

AMNESTY INTERNATIONAL PUBLIC STATEMENT

10 October 2022

ACT 50/6086/2022

20TH WORLD DAY AGAINST THE DEATH PENALTY

Today Amnesty International joins abolitionist NGOs, networks, activists, and institutions around the world to commemorate the 20th World Day Against the Death Penalty which is dedicated to reflecting on the relationship between the use of the death penalty and torture or other cruel, inhuman, or degrading treatment or punishment.

Although international law still allows the use of the death penalty in limited circumstances, that is only for the most serious crimes¹; Amnesty International opposes the death penalty in all cases without exception regardless of the nature of the crime, the characteristics of the offender, or the method used to carry out the execution. The death penalty is the ultimate denial of human rights. It is the premeditated and cold-blooded killing of a human being by the state in the name of justice. It violates the right to life as proclaimed in the Universal Declaration of Human Rights. It is the ultimate cruel, inhuman and degrading punishment.

Torture and other forms of ill-treatment are prohibited absolutely under international law, including under the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment ('Convention Against Torture'). The prohibition is non-derogable. This means that it applies in all circumstances, including in situations of armed conflict or other public emergency. The absolute prohibition is a rule of customary international law, meaning that every state is bound by it even if they are not party to particular treaties containing the prohibition. Many of the human rights instruments that prohibits torture and other ill-treatment also require measures to prevent such abuses; to investigate alleged cases; to bring to justice those responsible; and to afford reparation to victims.

Torture constitutes a crime under international law and the Convention against Torture obliges member states to bring to justice those suspected of being responsible for any act of torture. Moreover, States are obligated not only to protect people from torture and other ill-treatment by public officials but also from similar acts by private individuals (non-state actors).

The continuing use of the death penalty in the world is concerning and is often compounded by the use of torture and other ill-treatment; for example, in cases where the death penalty has been imposed following an unfair trial where evidence obtained by torture or other ill treatment has been used.

Article 6(2) of the International Covenant on Civil and Political Rights (ICCPR) mandates that in "countries which have not abolished the death penalty, sentence of death may be imposed... not contrary to the provisions of the present Covenant".² This means that, first, any application of the death penalty following proceedings in violation of fair trial standards as laid out in Article 14 of the ICCPR, automatically also constitutes a violation of the right to life.³ In addition, the Human Rights Committee and regional human rights bodies have held that a death sentence passed after an unfair trial also violates the prohibition of cruel, inhuman or degrading treatment or punishment.⁴ A particular violation of international standards of fair trial is the use of "confessions" obtained by torture or other ill-treatment. Such coerced "confessions" are inadmissible as evidence in court, and reliance on them violates the right not to be compelled to incriminate oneself and the presumption of innocence.

All countries that still retain the death penalty in their laws must take steps towards abolition of the death penalty. Pending abolition, they must respect the right of everyone not to be subjected to torture or to other cruel, inhuman or degrading treatment or punishment; and ensure that evidence obtained by torture or other ill-treatment is not used in any trial.

¹ This is the only category of crimes for which international law allows the death penalty. International bodies have interpreted this as being limited to crimes involving intentional killing.

² See also HRC General Comment 36, §17, §41 and §42; ECOSOC resolution 1984/50, §5.

³ HRC: General Comment 32, §59; *Domukovsky et al v Georgia*, UN Doc. CCPR/C/62/D/623,624,626,627/1995 (1998) §18.10; *Kelly v Jamaica*, UN Doc. CCPR/C/47/D/253/1987 (1991) §5.14; *Earl Pratt and Ivan Morgan v Jamaica*, (1989) §15; Inter-American Court: *Dacosta Cadogan v Barbados*, (2009) §§47, 85; Advisory Opinion OC-16/99, (1999) §§135-137; Advisory Opinion OC-3/83 (1983) §55; Inter-American Commission: Report on Terrorism and Human Rights, (2002) §94. See also Special Rapporteur on the independence of judges and lawyers, UN Doc. A/62/207 (2007) §62.

⁴ HRC: *Larrañaga v Philippines*, UN Doc. CCPR/C/87/D/1421/2005 (2006) §7.11; *Mwamba v Zambia*, UN Doc. CCPR/C/98/D/1520/2006 (2010) §6.8; European Court: *Öcalan v Turkey* (46221/99), Grand Chamber (2005) §§166-169; *Bader and Kanbor v Sweden* (13284/04), (2005) §§42-48. See also *Javier Suarez Medina v US*, Inter-American Commission (2005) §92.

