

## TRINIDAD AND TOBAGO: NEW BILL WOULD MAKE THE CONSTITUTION INCONSISTENT WITH HUMAN RIGHTS AND PAVE THE WAY TO EXECUTIONS

Trinidad and Tobago, along with all independent English speaking Caribbean countries<sup>1</sup>, retains the death penalty. Even though death sentences continue to be handed out, no execution has been carried out in Trinidad and Tobago since 1999. The jurisprudence of the Judicial Committee of the Privy Council of the UK House of Lords (Privy Council), Trinidad and Tobago's court of final appeal, and of the Inter-American Court of Human Rights have set important standards to regulate the implementation of the death penalty.

On 14 January 2011, the Trinidad and Tobago government submitted a bill for approval by the Parliament aimed at reforming the Constitution in relation to the implementation of the death penalty.

The government urged the approval of the draft Constitution (Amendment) (Capital Offences) Act, 2011 (the bill) as “a crucial step to overcoming the hindrances to the implementation of the death penalty arising from the Privy Council's jurisprudence and, as a consequence, as a necessary measure to fight crime and, in particular, to respond to the high number of murders that each year are committed in Trinidad and Tobago.”<sup>2</sup>

Amnesty International is concerned that the adoption of the bill could result in the resumption of executions after a 12-years' hiatus. As currently drafted, the bill holds violations of human rights standards as consistent and with the Trinidadian Constitution. Amnesty International believes that the bill would in practice circumvent principles and standards set by the Privy Council and the Inter-American Court's jurisprudence. Dozens of people currently on death row in Trinidad and Tobago are consequently at serious risk of being executed in violation of international human rights law and standards.

Amnesty International is particularly concerned that the bill:

1. retains the mandatory imposition of the death penalty for certain categories of murder, meaning that sentences of death are not the product of individualised determinations and are imposed without affording the convicted person the opportunity to present mitigating circumstances;
2. allows death sentences to be carried out when appeals are still pending, thus violating the right of a person sentenced to death not to be deprived of his/her life except by due process of law;
3. introduces the erroneous principle that breaches of international human rights standards in relation to the implementation of the death penalty should be upheld as a matter of constitutional law;
4. is premised on the unfounded assumption that the death penalty deters crime and on the perception that public opinion supports the death penalty;
5. puts Trinidad and Tobago in opposition to the global trend towards abolition of the death penalty.

### Mandatory imposition of the death penalty retained

Sections 6C, 6D and 6E of the bill retain the mandatory imposition of the death penalty for certain categories of murder, in violation of international human rights law.

- The Human Rights Committee stated that “the automatic and mandatory imposition of the death penalty constitutes arbitrary deprivation of life, in violation of article 6,

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<sup>1</sup> Antigua and Barbuda, Bahamas, Barbados, Belize, Dominica, Guyana, Grenada, Jamaica, Saint Lucia, St. Christopher and Nevis, Saint Vincent and the Grenadines, Trinidad and Tobago.

<sup>2</sup> Statement by the Honourable Prime Minister on the Constitution (Amendment) (Capital Offences) Bill, 2011 in the House of Representatives, 14 January 2011.

paragraph 1, of the Covenant, in circumstances where the death penalty is imposed without any possibility of taking into account the defendant's personal circumstances or the circumstances of the particular offence".<sup>3</sup>

- The UN Special Rapporteur on extrajudicial, summary or arbitrary executions has stated that the death penalty should under no circumstances be mandatory by law, regardless of the charges involved<sup>4</sup> and that "[t]he mandatory death penalty which precludes the possibility of a lesser sentence being imposed regardless of the circumstances, is inconsistent with the prohibition of cruel, inhuman or degrading treatment or punishment".<sup>5</sup>
- In resolution 2005/59, adopted on 20 April 2005, the UN Commission on Human Rights urged all states that still maintain the death penalty "to ensure... that the death penalty is not imposed... as a mandatory sentence".
- On 30 April 2010 the Human Rights Committee concluded in *Munguwambuto Kabwe Peter Mwamba v. Zambia* that Zambia violated its international human rights obligations by mandatorily imposing a death sentence and for the inhuman treatment caused by the failure to meet the fair trial guarantees of the International Covenant on Civil and Political Rights in *Munguwambuto Kabwe Peter Mwamba's* case<sup>6</sup>.

Regional and national jurisdictions have been continuously ruling out the mandatory imposition of the death penalty. In the Caribbean, only Barbados and Trinidad and Tobago retain the mandatory death penalty for murder, and Barbados has pledged to remove the mandatory sentence. In October 2010, the Parliament of Guyana voted to adopt a bill abolishing the mandatory imposition of the death penalty against people convicted of murder. The Inter-American Court of Human Rights has consistently found that the mandatory application of the death penalty violates human rights, and national jurisdictions in Africa and Asia have overturned mandatory death sentences:

- The Inter-American Court of Human Rights ruled in September 2009 in the case *Boyce et al v. Barbados* that the mandatory death sentences imposed in murder cases in Barbados violated the right to life. According to the Court, the mandatory imposition of the death penalty is arbitrary and fails to limit the application of the death penalty to the most serious crimes, in violation of articles 4 (1) of the American Convention on Human Rights. As a consequence, the Barbadian government announced that the mandatory death sentence in cases of murder and treason would be abolished in Barbados.
- In *Hilaire, Constantine and Benjamin and Others v. Trinidad and Tobago* the Inter-American Court held in 2002 that the mandatory death penalty in Trinidad and Tobago was contrary to article 4(2) of the American Convention on Human Rights.
- Most recently in Asia, on 2 March 2010 the High Court division of the Supreme Court of Bangladesh ruled the mandatory death penalty in Bangladesh unconstitutional.
- In Africa, on 21 January 2009 the Supreme Court of Uganda upheld the judgment of the Ugandan Constitutional Court in *Susan Kigula & 417 others v. A.G. (Constitutional Appeal no.3 of 2006)*, which held that the mandatory application of the death penalty is unconstitutional. The court also decided that the mandatorily imposed death sentences received by the vast majority of more than 400 appellants in this case should be commuted to life imprisonment.

<sup>3</sup> *Pagdayawon Rolando v. Philippines*, Views of the Human Rights Committee... Communication No. 1110/2002, UN document CCPR/C/82/D/1110/2002, 8 December 2004, para. 5.2. Article 6(1) of the International Covenant on Civil and Political Rights proclaims the right to life and forbids the arbitrary deprivation of life.

<sup>4</sup> *Extrajudicial, summary or arbitrary executions: Report of the Special Rapporteur...*, UN document E/CN.4/1999/39, 6 January 1999, para. 63.

<sup>5</sup> *Extrajudicial, summary or arbitrary executions: Report of the Special Rapporteur...*, UN document E/CN.4/2005/7, 22 December 2004, para. 80.

<sup>6</sup> *Views of the Human Rights Committee under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights (ninety-eighth session) concerning Communication No. 1520/2006*, CCPR/C/98/D/1520/2006.

- On 30 July 2010 by the Court of Appeal of Kenya declared the mandatory death penalty for murder as inconsistent with the spirit and letter of the constitution. The judgement, delivered unanimously by a three-judges bench, ruled that Section 204 of the Penal Code, which provides for a mandatory death sentence in murder cases, is “antithetical to the Constitutional provisions on the protection against inhuman or degrading punishment or treatment and fair trial”, as it does not provide individuals concerned with an opportunity to mitigate their death sentences.

### Implementing death sentences while appeals are pending

Paragraph 5(1B) of the draft Constitution (Amendment) (Capital Offences) Act, 2011 amends the Constitution by giving the power to the President of posing clear time-restrictions for individuals under sentence of death to appeal, communicate with or consult with any person or body of persons outside Trinidad and Tobago. Furthermore, the draft bill gives the power to the Minister and the Advisory Committee on the Power of Pardon to exercise their respective functions when the time-limits have expired, “notwithstanding that the appeal, communication or consultation relating to that offender has not been concluded”.

There is no provision in the draft Bill excluding the retro-active applicability of this paragraph. As a consequence, people currently on death row would be stripped of their legitimate expectation to complete their appeal process to international bodies.

Amnesty International believes that implementing a death sentence while an appeal is pending is against international human rights standards related to the due process of law.

- Article 14(5) of the ICCPR guarantees the right to appeal every criminal conviction.
- Safeguard 8 of the *Safeguards Guaranteeing Protection to the Rights of Those Facing the Death Penalty*, adopted by the UN Economic and Social Council in 1984, states that “capital punishment shall not be carried out pending any appeal or other recourse procedure or other proceeding relating to pardon or commutation of the sentence.”
- In resolution 2005/59, adopted on 20 April 2005, the UN Commission on Human Rights urged all states that still maintain the death penalty “not to execute any person as long as any related legal procedure, at the international or at the national level, is pending”.
- In its Communication No. 580/1994 on *Ashby v. Trinidad and Tobago*, the UN Human Rights Committee stated that the carrying out of the execution of a prisoner when the execution of the sentence was still under challenge in the courts of a state party to the International Covenant on Civil and Political Rights constituted a violation of Article 6(1) and 6(2) of that Covenant. Mr. Ashby was arbitrarily deprived of his life when the State party executed him in full knowledge of the fact that Mr. Ashby was still seeking remedies before the Courts of Appeal of the State party, the Privy Council and the Human Rights Committee. The Committee finds that, in these circumstances (detailed above at 6.3 to 6.6), the State party committed a breach of its obligations under the Covenant. Moreover, having regard to the fact that the representative of the Attorney-General informed the Privy Council that Mr. Ashby would not be executed until all possibilities of obtaining a stay of execution had been exhausted, the carrying out of Mr. Ashby’s sentence notwithstanding that assurance constituted a breach of the principle of good faith which governs all States in their discharge of obligations under international treaties, including the Covenant. The carrying out of the execution of Mr. Ashby when the execution of the sentence was still under challenge constituted a violation of article 6, paragraphs 1 and 2, of the Covenant.<sup>7</sup>
- The already mentioned judgement issued by the Supreme Court of Uganda in the case of *Susan Kigula & 417 others vs. A.G.* states: “According to various international instruments already cited in this judgment, a person who has been sentenced to death

<sup>7</sup> UN document CCPR/C/74/D/580/1994, para. 10.8.

must be given as much latitude as possible to exhaust not only the court appellate processes but even all appeals for clemency before the sentence of death is carried out. [...] We believe these provisions are part of the evolving standards of common decency, namely that society should not wish to put a person to death expeditiously. The rationale for this must be because the death sentence is final. It extinguishes life. It should therefore not be carried out in a hurry. There have been reported too many instances where persons who have spent many years on death row are finally found to have been wrongly convicted and been released or had their sentences commuted. Had such persons been executed so as to avoid their suffering of the death row syndrome, it would have been gross miscarriage of justice, far worse than death row syndrome. In our view it calls for a balance so that while a person exercises his rights under the law to exhaust all avenues under the law before he is executed, he at the same time is not unduly kept in prison serving a sentence that he was not sentenced to. We must also add that persons sentenced to death need not be held in demeaning conditions as has been testified to. The government and all those who inspect prisons must ensure that the conditions under which all prisoners are kept strictly conforms to the law and to international standards.”

### **Constitutional amendments are incompatible with human rights standards on the death penalty**

Section 6M of the Constitution (Amendment) (Capital Offences) Act, 2011 holds that the imposition of a sentence of death or the execution of such a sentence shall not be held inconsistent with or in contravention of section 4 or 5 of the Constitution which recognize, among other rights, “the right of the individual to life, liberty, security of the person and enjoyment of property and the right not to be deprived thereof except by due process of law” and prohibit the Parliament “to abrogate, abridge or infringe or authorise the abrogation, abridgement or infringement of any of the rights and freedoms hereinbefore recognised and declared.”

Section 6M of the Constitution (Amendment) (Capital Offences) Act specifies in article 2 that the execution of a sentence of death shall not be held inconsistent with or in contravention of section 4 or 5 on any grounds whatsoever, including a delay in the hearing or determination of a charge for a capital offence; a delay in executing the sentence of death; the conditions or arrangements under which the person is held in prison, or otherwise lawfully detained, pending the execution of the sentence of death; or the effect of reading to the person, more than once, a warrant for the execution of the sentence of death on them.

International human rights standards and national and regional jurisprudence have recognized these factors as amounting to cruel, inhuman or degrading punishment, while recognizing the right of a prisoner under sentence of death to make the maximum use of the judicial process available.

- In the case *Pratt and Morgan v the Attorney General of Jamaica (1993)*<sup>87</sup>, the Privy Council ruled that in “any case in which execution is to take place more than five years after sentence there will be strong grounds for believing that the delay is such as to constitute ‘inhuman or degrading punishment or other treatment’ and that the death sentence should be commuted to life imprisonment.” Subsequently, prisoners having spent more than five years on death row within the jurisdictions of the Judicial Committee of Privy Council have had their death sentences commuted to life imprisonment.
- In the case of *Catholic Commission for Justice and Peace in Zimbabwe v Attorney-General and Others (2001) AHRLR 248 (ZwSC 1993)* the Supreme Court of Zimbabwe set aside the death sentences of the appellants because they had been on death row for five years, in “demeaning conditions”. The judgment stated that “from the moment he enters the condemned cell, the prisoner is enmeshed in a dehumanising environment of near hopelessness” and that the prolonged stay in those conditions caused prolonged mental suffering which amounted to cruel and inhuman treatment and that a period of more than two years tended to be “inordinate delay”.

- In the case of *Susan Kigula & 417 others vs. A.G. (Constitutional Appeal no.3 of 2006) (Uganda)*, the Supreme Court of Uganda confirmed an earlier Constitutional Court judgement according to which to hold a person beyond three years after confirmation of the sentence is unreasonable. The court found that the prolonged delay on death row had an adverse effect on the condemned prisoners' physical and mental state as a result of the "death row syndrome": "Some key features seem to underline what is regarded as the death row syndrome. These are, first, the element of delay between when the prisoner is sentenced to death and when the execution actually takes place. There is the natural fear of death that the prisoner has to live with constantly for a long time. [...] The second element that has been considered by courts in other jurisdiction, is that of prison conditions under which the prisoner is kept pending execution."
- The "obvious injustice" of the "death row Syndrome" was also cited by the Court of Appeal of Kenya in its judgement in the appeal of *Godfrey Ngotho Mutiso vs. Republic Kenya*, which ruled that Section 204 of the Penal Code, which provides for a mandatory death sentence in murder cases, as "antithetical to the Constitutional provisions on the protection against inhuman or degrading punishment or treatment and fair trial".
- The quality of life on death row was the basis for a landmark decision by the European Court of Human Rights (ECHR) in the case of *Soering v United Kingdom*.<sup>8</sup> Jens Soering was sought by the state of Virginia in the USA on a charge of murder. His application was based on a number of concerns, among which were conditions experienced by death row prisoners in Virginia. In its judgement delivered 7 July 1989, the ECHR noted that "However well-intentioned and even potentially beneficial is the provision of the complex of post-sentence procedures in Virginia, the consequence is that the condemned prisoner has to endure for many years the conditions on death row and the anguish and mounting tension of living in the ever-present shadow of death." In the subsequent paragraph, it added that while security needs may make stringent conditions justifiable in principle, "the severity of a special regime such as that operated on death row in Mecklenburg [Virginia] is compounded by the fact of inmates being subject to it for a protracted period lasting on average six to eight years." The court held unanimously that "in the event of the [British] Secretary of State's decision to extradite the applicant to the United States of America being implemented, there would be a violation of Article 3" [which states: "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."]

### No convincing evidence that the death penalty deters crime

Amnesty International is also concerned that once again the resumption of executions is presented as a crime-control measure, despite the lack of convincing evidence of the deterrent effect of the death penalty on the overall crime situation. Studies have consistently failed to find convincing evidence that the death penalty prevents crime more effectively than other punishments, as demonstrated by the persistently high crime rates in many of the states of the United States of America that retain capital punishment.

Given the low conviction rate in Trinidad and Tobago, it is quite implausible that before committing a crime a criminal would consider the risk of being hung and would refrain from wrong-doing. A study conducted by the University of West Indies and the University of Oxford revealed that between 1998 and 2002 only 5% of murders recorded by the police resulted in a conviction for murder and a mandatory sentence of death, while the percentage of death sentences which stand after appeal was only 8%. It also showed that the death penalty was rarely enforced for gang or drug-related crimes (only 5 of the 57 mandatorily sentenced to death had been convicted of a gang-related murder), "*largely because the perpetrators are usually immune from law enforcement*"<sup>9</sup>.

<sup>8</sup> European Court of Human Rights. *Soering v United Kingdom* 11 Eur. Ct. H.R. (ser. A) (1989)

<sup>9</sup> Roger Hood and Florence Seemungal: "A rare and arbitrary fate. Conviction for Murder, the Mandatory Death Penalty and the Reality of Homicide in Trinidad and Tobago".

Amnesty International acknowledges that crime rates, and in particular murder rates, have reached worrisome levels in Trinidad and Tobago. However, it does not believe that resumption of executions would guarantee a reduction in murder rates nor increase protection of the right to life of potential victims. On the contrary, by violating the right to life of those who have committed a murder, the society of Trinidad and Tobago would receive the message that killing is permissible. The cycle of violence that could ensue would further brutalise the Trinidadian society and the effect would be counter-productive.

