

TRINIDAD AND TOBAGO Clive SMART

According to reports, Clive Smart is about to be issued with a warrant for his execution on 6 February 1996. Warrants for executions in Trinidad and Tobago are issued on a Thursday for the execution to take place the following Tuesday.

Clive Smart was sentenced to death on 14 February 1992 for the murder of Josephine Henry. In early December 1995 the United Kingdom's Judicial Committee of the Privy Council (JCPC) - the last court of appeal for many English speaking Caribbean states - rejected Smart's appeal. Lawyers representing Clive Smart have appealed to the United Nations Human Rights Committee (HRC) alleging that his rights were violated under the Optional Protocol to the International Covenant on Civil and Political Rights. Trinidad and Tobago acceded to the Optional Protocol on 14 November 1980.

The HRC have written to the government of Trinidad and Tobago and stated that under Rule 86 the execution cannot go ahead while the communication is under examination by the Committee. Rule 86 of the Optional Protocol states that: "The Committee may...inform that State of its views as to whether interim measures may be desirable to avoid irreparable damage to the victim of the alleged violation."

BACKGROUND INFORMATION

The last execution to be carried out in Trinidad and Tobago was of Glen Ashby on 14 July 1994. Ashby, the first person to be hanged in the country for nearly 15 years, was executed despite assurances from the Attorney General that there would be "no execution until all possibility of obtaining a stay of execution", including an appeal to the JCPC, had been exhausted. At the time of Ashby's execution, the JCPC was faxing to the Attorney General its decision to grant a stay of execution. Ashby was hanged at 6.30am; executions are normally scheduled to take place at 7am in Trinidad and Tobago, which would have given enough time for the fax from the JCPC to be received.

On 6 July 1994 Ashby had asked the HRC to consider his case, which takes several months. No time was allowed by the government for the HRC to consider Ashby's case. International standards provide that no execution may "be carried out pending any appeal or other recourse procedure"; these obligations were ignored by the government. In a statement issued the HRC expressed its "indignation" at the failure of the government to allow time to review Ashby's case.

Public opinion in Trinidad and Tobago favours the use of the death penalty. The *Trinidad Guardian*, in a recent editorial entitled "Execute the Sentence", called for Clive Smart's execution. "We expect this punishment, imposed according to our laws, will now be promptly executed, not only to satisfy the demands of justice but also to send a message to would-be killers that our society is fed up with violence and murder...Prime Minister Basdeo Panday...should be anxious to see that cold-blooded murderer get what they deserve" the paper said.

An international commission of inquiry into the execution of Glen Ashby, composed of senior jurists from several Commonwealth countries, concluded that the hanging was illegal under the law of Trinidad and Tobago. The commission

also concluded that sufficient evidence existed to cite for contempt of court the Attorney General, the Register of the Court of Appeals and the Commissioner of Prisons.

RECOMMENDED ACTION: Please telephone or send telegrams/telexes/faxes in English or your own language:

- expressing concern that Clive Smart may be executed;
- expressing sympathy for the victims of violent crime and their families;
- referring to arguments against the death penalty (for example, its brutalizing effect on all those involved in the process; the fact that it has never been shown to deter crime more effectively than other punishments);
- expressing concern that were the execution of Clive Smart to take place, Trinidad and Tobago would be in contravention of its obligations under the Optional Protocol of the International Covenant of Civil and Political Rights.

APPEALS TO:

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Prime Minister
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Trinidad and Tobago

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Telegrams: Prime Minister Panday, Port-of-Spain, Trinidad

Salutation: Dear Prime Minister

The Hon Kamala Persad-Bissessar
Attorney General
Ministry of Legal Affairs
Red House
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Port-of-Spain
Trinidad and Tobago

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Telegrams: Attorney General, Port-of-Spain, Trinidad

Salutation: Dear Attorney General

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and to diplomatic representatives of Trinidad and Tobago accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY.