

Our ref: AFR 31/04/95 EXT: Open letter

London, 6 September 1995

@Open letter to His Excellency Mr Henri Konan BEDIE, President of Côte d'Ivoire on the proposed extension of the scope of the death penalty

Dear President,

Thank you for responding to Amnesty International's open letter to you of 3 April 1995. We welcome your restated commitment to the respect for human rights. In response to the points you have set out in your letter to support the proposed extension of the scope of the death penalty in Côte d'Ivoire, we are appealing to you to consider the following additional arguments.

As a matter of principle for Amnesty International, the issue of the death penalty cannot be separated from the issue of human rights. In Amnesty International's view, the death penalty violates the right to life as enshrined in the Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights. The death penalty is the ultimate cruel, inhuman and degrading punishment and research has shown it causes unquantifiable mental suffering to a prisoner. Like torture, execution constitutes an extreme physical and mental assault on the person. It is incompatible with human rights.

In a general comment on Article 6 of the International Covenant on Civil and Political Rights (ICCPR) the United Nations Human Rights Committee stated in 1982 that "...all measures of abolition [of the death penalty] should be considered as progress in the enjoyment of the right to life." The United Nations' Special Rapporteur on extrajudicial, summary or arbitrary executions has stated that "the scope of the death penalty should never be extended"¹ and has called on all governments to make every effort to abolish the death penalty². Amnesty International believes there would be a serious contradiction between the use of the death penalty and Côte d'Ivoire's stated commitment to upholding human rights and its long abstention from the use of the death penalty.

While many people in Côte d'Ivoire may believe the death penalty should be used, justifying the death penalty on the grounds that people will otherwise take the law into their own

¹Extrajudicial, summary or arbitrary executions: Report by the Special Rapporteur..., UN document No. E/CN.4/1995/61, 14 December 1994, paragraph 375

²Extrajudicial, summary or arbitrary executions: Report by the Special Rapporteur ..., United Nations document No, E/CN.4/1995/61, 14 December 1994, paragraph 384

hands, points to a failure by the authorities to take responsibility for law and order. Public opinion on the death penalty is often based upon a misunderstanding of the facts or emotional reactions to the crimes committed. Those responsible for public policy should lead public opinion, and ensure that arguments against the death penalty and the facts surrounding its use are openly discussed. In calling for the death penalty, the public may be expressing its desire to be protected from violent crime ; but there is no evidence that the death penalty will do this. The use of the death penalty legitimizes violence and this can have the effect of brutalizing society. Executing an offender cannot restore lives lost or lessen the loss to victims or their families; its only function is institutionalized public revenge. In particular, public executions perpetuate the dangerous idea that violent retribution is the best way to prevent wrongdoing. Not only is public execution a further degradation of the prisoner, it also dehumanizes and brutalizes those who watch, and those who perform the execution.

You refer to the example of the United States of America where 38 states now provide for the death penalty in their law. In New York State, Governor Pataki cited prevention of violent crime as his major justification for supporting the reintroduction of capital punishment. This is an argument which is not shared by all justice and law enforcement agents in the state. Several district attorneys have expressed reservations about seeking death sentences, with at least one stating he would not be prepared to seek a death sentence under any circumstances. Former state Governor Mario Cuomo stated, “This is a step back in what should be a march constantly toward a higher level of civility and intelligence. The argument that the death penalty will deter and reduce crimes has been abandoned almost everywhere”. Additionally, a poll of police chiefs from around the USA conducted in January 1995 overwhelmingly rejected the death penalty as an important law enforcement tool.

Detailed research in the USA and other countries has produced no reliable evidence that the death penalty deters crime more effectively than any other punishment.

We believe it would be valuable for Côte d'Ivoire to consider the experience of Mozambique, a country which has faced years of civil strife. In November 1990 the death penalty was abolished when a new constitution came into force. In September 1990, a judge representing Mozambique at the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in Havana, Cuba, spoke about his government's reasons for abolishing the death penalty. He said :

“... mindful of the fact that the death penalty empirically cannot be shown to be a more effective deterrent than long prison sentences, Mozambique ... hereby embraces abolition, conscious that life is immeasurably good and should be preserved in the name of all of civilization and of society's supreme values, and that alternative measures will succeed, where capital punishment failed, in achieving Peace, Harmony, Respect for human life and Stability.”

Moreover, wherever the death penalty is enforced, even if legal safeguards are scrupulously observed, the risk of executing the innocent can never be eliminated, as the penalty is irreversible. Again to refer to the USA, according to a survey carried out in 1987, 350 people convicted in capital or potentially capital cases in the USA between 1900 and 1985 were subsequently found to be innocent of the crimes charged. Some of these prisoners escaped execution by minutes ; 23 others were executed.

We must also reiterate that this new law, by devolving such powers to lower courts which may not be trained to pass such sentences, could reduce legal guarantees, could lead to quick sentencing and increase the possibility of judicial errors.

During the last 10 years, a total of 18 states in Africa became abolitionist either in law or practice. On 6 June 1995 South Africa took an important step towards abolition when the Constitutional Court ruled the death penalty unconstitutional for all crimes except treason in times of war. Half the countries in the world are now abolitionist in either law or practice.

Amnesty International can only reiterate to you the expansion of the scope of the death penalty, and enforcement of it, would be a major set back for human rights in Côte d'Ivoire. The death penalty itself violates human rights in the most fundamental way and brutalizes society ; public executions brutalize the whole of society in the most immediate and powerful way. We urge you not to take this step.

Yours respectfully and sincerely,

Pierre Sané
Secretary General