AMNESTY INTERNATIONAL ACTION

On the World Day Against the Death Penalty, Amnesty International and its supporters are taking action for Sulaimon Olufemi.

SULAIMON OLUFEMI

Sulaimon Olufemi, a Nigerian national, was convicted and sentenced to death in May 2005 over the death of a police officer following a grossly unfair trial. He has been languishing in prison in Saudi Arabia since 2002.

Sulaimon Olufemi had travelled to Saudi Arabia in September 2002. On 28 September 2002, some days after he arrived in Saudi Arabia, he followed some Nigerians he was staying with to a car wash in the Bab Sharif area of Jeddah, where many African nationals worked as car cleaners. On the day, a group of local men with guns, among them a police officer, raided the location and a dispute broke out between the local men and the foreign nationals which resulted in the police officer getting injured, he later died.

The following day, 29 September 2002, mass arrests were carried out of foreign nationals by the Saudi authorities. Sulaimon Olufemi and 12 Nigerian nationals were among those arrested in their accommodation. Many of the foreign nationals arrested over the incident were put on trial, sentenced to short prison terms and lashes, and then deported. However, Sulaimon Olufemi and the 12 other Nigerian nationals were put on trial together for the incident and the death of the police officer. Sulaimon said he was tortured during interrogation in order to force him to sign statements written in Arabic, a language that he could neither read nor understand. Under duress he was said to have put his fingerprints, which can be taken as a substitute for a signature, to a statement written in Arabic. He later learnt in court that he had "signed" a statement that said that he had hit the police officer over the head with a gun.

At his trial, Sulaimon had no legal representation, no consular assistance, no adequate translation facilities and the 'confession' in Arabic (a language he does not understand) which had been obtained under torture was used. While Sulaimon was sentenced to death, other members of the group received 15 years imprisonment with 1,000 lashes. One of the men died in prison while 11 others were released and deported to Nigeria in 2017 after completing their sentences. Sulaimon has always maintained his innocence and his co-defendants have stated that he was not involved in the incident that led to the death of the police officer.

In April 2007, the Saudi Arabian Human Rights Commission, the country's official human rights institution, wrote to Amnesty International and confirmed that the death sentence against Sulaimon Olufemi had been upheld by the Court of Cassation and the Supreme Judicial Council, meaning he has no further recourse to appeal.

According to Shari'a law in Saudi Arabia, if a crime is punished under the rule of *qisas* (retribution), as in Sulaimon Olufemi's case, relatives of the murder victim have the right to decide if the offender should be executed or pardoned, in which case the death penalty is dropped, sometimes in return for *diyya* (compensation or "blood money"). Pardons by victims' relatives must be certified by courts of law. However, this does not automatically mean that a convicted person is spared from execution since judges have the power to invoke *hadd* (divinely prescribed fixed offences and punishments) and consider the murder as harmful to public order in addition to it being a crime against the victim and his family.

The Saudi authorities have been detaining Sulaimon in prison, for several years, to allow the youngest child of the deceased police officer to reach the age of 18, when the family of the deceased police officer can accept or reject the payment of *diyya* (financial compensation) in place of the death penalty. The family of the deceased police officer have now requested Sulaimon to pay them two million riyals (US\$ 532,590) *diyya* (financial compensation) in place of the death penalty. If he does not make the payment, they could ask the Saudi Authorities to execute him. Sulaimon and his family do not have the means to pay such compensation and the payment deadline given to him will expire soon.

Amnesty International is highlighting the gross unfairness of Sulaimon Olufemi's trial, and the torture and other ill-treatment he was subjected to; and calling on the government of Saudi Arabia not to execute Sulaimon Olufemi but grant him clemency. Amnesty International is also calling on the Nigerian government to help Sulaimon Olufemi to obtain clemency.

BACKGROUND

Since 2003, every year on 10 October, the World Coalition Against the Death Penalty calls upon abolitionist NGOs, networks, activists, and institutions to mobilize against the use of the death penalty around the world. The aim of the World Day Against the Death Penalty is to raise awareness on the use of the death penalty, strengthen anti-death penalty activism and take action towards the ultimate goal of its global abolition. Over the years, the World Day Against the Death Penalty has increased its reach and has become a focal point for global campaigning against the death penalty.

Amnesty International is a founding member of the World Coalition Against the Death Penalty and is committed to commemorating the World Day Against the Death Penalty by mobilizing its members around the world to take action every year on and around 10 October. Since 1977 Amnesty International has been campaigning for the worldwide abolition of the death penalty.