

URGENT ACTION

TWO MEN SENTENCED TO DEATH BY HANGING

James Gatdet and William Endley, who had both been arbitrarily detained at the National Security Services (NSS) headquarters in Juba, were convicted and sentenced to death by a High Court in Juba on 12 February and 23 February, respectively. They are appealing their sentences.

James Gatdet, a South Sudanese national, was on 12 February sentenced to death by hanging after being convicted of 'treason' under Article 64 of the South Sudan Penal Code of 2008 without a lawyer present. He was also sentenced to 20 years for inciting violence – 'abetment' (Article 52) and one year for 'undermining the authority of or insulting the president' (Article 76). James Gatdet, who is the former spokesperson for Sudan People's Liberation Movement-In Opposition (SPLM-IO) leader, Riek Machar, was unlawfully returned to South Sudan from Kenya on 3 November 2016. He spent over seven months in solitary confinement at the NSS prison with no access to sunlight or physical activity, and with extremely limited human interaction, before being moved to a regular cell. He was formally charged on 23 August 2017. But even after being charged, he was denied lawyer and family visits.

William Endley, a South African national and former adviser to Riek Machar, was on 23 February convicted and sentenced to death by hanging under Article 57 of the National Security Service Act of 2014 – on 'penalties for espionage, terrorism, attempts to overthrow a constitutionally established government, spying.' He was also sentenced to seven years for 'insurgency, banditry, sabotage or terrorism' (Article 67) and four years for 'recruiting or training insurgents, bandits, saboteurs or terrorists' (Article 68) under the South Sudan Penal Code of 2008 and to two years for 'illegal entry into South Sudan' (Article 38-2) under the Passport and Immigration Act of 2011. He was arrested in Juba on 18 August 2016 and held by the NSS. Although he did have legal representation at the time of his sentencing, there were two hearings at which he did not have a lawyer, as his lawyer at the time had withdrawn from the case.

Both men have filed appeals against their sentences. Amnesty International is seriously concerned that South Sudanese courts continue to impose the death penalty, including in light of credible information that the court proceedings for James Gatdet and William Endley likely did not meet international standards for a fair trial.

Please write immediately in English, Arabic or your own language:

- Calling on them to quash the convictions and death sentences of the two men and ensure that they are granted a retrial that will be in line with international standards for a fair trial and without recourse to the death penalty;
- Calling on them to establish an official moratorium on executions with a view to abolishing the death penalty for all crimes;
- Calling on them to initiate prompt, effective, independent and impartial investigations into NSS detention practices, including enforced disappearances, deaths in custody, torture and other ill-treatment, to publicly disclose the findings, and to hold suspected perpetrators accountable in fair trials without recourse to the death penalty.

PLEASE SEND APPEALS BEFORE 1 MAY 2018 TO:

President of the Republic of South

Sudan

Salva Kiir Mayardit

@RepSouthSudan

Salutation: Your Excellency

Minister of Justice

Paulino Wanawilla Unango

Ministry of Justice

Salutation: Your Excellency

There is no postal service in South Sudan. Please send your appeals in the care of diplomatic representatives accredited to your country, listed below. If there is no South Sudanese embassy in your country, please mail the letter to the Permanent Mission of the Republic of South Sudan to the United Nations, 336 East 45th Street, 5th Floor, New York, NY 10017, USA.

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date. This is the first update of UA 240/17. Further information:

<https://www.amnesty.org/en/documents/afr65/7283/2017/en/>

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ADDITIONAL INFORMATION

James Gatdet was on 23 August 2017 charged with: inciting violence – ‘abetment’ (Article 52), ‘treason’ (Article 64), ‘publishing or communicating false statements prejudicial to Southern Sudan’ (Article 75), and ‘undermining authority of or insulting the president’ (Article 76) under the South Sudan Penal Code of 2008. He was detained for almost a year without charge.

The charge of inciting violence (‘Abetment’) against James Gatdet was in relation to a statement he posted on his Facebook page on 8 July 2016 stating that President Kiir had attempted to arrest former Vice President Riek Machar at J1/presidential palace, which the investigator alleges resulted in Riek Machar’s bodyguards attacking J1/presidential palace. However, reports received by Amnesty International indicate that the complainant did not have authorization from James Gatdet, or a warrant to access his personal Facebook account, to obtain the statement that was allegedly deleted from his Facebook page on 13 July 2016.

Since the beginning of South Sudan’s ongoing non-international armed conflict in December 2013, there has been an increase in arbitrary arrests, prolonged detentions, and enforced disappearances of perceived government opponents conducted by South Sudan’s National Security Service (NSS) and the national army’s Military Intelligence Directorate. Amnesty International has documented numerous arbitrary detentions by the NSS in multiple facilities where detainees are often subjected to torture or other ill-treatment.

On 21 December 2017, the Government of South Sudan and other parties to the conflict signed the Cessation of Hostilities Agreement (COH), which came into effect seventy-hours later on 24 December 2017. Article 9 of the agreement calls on parties to release to the International Committee of the Red Cross (ICRC): ‘any person who has been deprived of his or her liberty for reasons related to the conflict; any Prisons of War (POWs); all political prisoners and detainees; and any abducted women and children.’ The parties were required, within 72 hours of the agreement, to submit to the ICRC a complete list of POWs, and all political prisoners and detainees who were to be released within fourteen days. However, this has not yet happened.

South Sudan is considered ‘retentionist’ in that it retains the death penalty for ordinary crimes and has no commitment or policy not to carry out executions. Amnesty International has continued to record executions since the country gained independence from Sudan on 9 July 2011. In its 2012 report, the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions has underlined that “it is arbitrary to impose the death penalty where the proceedings do not adhere to the highest standards of fair trial.”

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. As of today, 106 countries have abolished the death penalty for all crimes and more than two-thirds of the world’s countries are abolitionist in law or practice.

Name: William Endley and James Gatdet

Gender: m

Further Information on UA: 240/17 Index: AFR 65/8036/2018 Issue Date: 20 March 2018