

NOT MAKING US SAFER

CRIME, PUBLIC
SAFETY AND THE
DEATH PENALTY

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1. INTRODUCTION

“We must never stop being tough on crime. But we must also be smart and efficient when battling crime and the conditions and the individual choices that breed it.”

US Attorney General Eric Holder, addressing the annual meeting of the American Bar Association’s House of Delegates on 12 August 2013

On 10 October 2013 - the 11th World Day Against the Death Penalty - the global abolitionist movement is campaigning against capital punishment under the slogan “Stop crime, not lives!”, with a focus on the use of the death penalty in the English-speaking Caribbean.

The theme of crime, public security and the death penalty is of particular relevance this year, as governments of several countries have resumed, or have actively moved towards resuming, executions after a long hiatus. In many cases this is a political response to increases, or perceived increases, in violent crime, or to particularly heinous crimes which have prompted public outrage. Between August 2012 and August 2013, Gambia, India, Indonesia, Kuwait, Nigeria, Pakistan, and, most recently, Viet Nam have all resumed executions. Legal changes in Papua New Guinea prompt concern that executions might resume in that country also.

Governments too often invoke the death penalty as a “quick-fix” to crime, despite the lack of any convincing evidence of its deterrent effect. However, frequently they fail to invest in effective measures to address the issue of public security and crime – such as more effective policing, a fair, functioning criminal justice system and regulating and reducing the availability of firearms. Weaknesses in the justice systems of many countries often exacerbate the problems of societal responses to crime, starting from inadequate quality of criminal investigations to inadequate legal representation for defendants from disadvantaged backgrounds.

Amnesty International opposes the death penalty in all cases without exception, regardless of the nature or circumstances of the crime; guilt, innocence or other characteristics of the individual; or the method used by the state to carry out the execution. The death penalty violates the right to life, as proclaimed in the Universal Declaration of Human Rights. It is the ultimate cruel, inhuman and degrading punishment.

Opposing the death penalty does not mean supporting impunity for crime. Amnesty International acknowledges fully the suffering of victims of violent crime and their families, and recognizes the duty of governments to protect the rights of victims of crime. Amnesty International believes that those found responsible - in a fair judicial process - of a crime should be punished- but without recourse to the death penalty.

The desirability of the abolition of capital punishment is recognized in international human rights law and standards. In a General Comment on Article 6 of the International Covenant on Civil and Political Rights, the UN Human Rights Committee has stated that Article 6 "refers generally to abolition [of the death penalty] in terms which strongly suggest... that abolition is desirable. The Committee concludes that all measures of abolition should be considered as progress in the enjoyment of the right to life...".

While 140 countries have now abolished the death penalty in law or practice, a minority of governments in the world continue to invoke the death penalty when confronted with public concern over violent crimes and murder rates. This document aims at providing a general overview of how crime and concerns about public safety are often met by government calls for the death penalty—distracting public attention from the much-needed, long-term solutions that could more effectively tackle crime and the root causes of crime. It reviews a number of recent studies on homicide trends, public perception of safety and the deterrent effect of the death penalty. The studies found that, in order to effectively deter crime, governments should use a multi-faceted approach involving different segments of society and multiple tools—and that the death penalty is not one of them.

2. CRIME AND CRIME PREVENTION

“Citizen security, human development and human rights are interdependent.”

United Nations Development Programme, “Caribbean Human Development Report 2012—Human development and the Shift to Better Citizen Security”, 2012.

2.1 CRIME RATES— THE GLOBAL PICTURE

The UN Office on Drugs and Crime estimated in its 2011 “Global study on Homicide”¹ that the total number of deaths classified as homicide in 2010 was 468,000. More than a third (36 percent) of those occurred in Africa, 31 percent in the Americas, 27 percent in Asia, 5 percent in Europe and 1 percent in Oceania. After relating these figures to the size of the population of each region, the study found that the homicide rate in Africa and the Americas (at 17 and 16 per 100,000 population, respectively) is more than double the global average (6.9 per 100,000), whereas in Asia, Europe and Oceania (between 3 and 4 per 100,000) it is approximately half.

According to the study, 42 percent of global homicides are committed using firearm. Murders in the Americas are more than three and a half times as likely to be perpetrated with a firearm than murders in Europe, where a great proportion of murders as recorded as having been caused by the use of sharp objects. In the Americas, more than 25 percent of homicides are related to organized crime and the activities of criminal gangs; in Asian and European countries for which data are available, the figure is 5 percent.

The study describes that while women make up the majority of victims of intimate partner or family-related murder, young males are particularly at risk of being murder victims outside the domestic space, due to their more likely participation in violence-prone activities such as street crime, gang membership, drug consumption, possession of weapons and street fighting.

Table 1- Homicide rates per 100,000 population in some countries in the Americas (source: UNODC data sets³ and Amnesty International

	Death penalty status	Homicide rate 2002	Homicide rate 2003	Homicide rate 2004	Homicide rate 2005	Homicide rate 2006	Homicide rate 2007	Homicide rate 2008	Homicide rate 2009	Homicide rate 2010	Homicide rate 2011	Year of last execution
Antigua and Barbuda	Retentionist	6.2	6.1	4.8	3.6	12.9	19.8	18.4	18.2	6.8		1991
Bahamas	Retentionist	17.0	16.1	14.0	16.3	19.1	23.7	21.6	25.7	27.4	36.6	2000
Barbados	Retentionist	9.3	12.2	8.1	9.2	12.9	9.2	8.5	7.0	11.3		1984
Canada	Abolitionist for all crimes	1.7	1.7	1.7	1.8	1.7	1.6	1.7	1.6	1.4	1.5	1962
Cuba	Retentionist	5.9	5.7	5.9	6.1	5.1	5.0	4.6	5.0			2003
Dominica	Retentionist	13.0	11.6	11.6	11.6	7.3	10.2	10.3	19.1	22.1		1986
El Salvador	Abolitionist for ordinary crimes	47.3	55.9	64.6	62.5	64.6	57.3	51.9	71.1	64.4	70.2	1973
Grenada	Abolitionist in practice ²	13.7	8.8	5.9	10.7	11.6	10.6	13.5	6.7	11.5		1978
Jamaica	Retentionist	39.8	36.8	55.2	62.4	49.7	58.5	59.5	61.6	52.7	41.2	1988
St Kitts and Nevis	Retentionist	10.6	20.9	22.7	16.3	34.1	31.7	45.0	52.2	38.2		2008
Trinidad and Tobago	Retentionist	13.1	17.5	19.8	29.3	28.1	29.5	41.1	37.9	35.3	26.1	1999
USA	Retentionist	5.6	5.7	5.5	5.6	5.8	5.7	5.4	5	4.7	4.7	2013
Venezuela	Abolitionist for all crimes	38.1	44.1	37.1	37.4	45.2	47.7	52.0	49.0	45.1		Not known; abolition in 1863

