they have taken up. They ask their friends and colleagues to help in the effort. They collect signatures for international petitions and raise money to send relief, such as medicine, food and clothing, to the prisoners and their families.

A permanent campaign

In addition to case work on behalf of individual prisoners, Amnesty International members campaign for the abolition of torture and the death penalty. This includes trying to prevent torture and executions when people have been taken to known torture centres or sentenced to death. Volunteers in dozens of countries can be alerted in such cases, and within hours hundreds of telegrams and other appeals can be on their way to the government, prison or detention centre.



Symbol of
Amnesty International

Amnesty International condemns as a matter of principle the torture and execution of prisoners by *anyone*, including opposition groups. Governments have the responsibility of dealing with such abuses, acting in conformity with international standards for the protection of human rights.

In its efforts to mobilize world public opinion, Amnesty International neither supports nor opposes economic or cultural boycotts. It *does* take a stand against the international transfer of military, police or security equipment and expertise likely to be used by recipient governments to detain prisoners of conscience and to inflict torture and carry out executions.

Amnesty International does not grade governments or countries according to their record on human rights. Not only does repression in various countries prevent the free flow of information about human rights abuses, but the techniques of repression and their impact vary widely. Instead of attempting comparisons, Amnesty International concentrates on trying to end the specific violations of human rights in each case.

Policy and funds

Amnesty International is a democratically run movement. Every two years major policy decisions are taken by an International Council comprising representatives from all the sections. They elect an International Executive Committee to carry out their decisions and super-

vises the day-to-day running of the International Secretariat.

The organization is financed by its members throughout the world, by individual subscriptions and donations. Members pay fees and conduct fund-raising campaigns—they organize concerts and art auctions and are often to be seen on fund-raising drives at street corners in their neighbourhoods.

Its rules about accepting donations are strict and ensure that any funds received by any part of the organization do not compromise it in any way, affect its integrity, make it dependent on any donor, or limit its freedom of activity.

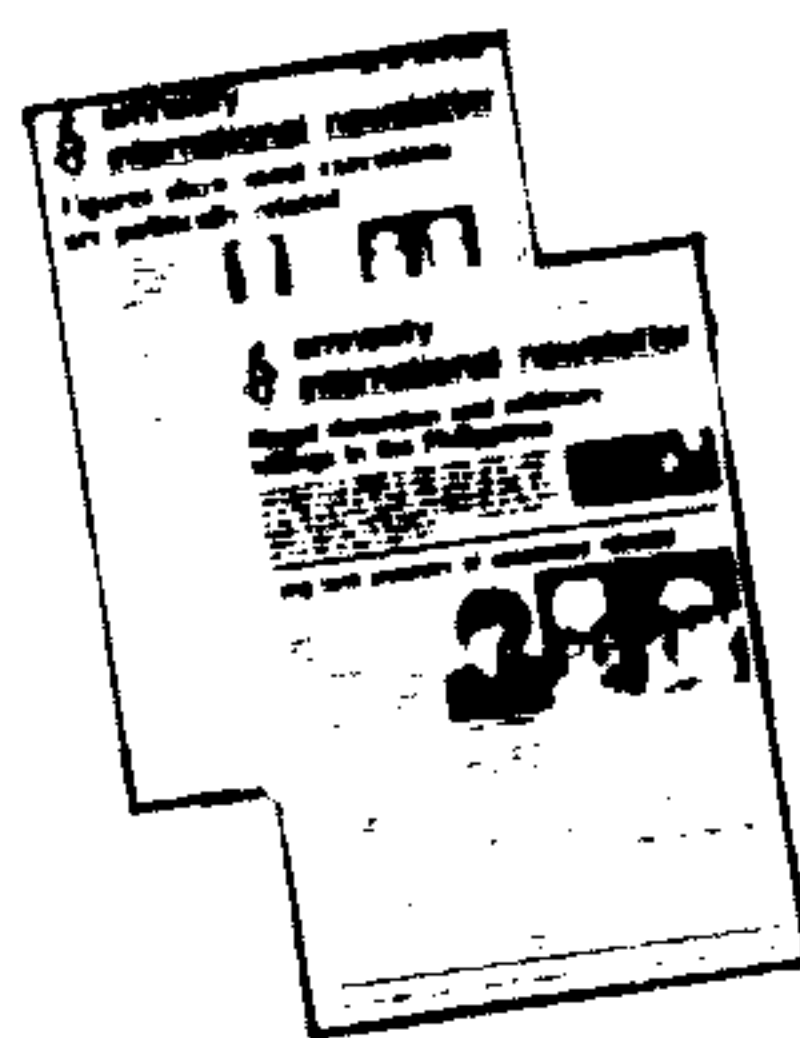
The organization's accounts are audited annually and are published with its annual report.