Amnesty International welcomes that the Government of Trinidad and Tobago has acknowledged that *“the escalation in criminal activity over the past 8 years is a multi-dimensional problem to which there is no single answer”*<sup>10</sup> and that a multi-faceted crime prevention plan is being implemented, including measures aimed at fostering a system of restorative justice and others designed to reduce poverty and inequalities. However, the organisation believes that the proposed amendments to the Constitution with the aim of facilitating the carrying out of the executions will not offer a solution to the problem of crime. The emphasis should instead be put on improving the capacities of the police to detect and solve crimes, on the implementation of an effective witness protection programme and the implementation of effective measures tackling the root causes of crime and violence.

### **Executing in the name of the public opinion**

When presenting the constitution amendment bill at the House of Parliament, the Prime Minister of Trinidad and Tobago has referred once again to the implementation of the death penalty as “the will of the people”: *“The marked increase in the crime rate, especially the murder rate, has led to a determined desire by the people of this country for the implementation of the death penalty”*. While it is true that the death penalty enjoys popular support in the country, this statement does not take into account that the public opinion is also influenced by the attitude of the political leadership. In many countries of the world, abolition of the death penalty has been achieved through courageous political decisions which have gradually provoked a shift in the public opinion. What really matters for the population of Trinidad and Tobago is to be protected from violence and to be freed from fear of crime. It is therefore the duty of the political leadership to take effective measures to ensure their protection, rather than implementing politically expedient measures such as resuming executions. Moreover, policy-makers have the duty to legislate in conformity to human rights.

### **Executing in the name of the “law of the land”**

When introducing the bill, the Prime Minister of Trinidad and Tobago also presented the death penalty as the “law of the land”. As she reiterated her Government commitment to the rule of law, she ensured that her government will “seek to give effect to the law of the land in relation to murders”. This statement raises Amnesty International’s concerns as the organisation believes that political leaders cannot condone laws that allow human rights abuses. Moreover, Amnesty International consider that the Government’s commitment to abide to the rule of law could be seriously undermined by the adoption of this bill, as this entails the rejection of the standards and principles set by the Privy Council’s jurisprudence in relation to the implementation of the death penalty.

### **Trinidad and Tobago isolated as the world moves towards abolition of the death penalty**

Sixty years after the adoption of the Universal Declaration of Human Rights, the trend towards worldwide abolition of the death penalty is unmistakable. When the Declaration was adopted in

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<sup>10</sup> Statement by the Honourable Prime Minister on the Constitution (Amendment) (Capital Offences) Bill, 2011 in the House of Representatives, 14 January 2011.

1948, eight countries had abolished the death penalty for all crimes; today, more than two-thirds of the countries in the world have abolished the death penalty in law or in practice and the numbers continue to grow. The continent of Africa is largely free of executions, with only four of the 53 African Union member states known to have carried out executions in 2009: Botswana, Egypt, Libya and Sudan. Two African countries, Burundi and Togo, abolished the death penalty for all crimes in 2009. Since Cuba stopped carrying out executions in 2003 and with the exception of one execution in Saint Kitts and Nevis in 2008, the United States of America has been the only country in the Americas to carry out executions.

Since 1945, the United Nations has adopted numerous human rights treaties recognizing the obligation that a range of domestic criminal justice matters including the death penalty must meet international human rights standards; numerous articles of the ICCPR, as well as other international human rights treaties deal with criminal justice matters. In ratifying these treaties, states have accepted the human rights obligations set out in them. These obligations include the right to life and the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

Through the years, several UN and regional bodies have discussed and adopted instruments to support the call for the worldwide abolition of the death penalty:

- Article 6 of the International Covenant on Civil and Political Rights (ICCPR), while allowing countries that still retain the death penalty to sentence people to death for the “most serious crimes” and pursuant to a final judgement rendered by a competent court, clearly states in its paragraph 6 that “Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.”
- In its General Comment on Article 6 of the ICCPR the UN Human Rights Committee, established to monitor the implementation of the covenant by state parties, stated that Article 6 “refers generally to abolition [of the death penalty] in terms which strongly suggest ... that abolition is desirable. The Committee concludes that all measures of abolition should be considered as progress in the enjoyment of the right to life... ”
- In resolution 2857 (XXVI) of 20 December 1971 the UN General Assembly affirmed that, “in order to fully 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”. The desirability of abolishing the death penalty was reiterated in General Assembly resolution 32/61 of 8 December 1977, adopted by consensus, and by the UN Commission on Human Rights in resolution 1998/8 of 3 April 1998.
- In December 2007, 2008 and 2010 the United Nations General Assembly adopted resolutions, calling for a moratorium on the use of the death penalty “with a view to abolishing the death penalty.” The resolutions are a clear indication of the view of the international community that executions have no place in the 21st century. Since then, other regional bodies or civil society coalitions adopted resolutions and declarations advocating for a moratorium on executions as a step towards global abolition of the death penalty.
- The UN Special Rapporteur on extrajudicial, summary or arbitrary executions has stated that he “strongly supports the conclusions of the Human Rights Committee and emphasizes that the abolition of capital punishment is most desirable in order fully to respect the right to life” (UN document No. E/CN.4/1997/60, paragraph 79). He has urged governments of countries where the death penalty is still enforced “to deploy every effort that could lead to its abolition” (UN document No. A/51/457, para. 145).
- The Second Optional Protocol to the ICCPR, adopted by the UN General Assembly in 1989, aiming at the abolition of the death penalty, states in its preamble that “abolition of the death penalty contributes to enhancement of human dignity and progressive development of human rights” and that all measures of abolition of the death penalty should be considered as progress in the enjoyment of the right to life. The Protocol provides for the total abolition of the death penalty but allows states parties to retain the

death penalty in time of war if they make a reservation to that effect at the time of ratifying or acceding to the Protocol.

- The UN General Assembly has strongly appealed to all states that have not yet done so to become parties to the International Covenant on Civil and Political Rights and "to consider as a matter of priority acceding to the Optional Protocols to the International Covenant on Civil and Political Rights". (Resolution 58/165 of 22 December 2003)
- Under the Rome Statute of the International Criminal Court, the death penalty is excluded from the punishments which that Court is authorized to impose, even though the Court has jurisdiction over extremely grave crimes: crimes against humanity, genocide and war crimes. Similarly, in establishing the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda in 1993 and 1994 respectively, the UN Security Council excluded the death penalty for these crimes. (13) The death penalty was also excluded for such crimes by the Special Court of Sierra Leone, the Special Panels in Dili, East Timor and the legislation establishing the Extraordinary Chambers for Cambodia.
- In November 2008, the African Commission on Human and Peoples' Rights at its 44th Ordinary Session in Abuja, Nigeria, adopted a resolution calling on state parties to the African Charter on Human and Peoples' Rights to observe a moratorium on the death penalty.

Many countries internationally have prohibited the death penalty in their constitutions on human rights grounds. National courts have recognized that the death penalty violates the prohibition against torture, cruel, inhuman or degrading treatment or punishment. For example, in 1995, the South African Constitutional Court declared the death penalty to be incompatible with the prohibition of "cruel, inhuman or degrading treatment or punishment" under the country's interim Constitution (*Makwanyane and Mcebunu v. The State* (CCT/3/94) [1995] ZACC 3) paragraphs 95, 146).

In the Americas, several countries have enshrined the abolition of the death penalty in their Constitution, including Colombia, Dominican Republic, Haiti, Honduras, Nicaragua, Panama, Uruguay.

In Trinidad and Tobago, the last execution was carried out more than a decade ago. The steps taken by the Trinidadian authorities to resume executions in the country go against the trend recorded in the country, in the region and worldwide.

### **Amnesty International's calls on the Parliament and the Government of Trinidad and Tobago**

In view of the reasons stated above, Amnesty International believes that the Constitution (Amendment) (Capital Offences) Bill, 2011 is in breach of international law and standards, does not serve its stated purpose of effectively deterring crime, and is contrary to the worldwide trend towards abolition of the death penalty.

Amnesty International therefore calls on the authorities of Trinidad and Tobago to:

1. reject proposed amendments to the Constitution, contained in the Constitution (Amendment) (Capital Offences) Act, 2011;
2. abolish the death penalty;
3. commute all death sentences to terms of imprisonment;
4. pending abolition of the death penalty;
  - immediately establish a moratorium on executions;
  - immediately remove all provisions in national law which are in breach of international human rights law, in particular by abolishing all provisions which provide for mandatory death



sentences and by prohibiting the imposition of the death penalty on anyone suffering from a mental disability;  
-to ensure rigorous compliance in all death penalty cases with international standards for fair trial.