Table 2- Homicide rates per 100,000 population in some countries in Asia (source: UNODC data set⁴ and Amnesty International)

	Death Penalty status	Homicide rate 2002	Homicide rate 2003	Homicide rate 2004	Homicide rate 2005	Homicide rate 2006	Homicide rate 2007	Homicide rate 2008	Homicide rate 2009	Homicide rate 2010	Homicide rate 2011	Year of last execution
China	Retentionist	2.0	1.9	1.9	1.6	1.4	1.2	1.1	1.1	1.0		2013
Hong Kong	Abolitionist	1	0.8	0.7	0.5	0.5	0.3	0.5	0.7	0.5	0.2	1966
India	Retentionist	3.9	3.5	3.6	3.5	3.5	3.4	3.4	3.4	3.4	3.5	2013
Indonesia	Retentionist	0.6	0.6	0.4	0.6							2013
Japan	Retentionist	0.5	0.6	0.6	0.5	0.5	0.5	0.5	0.4	0.4	0.3	2013
Mongolia	Abolitionist in practice		13.8	13.2	15.6	13.0	11.2	7.9	8.1	8.7	9.5	2008
Nepal	Abolitionist for all crimes	3.4	2.9	3.5	3.3	2.3	3.1	3.2	2.8			1979
Pakistan	Retentionist	6.2	6.1	6.2	6.1	6.2	6.4	7.2	7.3	7.6	7.8	2012
Singapore	Retentionist	0.5	0.6	0.5	0.5	0.4	0.4	0.4	0.5	0.4	0.3	2011
South Korea	Retentionist	2.1	2.1	2.3	2.3	2.3	2.3	2.3	2.3	2.9	2.6	1997
Taiwan	Retentionist	5.1	4.7	4.0	4.0	4.0	3.8	3.5	3.6	3.2		2013
Thailand	Retentionist	7	9.8	6.5	7.2	7	6.5	5.8	5.4	5.3	4.8	2009

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The study also shows that in the Americas, homicide rates in the Caribbean and Central America have risen since 1995, whereas elsewhere in the region they have decreased or remained stable. Although the United States of America has a relatively high homicide rate compared to other countries with a similar socio-economic level, US crime rates in general have been declining since the mid 1990s.

Available data used in the study indicates that homicide rates have been decreasing in several Asian countries between 2002 and 2011. Hong Kong (Special Administrative Region of China), Japan and Singapore have recorded a long-term decline in their murder rates and are three of the six countries with the lowest reported homicide rates globally (with at 0.5 homicides per 100,000 of population each).

India has seen its murder rate decline by 23 percent for the period 1995-2011 – a period during which executions were suspended from 2004. Pakistan and Nepal have both seen slight increases in their homicide rates over the same period. According to figures published by the National Criminal Records Bureau of India, 8,718 (26 percent) of homicides in 2009 had female victims. Some of these killings related to disputes over payments from the families of the future brides (dowry deaths).⁵

The study also found that homicide rates have reportedly decreased in the vast majority of European countries since 1995.

In its report to the UN Economic and Social Council⁶ the UN Commission on Crime Prevention and Criminal Justice identifies regional trends for other forms of crime. According to the report, since 2004 levels of robbery have fluctuated at global level: while a decline was recorded in Europe, Asia and North America, the rates remained constant in South America. A substantial increase was recorded in Central America and the Caribbean. These trends have been found to have some similarities with murder trends, with some exceptions, such as the temporary increase in robberies in certain countries in Europe and Asia in 2005-2006.

In Central America and the Caribbean, burglary and motor vehicle theft increased in parallel with violent crimes such as intentional homicide and robbery.⁷

In both the Middle East and North Africa region and in sub-Saharan Africa, limited data availability does not allow for regional comparison on other crime statistics.

Table 3- Homicide rates per 100,000 population in some countries in Middle East and North Africa and sub-Saharan Africa (source: UNODC data set⁸ and Amnesty International)

	Death Penalty status	Homicide rate 2002	Homicide rate 2003	Homicide rate 2004	Homicide rate 2005	Homicide rate 2006	Homicide rate 2007	Homicide rate 2008	Homicide rate 2009	Homicide rate 2010	Homicide rate 2011	Year of last execution
Algeria	Abolitionist in practice		2.0	1.4	0.5	0.9	0.8	1.0	0.8	0.7	0.8	1993
Egypt	Retentionist		0.7	0.4	0.7	0.7	0.9	1.2	1.1	2.3	3.3	2011
Kenya	Abolitionist in practice			4.0	3.5	3.5	3.4	3.7	5.6	5.5	6.3	1987
Kuwait	Retentionist	1.1	1.4	2.2	2.9	1.8	3.1	2.2	2.2			2013
Lebanon	Retentionist			3.1	3.1	2.1	2.6	6.0	1.9	2.2		2004
Morocco	Abolitionist in practice	1.6	1.7	1.6	1.5	1.6	1.7	1.4	1.4	1.4		1993
Saudi Arabia	Retentionist	1.3	1.1	1.3	1.2	1.0	1.0					
South Africa	Abolitionist for all crimes	46.8	42.5	39.8	38.8	39.7	37.9	36.8	33.8	31.8	30.9	1991
Zambia	Abolitionist in practice			3.2	3.1	3.3	3.4	2.7	3.1	1.8		1997
Zimbabwe	Retentionist		8.2	8.7	8.7	7.4	5.2	7.7				2004

Not making us safer — Crime, public safety and the death penalty

2.2 FACTORS ASSOCIATED WITH CRIME TRENDS AND PATTERNS

"The guns and the drugs are ending up in the hands of the youngsters and when we begin to answer why this is so, only then we will get a handle on things."

Dr. Ronald Marshall, sociologist, Trinidad and Tobago, 18 August 2013⁹

Crime trends and patterns in different countries and regions are related to a range of different – sometimes context-specific – factors. Consequently there is no one solution that could address public safety concerns in all countries. However, several studies conducted by the United Nations have identified poverty, inequality, and the capacity of States to enforce the rule of law as factors affecting the level of violence in most countries, in addition to individuals' particular circumstances.¹⁰

The UN Office on Drugs and Crime (UNODC) identified in its 2011 "Global study on Homicide"¹¹ a relationship between homicide and human and economic development. The study found that the largest proportion of murders occurred in countries with low levels of human development; and that countries with high levels of income inequality have homicide rates almost four times higher than more equal societies.¹²

A 2012 UN Development Programme report on the Caribbean showed that gender inequalities are frequently recorded in contexts where women are most likely to be victims of crime, despite important advances in education, labour force participation, political participation and equality before the law.¹³

The risk of violent crime is often greater in big cities. According to the UNODC study on Global Homicide "while urban environments can offer protective elements such as better policing and faster access to medical facilities, in many countries, homicide rates in very populous cities are higher than in the rest of the country. This can be a consequence of a number of factors, both of a social (inequality, segregation, poverty) and criminological nature (more targets, drug markets, anonymity). For example, in some cities homicides tend to cluster in the most disadvantaged neighbourhoods and the impact of social inequality and poverty can be compounded by social and physical signs of degradation (prostitution, drug dealing) resulting in an increase in homicide risks."¹⁴

Factors associated with the nature of the murders themselves, such as availability of firearms or geographical proximity to drug-trafficking routes, can also have an impact on the homicide rates.¹⁵

In the Caribbean, the 2012 UN Development Programme report noted that the increase in violent crimes in recent years has been accompanied by a decrease in crime clearance and conviction rates: "In some countries, the rapid rise in rates of violent crime has been accompanied by a similarly precipitous decline in arrest and conviction rates to low levels. Inequality and social exclusion are big contributors to the high rates of violence, the near immunity to arrest also partly accounts for the high rates of violent crime in some countries."¹⁶

An analysis, carried out by the Commission on Crime Prevention and Criminal Justice of the UN Economic and Social Council (ECOSOC), of the interrelation between homicide rates and rule of

law index found that countries with weak processes with regard to promulgating laws, enforcing them equally or adjudicating them independently, were also associated with higher murder rates.¹⁷ However, ECOSOC also noted that relationship between these factors is not necessarily direct, as the capacity of States to enforce the rule of law can have greater impact on ensuring social and economic development, which can also, in turn, have an impact on crime rates.

2.3 CONVICTION RATES

"In order to have the death penalty, you need to have persons charged and convicted. The statistics show people are not charged and convicted for 99 percent of the murders that occur."

Ramesh Lawrence Maharaj, former Attorney General of Trinidad and Tobago, 31 August 2013¹⁸

Limitations on the data available to the UN Office on Drugs and Crime¹⁹ mean that conviction rates for homicide could only be assessed at the global level.

After analysing the data set available to the UN for 38 countries around the world for the period 2003-2009, the UN Commission on Crime Prevention and Criminal Justice of ECOSOC found that criminal justice systems that manage lower rates of homicide are more efficient than systems that manage higher rates. Trends in the eight countries with highest homicide rates have shown that where the homicide levels increased, the levels of arrests and investigations did not change, indicating that the systems were not able to react promptly to increasing murder rates.²⁰

2.4 THE UNITED NATIONS GUIDELINES FOR THE PREVENTION OF CRIME

"The whole idea is to let people understand that crime is a societal problem which requires a societal response. Spending a lot of time blaming others is not going to solve crime, [...] it is about each one of us recognizing that we have a part to play towards fighting crime and this is what we are seeking to do."

Prime Minister Roosevelt Skerrit, launching the Community Outreach Programme on crime and violence, 13 April 2012²¹

In its resolution 2002/13, the UN Economic and Social Council adopted Guidelines for the Prevention of Crime²² (Guidelines). The Guidelines define crime prevention as comprising "strategies and measures that seek to reduce the risk of crimes occurring, and their potential harmful effects on individuals and society, including fear of crime, by intervening to influence their multiple causes."

Various approaches to crime prevention have been developed over the past two decades, in order to devise specific strategies that could address the underlying factors and circumstances that influence the lives of individuals in a society and which may lead to offending behaviours. Criminologists generally refer to these factors by calling them "risk factors".

WHAT ARE THE “RISKS FACTORS” FOR CRIME?

In its handbook on crime prevention,²³ the UN Office on Drugs and Crime includes the following “risk factors”:

- At the global level “risk factors” include major population movements, rapid major population movements, rapid urbanization, environmental disasters, economic recessions and changes in patterns of trade and communications or in patterns of organized crime as they can all influence a country’s economy and infrastructure.
- At the national level, disparity in household income between the poorest and the wealthiest populations, levels of corruption, the quality of the infrastructure and institutions as well as social and cultural patterns can contribute to situations in which individuals become victims or perpetrators of crime.
- At the local level, inadequate infrastructure, poor housing and neighbourhood conditions, lack of facilities such as good education and health services, high unemployment and easy access to drugs or small arms constitute “risk factors”.
- At the personal level, a positive relationship between the individual and their families and communities is an important factor in preventing conflict situations.

The approaches identified by the Guidelines include:

- *prevention through social development or social crime prevention*: this focuses on the promotion of the well-being of people and encouragement of pro-social behaviour through social, economic, health and educational measures, with a particular emphasis on children and youth. It also includes attention to specific risk and protective factors associated with crime and risks of becoming a victim of crime, such as unemployment, marginalization and exclusion;
- *locally based crime prevention*: changing the conditions in neighbourhoods that influence offending, by building on the initiatives, expertise and commitment of community members;
- *situational crime prevention*: preventing the occurrence of crimes by reducing opportunities, increasing the risk of being apprehended and minimizing benefits, including through designing public spaces and houses to make it more difficult for people to break equipment and enter buildings without permission, and by providing assistance and information to potential and actual victims;
- *reintegration programmes*: preventing recidivism by assisting in the social reintegration of offenders, as well as establishing other preventive mechanisms.

To deliver these kinds of initiatives, the Guidelines recommend that all stakeholders should be involved - from government officials to other stakeholders tasked with implementing social-

economic policies, civil society, communities and intergovernmental organizations.

The Guidelines further recommend that crime prevention programmes should be sustainable and include clear accountability mechanisms for the funding of the programmes; they should be based on a multidisciplinary foundation of knowledge about crime problems and their multiple causes, as well as drawing on promising and proven practices. The rule of law and human rights as recognized in international instruments must be respected in all aspects of crime prevention.

The Guidelines also address the issue of resources, recommending that UN Member States and relevant funding organizations provide financial and technical assistance, including capacity-building and training, to developing countries and countries with economies in transition, as well as communities and other relevant organizations.

3. PUBLIC PERCEPTION OF SAFETY

“It goes without saying that crime has many in this country in a state of fear”

Taneka Thomsson, Nassau Guardian, the Bahamas, 20 September 2013

In all countries, the response to violent and heinous crimes - from both crime victims and the general public - can include demands for the implementation of the death penalty as a way of punishing and deterring crime and making society safer.

But studies have shown that the general perception of safety is directly influenced by how effective the work of the police, the judiciary and the country's institutions is perceived to be.²⁴

For people to feel safe, the police have to be perceived as holding legitimate and competent authority and being able to prevent and control crime. Police accountability for abuses and clearance rate for criminal cases are also important factors in building trust in the police service.

Similarly, the criminal justice system has to be perceived as fair and objective, as well as efficient, in addressing acts against the law and holding individuals accountable for their acts. The safety of convictions and punishment contribute enormously in building trust in the judiciary.

“Traditionally the public has very limited access to the full documents of judgments, which has also led many to question the justice of the rulings and, as a result, damaged the credibility of the court system”

Ma Huaide, vice-President of China Political Science and Law, 4 July 2013²⁵

3.1 THE “CARIBBEAN-7” EXAMPLE

In 2010, the United Nations Development Programme conducted a survey in seven Caribbean countries²⁶ to assess public perception of crime and crime prevention methods. Just over 20 percent of the 11,155 respondents identified violent crime as the most serious problem after unemployment.²⁷

When asked what in their view the government should do to tackle crime, 92.5 percent of the respondents answered that the government should invest more in job creation; 91.7 percent

also stated that the government should invest more in programmes for young people. Other suggestions made by the majority of respondents included: greater government investment in education, reducing poverty and reducing corruption, and punishing criminal harshly. 63.2 percent of the respondents indicated that they supported the death penalty.

To the question “To what extent has the police force been effective in controlling crime in your country over the last three years?”, only 35.5 percent of the interviewees answered that it had been more effective than previously; 24.1 percent that it had been less effective; and 39.5 percent that the level of effectiveness had not changed from previous years.

In relation to public confidence in the justice system, the picture differs country by country. In Antigua and Barbuda 37.8 percent of interviewees felt confident in the capacity of the criminal justice system; the highest proportion of positive responses came from Barbados, where 70.2 percent expressed confidence in the criminal justice system; in Guyana the figure was 39.6 percent; in Jamaica, 32.3 percent; in Surinam, 51.8 percent; and the lowest figure was recorded for Trinidad and Tobago, where only 27.3 percent of the interviewees felt that the system capacity was sufficient.

The survey also looked at perceptions of corruption in the criminal justice system. Just over 37 percent of the people surveyed the Caribbean-7 felt that judges were corrupt; 49.6 percent thought that the justice system as a whole was corrupt. The perception that powerful or politically-connected criminals go free was shared by 47 percent and 52.5 percent of the interviewees respectively.

4. THE DEATH PENALTY AS A “QUICK-FIX”

“Hang them, and the incidents will stop”

Sushil Kumar Shinde, Minister of Home Affairs of India, 26 August 2013²⁹

When faced with spiralling crime rates or public outrage following heinous murders, politicians and government authorities sometimes present the resumption of executions as a crime-control measure, despite the lack of convincing evidence of the deterrent effect of the death penalty.

Between August 2012 and August 2013, seven countries in three regions of the world resumed executions, in some cases after a hiatus of nearly three decades. In addition, legal changes in Papua New Guinea prompted concerns that executions might resume in that country also. In most cases, the authorities linked the implementation of capital punishment to the crime situation in the country.

- In Gambia, on 23 August 2012, nine death row prisoners – seven Gambian men and two Senegalese citizens – were taken from their cells and executed by firing squad soon after. These were the first executions in 27 years. They were carried out in secret and without prior information to the prisoners, their families and lawyers, or the Senegalese government. The President of Gambia, had announced that executions would resume, in a speech that was broadcast on television 19 August, during which he stated: “By the middle of next month, all the death sentences would have been carried out to the letter; there is no way my government will allow 99% of the population to be held to ransom by criminals.”
- On 21 November 2012, Ajmal Kasab was hanged in the first execution in India since 2004. The public was only informed after the execution had been carried out. According to the Indian Home Minister this had been done to avoid intervention from human rights activists. A second man, Afzal Guru, was executed on 9 February 2013 and his family only received official notification of his execution after it had been carried out. By August 2013, all but one of the mercy petitions that were pending before the President were rejected. Further executions have been temporarily halted pending decision by the Supreme Court on legal appeals.
- Indonesia carried out its first executions since 2008 on 14 March 2013, when a Malawian national was executed by firing squad for drug-trafficking. On 16 May, three men convicted of murder were also executed.
- On 1 April 2013 Kuwait carried out its first executions since 2007, when three men

convicted of murder were executed. On 18 June 2013, two more men were executed by hanging.

