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Bahamas: Privy Council abolishes mandatory death sentence

Amnesty International welcomes yesterday's landmark decision by the Judicial Committee of the Privy Council (JCPC) to abolish the mandatory death sentence for those convicted of murder in the Bahamas. The UK-based JCPC, which is the highest court of appeal for most of the countries in the English-speaking Caribbean region, ruled that the mandatory death sentence is in violation of the Bahamian Constitution.

Previously in the Bahamas anyone found guilty of murder has been automatically sentenced to death. The mandatory death penalty denies the accused involved the opportunity of having the court consider mitigating circumstances in his or her case.

"Amnesty International urges the government of the Bahamas to seize this opportunity to abandon state killings," the organization said today. "The majority of the world's countries no longer have the death penalty in law or practice and only a small minority actually carry out executions; the government of the Bahamas should take this chance to join the global trend away from the use of the death penalty."

The cases of at least 28 prisoners currently on death row will now have to be reviewed.

In its judgement the Privy Council stated that the mandatory death penalty should have been regarded as inhuman and degrading punishment as early as 1973 when the Bahamian Constitution was redrafted following the country's independence.

The ruling brings the Bahamas into conformity with evolving international standards pertaining to the use of the mandatory death penalty. The United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions has stated that the death penalty should under no circumstances be mandatory by law, regardless of the charges involved and that "[t]he mandatory death penalty which precludes the possibility of a lesser sentence being imposed regardless of the circumstances, is inconsistent with the prohibition of cruel, inhuman or degrading treatment or punishment."

Amnesty International opposes the death penalty as a violation of the right to life and the ultimate cruel, inhuman or degrading punishment. The organization has great sympathy with the victims of crime and recognizes the duty of governments to tackle problems of law and order but believes that the death penalty is by nature ineffective, arbitrary and does not deter crime. On the contrary, it creates more victims and demeans society as a whole.

Background Information

The death penalty remains in force in much of the English-speaking Caribbean region. Sixteen people have been executed in the Bahamas since 1973, six in the last ten years. The last execution in the Bahamas took

place in January 2000, but death sentences continue to be handed down. Following the fatal stabbing of a prison guard during a prison escape in January this year, there have been public calls for the resumption of executions and the Prime Minister has been reported as saying he supports a return to executions.

This ruling comes following an appeal brought by the prisoners Forrest Bowe Jr. and Tron Davis who have been on death row for six and eight years respectively following convictions for murder.

In March 2002 the JCPC upheld a ruling that the mandatory death penalty was in violation of the constitutions of seven island states of St Vincent and the Grenadines, St Lucia, Grenada, St Kitts and Nevis, Dominica, Belize and Antigua and Barbuda.

In 2001 the Inter-American Court on Human Rights ruled that the failure to consider individual circumstances when imposing the death sentence violates the ban on torture and cruel, inhuman, or degrading punishment or treatment provided for in the Inter-American Convention on Human Rights.

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