Amnesty International has formal relations with the United Nations (ECOSOC), UNESCO, the Council of Europe, the Organization of African Unity and the Organization of American States.

How to subscribe to Amnesty International

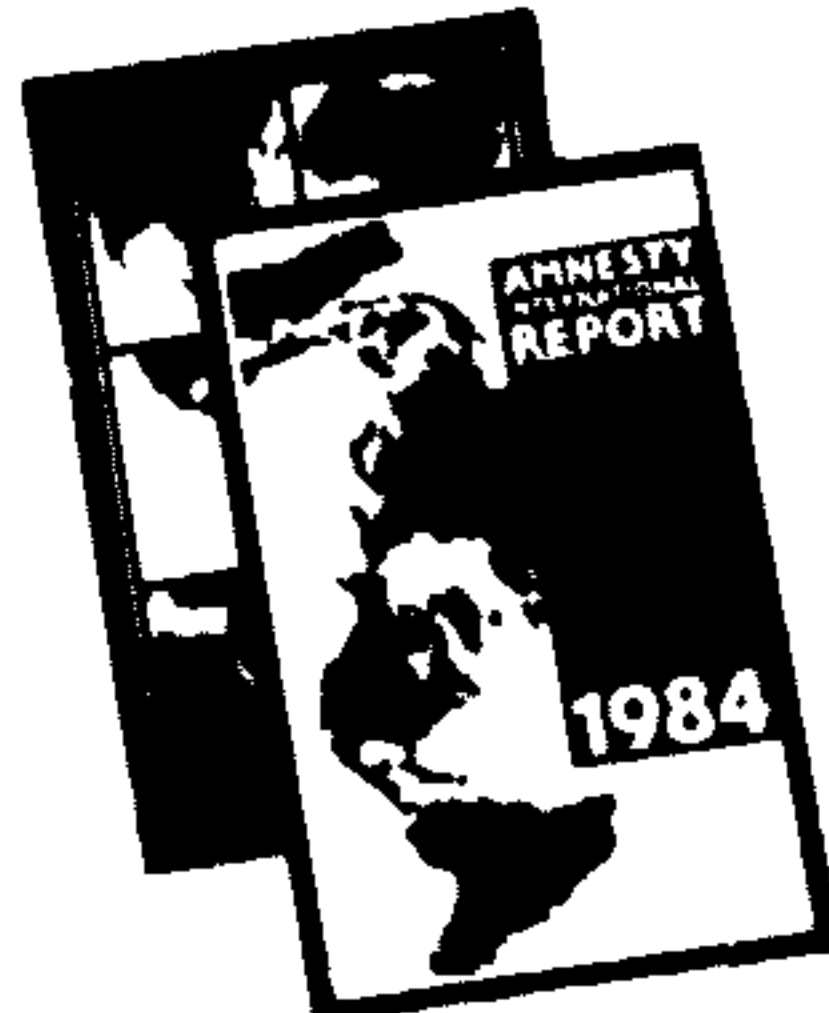
A subscription to Amnesty International will give you access to new—often unpublished—information about human rights abuses on a global, independent and impartial basis. By subscribing to Amnesty International you will also receive details about how you can help the people who are the victims.

Amnesty International Newsletter



This monthly bulletin is a regular update on Amnesty International's work: reports of fact-finding missions, details about political prisoners, reliable reports of torture and executions. It is written—without political bias—for human rights activists throughout the world and is widely used by journalists, students, political leaders, medical doctors, lawyers and other professionals.

Amnesty International Report



This annual report is a country-by-country survey of Amnesty International's work to combat political imprisonment, torture and the death penalty throughout the world. The report is organized into sections and normally covers at least 100 countries. It is probably the most widely read—and most influential—of the many reports published by Amnesty International each year.

Annual newsletter subscription: £ 5.00 (US\$12.50)

Subscription to both the newsletter and report:
£10.00 (US\$25.00)

Amnesty International Publications Catalogue



The Amnesty International publications catalogue lists all recent major Amnesty International reports and documents, together with a selection of earlier publications still in print. It is available, free of charge, from Amnesty International Publications.

Write to: Amnesty International Publications, 1 Easton Street, London WC1X 8DJ, United Kingdom, or your local section.