- Four men were executed in the state of Edo in southern Nigeria on 24 June 2013. These were the first known judicial executions since 2006, and were conducted in spite of pending appeals. In 2011 the federal government had confirmed that there was an official moratorium on executions in place in Nigeria; however, this was later described as "voluntary". Many of the over 1,000 people under sentence of death in Nigeria have been sentenced following blatantly unfair trials - some after spending more than a decade in prison awaiting trial - and for non-lethal crimes.
- Pakistan carried out its first execution since 2008 on 15 November 2012, when the military authorities executed a soldier. After taking office in June 2013, the government of Prime Minister Nawaz Sharif announced its intention to recommence executions in the face of pressure to improve the law and order situation. At least eight men were scheduled to be executed across Pakistan between 20 and 25 August 2013, including two men who were juveniles when the alleged crimes were committed and one whose family say he suffers from mental illness. These planned executions were temporarily suspended on 18 August.
- In Viet Nam, one man convicted for murder was executed on 6 August 2013 through lethal injection – the first execution in the country since at least January 2012, following changes to the execution method in the country.
- A new law adopted in Papua New Guinea on 28 May 2013 has, among other things, expanded the scope of the death penalty to specific crimes, including robbery and aggravated rape, even if the crime did not result in death. Legal execution methods now include, in addition to hanging, lethal injection, electrocution, firing squad and "medical death by deprivation of oxygen". While the death penalty is retained in law, no executions have been carried out since 1954. But these legal changes indicate the government's intent to move towards implementing the death penalty, and have put at least 10 prisoners under sentence of death at risk of execution.

Amnesty International is concerned that more executions in the above mentioned countries may follow. This concern is heightened by the fact that executions were resumed in violation of international law and standards, including those for fair trial, and were carried out for crimes - such as drug-trafficking - that do not involve intentional killings. Under international law, the death penalty can only be imposed for the "most serious crimes". Furthermore, an increase in the execution rate has been recorded in the past two years in Iran,²⁹ Iraq³⁰ and Saudi Arabia.³¹ In these countries the death penalty continues to be presented as a crime-control measure and its use is not compliant with prohibitions and restrictions in international law.

4.1 NOT A DETERRENT

"The reimposition of the death penalty, by itself, will not deter criminality. We also need to immediately institute reforms in the Philippine National Police and in the judicial system [...] If we are able to accomplish these, then we might not need to reimpose the death penalty," Jejomar Binay, Vice President of the Philippines, abs-cbn, 4 January 2012

There is no convincing evidence to support the argument that the death penalty prevents crime

more effectively than other punishments. The most comprehensive survey of research findings carried out by the UN³² on the relationship between the death penalty and homicide rates concluded:

"[R]esearch has failed to provide scientific proof that executions have a greater deterrent effect than life imprisonment. Such proof is unlikely to be forthcoming. The evidence as a whole still gives no positive support to the deterrent hypothesis".

Statistics from countries that have abolished the death penalty show that the absence of the death penalty has not resulted in an increase in crime. In Canada, for example, the homicide rate per 100,000 of the population fell from a peak of 3.09 in 1975, the year before the death penalty for murder was abolished, to 2.41 in 1980. The homicide rate in Canada remains significantly lower than prior to abolition.³³

A study comparing the murder rates in Hong Kong and Singapore, both of which have a similar size of population, for a 35-year period beginning in 1973 found that the abolition of the death penalty in the former and the high execution rate in the latter in the mid-1990s had little impact on crime levels.³⁴

Similarly in the Greater Caribbean, there is no correlation between retention of the death penalty and low crime rates: six of the ten countries with the highest homicide rates in the region retain the death penalty (the Bahamas, Belize, Guatemala, Jamaica, St Kitts and Nevis, and Trinidad and Tobago).³⁵ Indeed, in St Kitts and Nevis, the number of murders increased from 23 to 27 in the year following the execution of Charles Elroy Laplace in December 2008.³⁶

A recent study carried out in Trinidad and Tobago also found no correlation between executions, imprisonment and crime: "over a span of 50 years, during which these sanctions were being deployed in degrees that varied substantially, neither imprisonment nor death sentences nor executions had any significant relationship to homicides. In the years immediately following an appeals court's determination limiting executions, the murder rate fell."³⁷

In particular, the study showed that between 1950 and 1980, while executions were carried out regularly every year, homicides rates remained fairly stable. In the years since 1980, although courts continued to impose death sentences, executions took place in just two of those years. This drop in executions had no large, immediate impact on murder rates, which only began to rise sharply from 2003.³⁸

The Constitutional Court of South Africa stated when it abolished the death penalty in 1995:

"We would be deluding ourselves if we were to believe that the execution of...a comparatively few people each year...will provide the solution to the unacceptably high rate of crime. ... The greatest deterrent to crime is the likelihood that offenders will be apprehended, convicted and punished. It is that which is presently lacking in our criminal justice system; and it is at this level and through addressing the causes of crime that the State must seek to combat lawlessness."

The National Research Council of the National Academies in the USA confirmed in its April 2012

report that “research to date on the effect of capital punishment on homicide is not informative about whether capital punishment decreases, increases or has no effect on homicide rates. Therefore, the committee recommends that these studies not be used to inform deliberations ... about the effect of the death penalty on homicide.”³⁹

INDIA: DEATH PENALTY WILL NOT END VIOLENCE AGAINST WOMEN

A young woman was gang-raped in Delhi in December 2012, a crime which led to her death. This crime was met with outrage by a large section of the population which demanded the death penalty for crimes of sexual violence. In response the Indian government established the Verma Committee, a panel of legal experts which submitted its report to the Government on 23 January 2013. The report contained recommendations on a wide range of issues that impact the safety of women and gender discrimination, ranging from laws on violence against women, child sexual abuse and honour killings; to principles of sentencing, the creation of adequate safety measures for women, police reforms, and electoral reform. The report opposed punishing rape with the death penalty.

Despite this, in April 2013 the President of India promulgated the Criminal Law (Amendment) Act, 2013, which, while constituting prompt action, did not pursue the recommendations of the Verma Committee and expanded the scope of the death penalty to include certain circumstances of rape among the offences punishable by death. Furthermore, the Act falls short of international human rights standards in several other ways. It fails to criminalize the full range of sexual violence with appropriate punishments in accordance with international human rights law. It sets the age of consent at 18, and reduces victims’ access to health care and legal assistance. It includes discriminatory provisions as it defines rape as an act only committed by a man against a woman. The Act also retains effective legal immunity for members of state security forces accused of sexual violence, harms rather than helps teenagers by increasing the age of consent to sex.

On 13 September, four men were sentenced to death by a trial court in Delhi in relation to the December 2012 rape. In an interview to Deutsche Welle, UN Women’s representative for India, Rebecca Tavares, commented:

“While UN Women recognizes the brutality of the crime, we cannot condone that type of punishment for any human. [...] India must reform its judiciary, work with the police to enforce the laws that have been brought forward. The country is a leader in terms of making progressive and positive laws for women, but the problem lies in the enforcement, along with prevailing attitudes and long-standing positions that violate women’s human rights.

