

EXTRA 72/98

Fear of imminent execution / Death penalty 6 October 1998**BAHAMASTrevor Nathaniel Pennerman Fisher**

On 5 October 1998 the Judicial Committee of the Privy Council (JCPC), Bahamas' highest appeal court, located in London, ruled that it would not be a violation of the Constitution to execute Trevor Fisher while his petition to the Inter-American Commission on Human Rights (IACHR) is pending. Trevor Fisher now faces imminent execution.

Trevor Fisher was arrested in 1990 for the murder of Durventon Daniels. He was convicted and sentenced to death on 25 March 1994. His appeal against the conviction was dismissed by the Court of Appeal on 10 October 1994 and by the JCPC on 23 May 1996.

On 7 June 1996, a petition to the IACHR was filed claiming that Trevor Fisher's rights, as protected by the American Declaration, had been violated -- the IACHR is a body of the Organisation of American States (OAS), which supervises its member states' compliance with the American Declaration of the Rights and Duties of Man (the American Declaration) and the American Convention on Human Rights -- the reasons included: that there was a delay of over three years from the time of his arrest to the time of his conviction, that he had been housed in appalling conditions of detention during that time and that a mandatory death penalty for murder is contrary to the American Declaration.

On 5 September 1996, the Bahamas issued an execution warrant for Trevor Fisher. A motion was filed, however, challenging the constitutionality of the warrant for execution whilst his petition was pending at the IACHR. In December 1997, the JCPC dismissed the motion but, during the course of proceedings, the government then agreed to respect its obligations as a member of the OAS by conforming to IACHR's procedures for considering petitions. On 29 December 1997, however, the government informed the IACHR that, if the Commission had not made a final decision on Trevor Fishers' petition by 15 February 1998, it would: "take such steps as it deems necessary and in accordance with the law in order to ensure the proper functioning of legal process." The next sitting of the IACHR, which meets twice a year, was scheduled for May 1998.

On 5 May 1998, the IACHR declared Trevor Fisher's petition admissible and stated that his case would be considered at the next session of the IACHR, scheduled for 28 September to 16 October 1998.

On 26 March 1998, the Bahamas issued a second warrant of execution for Trevor Fisher. This prompted another constitutional motion which stated that it would be unconstitutional to execute Trevor Fisher while his petition was pending before the IACHR.

In its decision this week, the JCPC ruled that it was not unreasonable for the government to issue the warrant of execution as his petition to the IACHR had been pending for 21 months, even though it is reported that some of the delay was due the government's failure to reply promptly to the IACHR. It also ruled that it would not constitute cruel, inhuman and degrading treatment to schedule Trevor Fisher's execution for the third time.

BACKGROUND INFORMATION

The death penalty is the mandatory punishment for murder in the Bahamas. The Bahamas is a member state of the Organisation of American States, and its

citizens have the right to petition the IACHR (after they have exhausted all remedies available under national law) if they believe that their rights under the American Declaration have been violated.

Amnesty International has the utmost sympathy for the family of Durventon Daniels and all victims of violent crime. However there is no reliable evidence that the death penalty has any unique deterrent effect on violent crimes; rather, it brutalizes all involved in it's application. Amnesty International campaigns for the abolition of the death penalty in all cases as the ultimate cruel, inhuman and degrading punishment and a violation of the right to life.

Thomas Reckley and Dwayne Mckinney were the last people to be executed in the Bahamas. Both were hanged in March 1996. They were the only people to be executed in the country since 1984.

RECOMMENDED ACTION: Please send telegrams/faxes/express/airmail letters in English or your own language:

- urging that Trevor Fisher's death sentence be commuted;
- expressing deep concern that Trevor Fisher faces the threat of imminent execution, despite having a petition pending before the IACHR, and that this undermines the system of international protection of human rights built up over a period of 50 years;
- urging the government not to refer Trevor Fisher's case to the Advisory Committee on the Prerogative of Mercy until the IACHR has issued it's decision;
- expressing sympathy for the relatives of Durventon Daniels and for victims of violent crime and their relatives but stating that the death penalty is the ultimate cruel, inhuman and degrading punishment which violates the right to life;
- urging the government to commute the sentences of all those sentenced to death in the Bahamas and join the majority of countries in abolishing the death penalty, and as a first step to enact legislation which would provide alternative (non-capital) penalties for murder.

You can also add:

- stating that the death penalty is brutalizing to all who are involved in the process;
- pointing out that it is arbitrary and often falls disproportionately on minority and underprivileged groups, that it denies the widely accepted principle of rehabilitating the offender and that it does not necessarily alleviate the suffering caused to the victims of crime.

APPEALS TO:

Prime Minister

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Salutation: Dear Prime Minister

Attorney General

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Deputy Prime Minister and Minister of National Security
The Honourable Frank Watson
Deputy Prime Minister and Minister of National Security
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and to diplomatic representatives of BAHAMAS accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your section office, if sending appeals after 3 November 1998.

"Everyone has the right to life, liberty and security of person"
Article 3, Universal Declaration of Human Rights

Visit the Amnesty International UDHR campaign website on <http://www.amnesty.excite.com>