More and more governments recognize the importance of women and are taking measures to empower them economically. There are many programs involving housing, land distribution and cash transfer especially designed for women. Furthermore, progressive legislation aimed at incorporating prevention, education and a comprehensive approach to addressing violence and discrimination against women is currently being passed in many countries.”⁴⁰

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5. THE RIGHTS OF CRIME VICTIMS

5.1 WHO ARE THE VICTIMS OF CRIME?

A discussion on crime and punishment would not be complete or credible without taking into consideration the rights and views of the victims of crime and their relatives.

The UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (Declaration), adopted by the UN General Assembly in its resolution 40/34 of 29 November 1985, defines as victims “persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.”⁴¹

A person may be considered a victim, under the Declaration, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The term “victim” also includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.

The Declaration and the successive guidelines on its implementation⁴² explain the steps all States should take to ensure the rights of the victims are respected. These include treating victims with compassion and respecting their dignity; providing information about and access to the mechanisms of justice and to prompt redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible; allowing the views and concerns of victims to be presented and considered at appropriate stages of the proceedings where their personal interests are affected, without prejudice to the accused and consistent with the relevant national criminal justice system; providing proper assistance to victims throughout the legal process; and protect their privacy, when necessary, and ensure their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation.

Compensation for the loss or damage should be provided by the offender - or by the State when not fully available from the person responsible for the crime. Financial compensation should be made available to the victims themselves, who have sustained significant bodily injury or impairment, of physical or mental health as a result of serious crimes; and the family of the crime victims, in particular dependants of persons who have died or become physically or mentally incapacitated as a result of such victimization.

Although the impact is not direct, crime affects the society as a whole. A report by the United Nations Development Programme outlined the range of societal impacts of crime:

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"[crime] erodes confidence in the future developments of countries, reduces the competitiveness of existing industries and services by, for example, imposing burdensome security costs, and might negatively alter the investment climate. Capital may take flight. Crime may generate insecurities among the general population that lead to the loss of human capital via migration, that is, the loss of skilled and educated citizens. People may take flight. The quality of education and health care suffer because of the diversion of scarce resources to the control of crime. Crime destroys social capital and thereby retards the development process. This negative effect of crime on development represents an argument for more effective crime prevention and control and improved citizen security as a condition for development."⁴³

The abolitionist movement is acutely aware of the need to put victims' rights at the core of the discussion on punishments, as well as the importance of supporting victims' families to rebuild their lives and make communities safer from violence.

5.2 CRIME VICTIMS: BREAKING THE CYCLE OF VIOLENCE

"From experience, we know that revenge is not the answer. The answer lies in reducing violence, not causing more death. The answer lies in supporting those who grieve for their lost beloved ones, not creating more grieving families. It is time we break the cycle of violence".

Marie Deans, founder of the Murder Victims' Families for Reconciliation, whose mother-in-law was murdered in 1972

Rais Bhuiyan was shot at point-blank range in Texas by Mark Stroman in one of a series of violent crimes following the attacks of 11 September 2001. Blinded in one eye, Rais survived the shooting, and campaigned unsuccessfully against his attacker's execution, which took place in July 2011 in the US state of Texas. "After it happened, I was just simply struggling to survive in this country," said Rais in a 2011 interview with the New York Times. "I decided that forgiveness was not enough. That what he did was out of ignorance. I decided I had to do something to save this person's life. That killing someone in Dallas is not an answer for what happened on September 11."⁴⁴

When a heinous crime occurs, public outcries for action and retribution are understandable responses. However, anger and grief – no matter how justified – should not be used to justify the resumption of executions or retention of the death penalty. Moreover, crime victims have often demanded an effective response that does not include the death penalty, which they see as perpetuating the cycle of violence.

Death penalty advocates who claim to be acting on behalf of victims often imply that all those affected by crime support the death penalty. However, many relatives of murder victims object to the death penalty being carried out in the name of their loved ones and have joining forces in raising global awareness about the fact that an increasing number of victims' families are challenging the common assumption that the death penalty offers closure.⁴⁵

On 26 July 2013 a Japanese victims' group called "Ocean" held its first annual conference in Tokyo. The group was founded in 2012 by Masaharu Harada, whose younger brother was brutally murdered in 1983, as a support group for people affected by crime but also for

offenders and their families.

In an interview with the newspaper *The Japan Times*, in June 2007⁴⁶ Masaharu Harada stated: "Our life itself was completely destroyed because of [the man who murdered my brother] Hasegawa and I was consumed with hatred," Harada told *The Japan Times*. "Honestly speaking, there is no way I could ever forgive him, even now. . . . But I wanted to know more about the crime and also felt that I had an account to settle with Hasegawa."

Harada met Hasegawa four times, trying to come to terms with the murder and find out why he committed the crime. But then Hasegawa was abruptly hanged in 2001. "The government deprived me of my opportunity to interact [with Hasegawa]", Harada said. "Through the meetings, I was just beginning to understand who he was." Harada told the paper that he wanted Ocean to become "a sort of oasis" for crime victims as well as offenders, saying that "... I believe it is necessary to create a place for crime victims and offenders to face each other and hold dialogue."⁴⁷

6. WINNING PUBLIC SUPPORT: THE IMPORTANCE OF HUMAN RIGHTS EDUCATION

Through its monitoring of death penalty developments globally, Amnesty International has noted that very often governments present high crime rates or particularly heinous crimes to the general public as a reason to retain capital punishment – or even to carry out executions – and as a crime control measure.⁴⁸ There is no convincing evidence that capital punishment has a unique deterrent effect on crime. Instead of focusing on this ultimate cruel and inhuman punishment, governments should direct their attention towards devising comprehensive crime prevention programmes to tackle root causes of crime.

Furthermore, politicians often refer to the public support for the death penalty as a reason to justify the retention and use of the death penalty, making no - or little - effort to challenge the public perception that the death penalty deters crime. In line with their human rights obligations governmental authorities should support meaningful and informed debate on the issue of the death penalty, including through human rights education programmes and initiatives that would provide information and promote a rights-respecting culture.

Opinion polls that appear to give evidence of such public support tend to simplify the complexities of public opinion and ignore the extent to which it is based on an inaccurate understanding of the crime situation of the country, its causes and the means available for combating it. The public is often not fully aware of the reality of the death penalty and how it is applied. Information on important factors – such as the risk of wrongful execution, the unfairness of trials, the extent to which capital punishment disproportionately affects defendants living in poverty or people with mental disabilities – which could contribute towards the development of a fully informed view on capital punishment – is rarely provided.

Transparency on the use of the death penalty and human rights education are important for a meaningful public debate on capital punishment and its relationship to crime prevention. Governments need to more proactively engender a culture of respect for human rights, not only within state agencies, but within society. Human rights education programmes on issues around crime, punishment and the death penalty can make a significant contribution, and UN bodies have recommended that States use education tools and programmes to this end.

7. CONCLUSIONS AND RECOMMENDATIONS

When faced with high crime rates or public concern and outrage over crime rates or particularly heinous crimes, politicians and government authorities often present the resumption of executions as a crime-control measure, despite the lack of convincing evidence of the deterrent effect of the death penalty on the overall crime situation.

However, crime trends and patterns are determined by a combination of several factors that affect and change society at different levels - from the national macrocosm to the level of communities, families and individuals themselves.

The effectiveness of the relevant institutions, the police force and the judiciary is critical to both effectively addressing crime and changing the public perception around the safety of a society.

Government authorities should direct their attention towards devising comprehensive crime prevention programmes. There is also a need for political leadership - a willingness to draw attention to the human rights issues inherent to any discussion on the death penalty and to move towards abolishing the ultimate cruel, inhuman and degrading punishment.

140 countries have now abolished the death penalty in law or practice. People want to be protected from crime; they want to live in safer societies. But the death penalty does not make us safer.

Amnesty International calls on all governments that retain the death penalty to:

-abolish the death penalty for all crimes and commute all death sentences to terms of imprisonment;

Pending full abolition,

-immediately establish a moratorium on executions with a view to abolishing the death penalty, in line with four UN General Assembly resolutions adopted since 2007, including most recently resolution 67/176 of 20 December 2012;

-immediately remove all provisions in national laws that violate international human rights law, in particular by abolishing all provisions that allow the death penalty for crimes other than intentional killing and that provide for mandatory death sentences;

-in all capital cases, ensure rigorous compliance with international standards for fair trial, at least equal to those contained in Article 14 of the ICCPR;

-ensure that the death penalty is not imposed on people who were below 18 years of age when

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the crime was committed, pregnant women and people with mental or intellectual disabilities;

-support calls to abolish the death penalty nationally and internationally, including by voting in favour of UN General Assembly resolutions on a moratorium on the use of the death penalty

-publish information on the use of the death penalty and relevant related issues, which can contribute to informed and transparent national debates on its abolition. This information should include statistics on the number of executions, death sentences imposed, people on death row, sentences commuted and pardons granted;

-ensure that the criminal justice system is sufficiently resourced and capable of investigating crimes effectively; supporting victims; and ensuring that suspects have a fair trial without recourse to the death penalty.

-enhance oversight and accountability mechanisms for all criminal justice institutions in order to minimize abuses.

¹ UN Office on Drugs and Crime, "Global Study on Homicide—Trends, Contexts, Data", 2011.

² By "abolitionist in practice" Amnesty International refers to countries that retain the death penalty for ordinary crimes such as murder but can be considered abolitionist in practice in that they have not executed anyone during the past 10 years and are believed to have a policy or established practice of not carrying out executions.

³ UN Office on Drugs and Crime, UNODC Homicide Statistics, available at <http://www.unodc.org/unodc/en/data-and-analysis/homicide.html>, accessed on 7 October 2013.

⁴ UN Office on Drugs and Crime, UNODC Homicide Statistics, available at <http://www.unodc.org/unodc/en/data-and-analysis/homicide.html>, accessed on 7 October 2013.

⁵ UN Office on Drugs and Crime, "Global Study on Homicide—Trends, Contexts, Data", 2011.

⁶ ECOSOC Commission on Crime Prevention and Criminal Justice, "World crime trends and emerging issues and responses in the field of crime prevention and criminal justice", UN Document E/CN.15/2012/19, 17 February 2012.

⁷ ECOSOC Commission on Crime Prevention and Criminal Justice, "World crime trends and emerging issues and responses in the field of crime prevention and criminal justice", UN Document E/CN.15/2012/19, 17 February 2012.

⁸ UN Office on Drugs and Crime, UNODC Homicide Statistics, available at <http://www.unodc.org/unodc/en/data-and-analysis/homicide.html>, accessed on 7 October 2013.

⁹ News Day, "Tougher gun control to deal with murder rate", 18 August 2013, available at <http://www.newsday.co.tt/news/0.182402.html>, accessed on 7 October 2013.

¹⁰ UN Office on Drugs and Crime, "Making them work –handbook on crime prevention guidelines", August 2010.

¹¹ UN Office on Drugs and Crime, "Global Study on Homicide—Trends, Contexts, Data", 2011.

¹² ECOSOC Commission on Crime Prevention and Criminal Justice, "World crime trends and emerging issues and responses in the field of crime prevention and criminal justice", UN Document E/CN.15/2012/19, 17 February 2012.

¹³ United Nations Development Programme, "Caribbean Human Development Report 2012", 2012.

¹⁴ Office on Drugs and Crime, "Global Study on Homicide—Trends, Contexts, Data", 2011, p.12.

¹⁵ Office on Drugs and Crime, "Global Study on Homicide—Trends, Contexts, Data", 2011, p.10.

¹⁶ United Nations Development Programme, "Caribbean Human Development Report 2012—Human development and the Shift to Better Citizen Security", 2012, p.41

¹⁷ ECOSOC Commission on Crime Prevention and Criminal Justice, "World crime trends and emerging issues and responses in the field of crime prevention and criminal justice", UN Document E/CN.15/2012/19, 17 February 2012, p.10.

¹⁸ Trinidad Guardian, "De la Bastide: State can carry out death penalty", 31 August 2013, available at <http://guardian.co.tt/news/2013-08-31/de-la-bastide-state-can-carry-out-death-penalty>, accessed on 7

October 2013.

¹⁹ According to the report "World crime trends and emerging issues and responses in the field of crime prevention and criminal justice" (UN Document E/CN.15/2012/19), only aggregated data are available at global level for single years for the four steps of the process (number of offences, number of persons brought in formal contact with the police, number of persons convicted and number of people in prisons).

²⁰ ECOSOC Commission on Crime Prevention and Criminal Justice, "World crime trends and emerging issues and responses in the field of crime prevention and criminal justice", UN Document E/CN.15/2012/19, 17 February 2012.

²¹ Antigua Observer, "Prime Minister optimistic new crime strategy will bear fruit", available at http://www.caribbean360.com/index.php/news/dominica_news/570515.html, accessed on 6 October 2013.

²² ECOSOC Resolution 2002/13, adopted on 24 July 2002.

²³ UN Office on Drugs and Crime, "Making them work – handbook on crime prevention guidelines", August 2010.

²⁴ See, for instance, chapter 3.1 of this document.

²⁵ South China Morning Post, "Top Chinese court posts its rulings online", 4 July 2013, available at <http://www.scmp.com/news/china/article/1274894/top-chinese-court-posts-its-rulings-online>, accessed on 7 October 2013.

²⁶ Antigua and Barbuda, Barbados, Guyana, Jamaica, Saint Lucia, Suriname and Trinidad and Tobago, during the period from November 2010 to February 2011.

²⁷ United Nations Development Programme, "Caribbean Human Development Report 2012— Human development and the Shift to Better Citizen Security", 2012. Just over 18 percent of respondents stated they were afraid of having their house broken into; 17.6 percent of being robbed at gunpoint; 15.8 percent of having a relative killed; 13.5 percent of being killed; 9.6 percent of being sexually assaulted; 7.6 percent of being attacked by someone they know; 7.5 percent of having their vehicle stolen; and 3.5 percent of being beaten by their partner or spouse.

²⁸ NDTV, "Mumbai gang-rape: In Parliament, anger and demand for punishment", 26 August 2013, available at <http://www.ndtv.com/article/india/mumbai-gang-rape-in-parliament-anger-and-demand-for-punishment-410435>, accessed on 7 October 2013.

²⁹ For more information see Amnesty International, "Death sentences and executions 2012", ACT 50/001/2013, p. 31 ; and Amnesty International, Iran: Ahwazi Arab men at risk of imminent execution, 4 October 2013, available at <http://www.amnesty.org/en/library/info/MDE13/040/2013/en>.

³⁰ For more information see Amnesty International, "Death sentences and executions 2012", ACT 50/001/2013, p. 34.

³¹ For more information see Amnesty International, "Death sentences and executions 2012", ACT 50/001/2013, p. 37; and Amnesty International, Saudi Arabia: Five beheaded and 'crucified' amid 'disturbing' rise in executions, 21 May 2013, available at <http://www.amnesty.org/en/for-media/press-releases/saudi-arabia-five-beheaded-and-crucified-amid-disturbing-rise-executions-20>

³² Roger Hood, "The question of the death penalty and the new contributions of the criminal sciences to the matter: a report to the United Nations Committee on Crime Prevention and Control", UN document E/AC.57/1988/CRP.7, 1988. The survey was last reviewed and published commercially in 2008 (see endnote 86).

³³ Roger Hood, "The Death Penalty: A World-wide Perspective", Oxford, Clarendon Press, Fourth edition, 2008, p. 325.

³⁴ Franklin E. Zimring, Jeffrey Fagan, David T. Johnson, "Executions, deterrence and and homicide: a tale of two cities", 31 August 2009.

³⁵ United Nations Office on Drugs and Crime, "Global Study on Homicides 2011", page 95. According to the study, in 2010 the homicide rates per 100,000 inhabitants were: Jamaica (52.1), Belize (41.7), Guatemala (41.4), Saint Kitts and Nevis (38.2), Trinidad and Tobago (35.2) and the Bahamas (28)

³⁶ See table 1 of this document.

³⁷ David F. Greenberg and Biko Agozino, "Executions, imprisonment and crime in Trinidad and Tobago", *British Journal of Criminology*, 2011.

³⁸ David F. Greenberg and Biko Agozino, "Executions, imprisonment and crime in Trinidad and Tobago", *British Journal of Criminology*, 2011.

³⁹ National Research Council, "Deterrence and the Death Penalty", Daniel S. Nagin and John V. Pepper, eds., The National Academies Press, 2012, p.2.

⁴⁰ Deutsche Welle, 'Not the solution', 13 September 2013, available at: <http://www.dw.de/the-death-penalty-is-not-the-solution/a-17087181>

⁴¹ UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the UN General Assembly in its resolution 40/34 of 29 November 1985, Annex A.

⁴² UN General Assembly resolution 1989/57, adopted on 24 may 1989.

⁴³ United Nations Development Programme, "Caribbean Human Development Report 2012—Human development and the Shift to Better Citizen Security", 2012, p.5.

⁴⁴ New York Times, "The Hated and the Hater, Both Touched by Crime", available at <http://www.nytimes.com/2011/07/19/us/19questions.html?pagewanted=all&r=0>, accessed on 7 October 2013.

⁴⁵ Murder Victims' Families for Human Rights, Annual Report 2008, available at <http://www.mvfhr.org/sites/default/files/pdf/MVFHAnnualreport08.pdf>

⁴⁶ The Japan Times, "Victim-criminal dialogue can be cathartic", 12 June 2007, available at <http://www.japantimes.co.jp/news/2007/06/12/national/victim-criminal-dialogue-can-be-cathartic/#.UkCoin9j-kI>, accessed on 7 October 2013.

⁴⁷ Murder Victims' Families for Human Rights, "New Life and Hope", available at <http://mvfhr.blogspot.co.uk/2008/06/new-life-and-hope.html>, accessed on 23 September 2013.

⁴⁸ See, for instance, NDTV, "Mumbai gang-rape: In Parliament, anger and demand for punishment", India, 26 August 2013, available at <http://www.ndtv.com/article/india/mumbai-gang-rape-in-parliament-anger-and-demand-for-punishment-410435>; The News Day "Govt, Opposition move to resume hangings", Trinidad

and Tobago, 24 August 2013, available at <http://www.newsday.co.tt/news/0.182656.html>; Mena FM, "Hanging a lesson", Kuwait, 22 June 2013, available at <http://www.menafn.com/1093660250/Kuwait--Hanging-lesson-?src=RSS>]]

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