

What you can do:

You can write to:

- *newspapers, radio and tv stations in your country, asking for a debate on the death penalty in Africa*
- *members of your own government, asking them to work for the abolition of the death penalty in Africa and worldwide*
- *traditional leaders and local authorities, asking them to use their influence on governments in order to promote abolition*
- *religious leaders, asking them to endorse and promote abolition of the death penalty throughout Africa*

Outreach and education:

- *you can promote and publicize the arguments in favour of the abolition of the death penalty, included in this leaflet and other Amnesty International materials, in your local community, through local, professional and religious associations; you may ask members of your community to join in your pro-abolition activities.*
- *You can promote awareness of human rights, with particular emphasis on the death penalty, in schools and institutes of higher education*

Amnesty International



Campaign against the death penalty in Africa - 1997

THE DEATH PENALTY IS
CRUEL, INHUMAN AND
DEGRADING

"Right from the moment he enters the condemned cell, the prisoner is enmeshed in a dehumanising environment of near hopelessness. He is in a place where the sole object is

to preserve his life so that he may be executed. The condemned prisoner is the 'living dead'."

Supreme Court of Zimbabwe, 1993

What is Amnesty International?

Amnesty International is a worldwide voluntary movement that works to prevent some of the gravest violations by governments of people's fundamental human rights. The main focus of its campaigning is to:

Against the death penalty worldwide

Amnesty International considers the death penalty to be a violation of the right to life and the right not to be subjected to cruel, inhuman and degrading punishment as recognized in Articles 3 and 5 of the Universal Declaration of Human Rights. Providing support for this position, a majority of countries in the world, and an increasing number of countries in Africa, have abolished the death penalty in their law or practice. Indeed, Angola, Cape Verde, Guinea-Bissau, Mauritius, Mozambique, Namibia, Sao Tome and Principe, Seychelles and South Africa have all abolished the death penalty in law or practice.

More than a quarter of a century ago, the United Nations General Assembly stated that offences carrying the death penalty should be reduced with a view to the desirability of abolishing the punishment in all countries

An inhuman and degrading punishment...

-- free all prisoners of conscience, who are people detained anywhere for their beliefs or because of their ethnic origin, sex, colour, language, national or social origin, economic status, birth or other status, who have not used or advocated violence;

-- ensure fair and prompt trials for political prisoners;

-- abolish the death penalty, torture and other cruel treatment of prisoners;

-- end extrajudicial executions and "disappearances".

Amnesty International also opposes abuses by opposition groups, including hostage-taking, torture and deliberate and arbitrary killings.

An execution, like physical forms of torture, involves a deliberate assault on the prisoner. None of the execution methods used in countries which retain the death penalty can guarantee a rapid and painless killing. The most common methods of execution used in Africa today, hanging and firing squad, have often produced appalling suffering. When death is by hanging, for instance, the aim is to kill by severing the prisoner's spinal cord instantly; this induces immediate loss of consciousness and death. In many cases, however, the techniques used, or mistakes in procedure, cause the slow and painful death of the prisoner by strangulation. In other cases, executions are carried out in such a way that the condemned prisoner experiences a high level of suffering. In the mid-1980s, for instance, two executions in a northern state of Nigeria were carried out by shooting the prisoner at regular intervals in various parts of the body, from the ankles upwards; this practice was meant to act as a deterrent against violent crime.

Any physical pain experienced at the moment of the execution is only the culminating moment of a long process where infliction of physical

and mental suffering on the prisoner is the norm, from the moment of the pronouncement of the death sentence.

Prisoners sentenced to death are usually detained in isolation and forced to live in idleness and appalling prison conditions. In many African countries they are the worst victims of custodial abuses and, except for security reasons, their welfare is of the least concern to prison authorities. Under certain prison regulations of 1976, condemned prisoners in Somalia are kept permanently chained by the hands and legs.

Emotionally, the condemned person may suffer an agonizing conflict between hope, during the successive stages of the appeals process, and the need to prepare for possible imminent death. In some countries gallows are located next to death row cells, where some prisoners are kept for years awaiting the outcome of the last stages of the judicial process or awaiting execution. All these factors lead to a high incidence of various forms of mental disorder, from depression to psychosis. In some instances the acute physical and mental suffering has led prisoners to attempt suicide.

...not just for the condemned prisoner

Executions can be extremely traumatic for relatives of the executed prisoners and can cause them serious health and emotional problems. Executed prisoners' bodies are often not returned to their families for burial; bodies are sometimes buried by the authorities in unmarked graves or destroyed.

In virtually every culture the fact that a family member has been executed causes not just grief and pain over the prisoner's death, but also humiliation, and can lead to social marginalization. In many cases

the prisoner's execution marks the definitive loss of a family's main financial supporter, bringing long-term suffering for many innocent people. All these and other factors contribute to the sense of despair and hopelessness relatives feel about an executed member of their family.

Prison officers, doctors, judges, defense counsels and others who come in contact with the reality of capital punishment can also be affected by executions, physically and/or emotionally.

Relatives of victims of violent crime embody a society's demand that justice be done. Rather than satisfying the demand for justice, the death penalty represents the ultimate expression of society's "revenge" against the convicted prisoner.

Victims' families may be harmed rather than helped by the execution of the accused person: the lengthy trials and appeal procedures may prolong the victims' families agony.

The state should aspire to transform the legitimate demand for punishment of serious crimes into a constructive expression of justice, which avoids irreversible miscarriages of justice and addresses the real causes of serious crime.

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THE DEATH PENALTY
DOES NOT PREVENT
CRIME

"It is not because the death sentence has been scrapped that crime has reached such unacceptable levels. Even if the

death sentence is brought back, crime itself will remain as it is''

Nelson Mandela, South African President

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The death penalty is not a unique deterrent to common or political crime

Most states which retain or reintroduce the death penalty argue that it is needed to deter crime. In the face of growing levels of crime, some governments try to show that they are tackling the issue by making sanctions for criminals harsher; they might widen the scope of capital punishment, to include, for instance, drug-related offences.

However, there is no scientific evidence that the death penalty will deter crime more effectively than other punishments. Recent studies, such as Professor Roger Hood's survey of 1988 for the United Nations, updated in 1996, have failed to find a correlation between the use of the death penalty and diminishing rates of crime. On the contrary, experience shows that, at least in some countries, an increase in the

scope of capital punishment has been accompanied by a rise in violent crime. In Nigeria, despite high numbers of public executions of armed robbers, the crime rate, especially armed robberies, has consistently increased. A Tanzanian High Court stated in 1991: "the effect upon the public of the death sentence is to brutalise, rather than humanise".

Many serious crimes are either committed without sober reflection on consequences, or planned carefully to avoid detection. In the first case the consequences of being caught are not taken into consideration by the perpetrators; in the second, criminals calculate that they will not be punished.

Recent evidence shows that, in many African countries, very few of those who commit serious crimes are apprehended and even fewer are prosecuted and convicted. Criminals increasingly believe they will not be punished for their crimes. The effectiveness of a country's legal system in bringing criminals to justice, not the threat of loss of life, is the key factor in crime deterrence.

Political crimes, such as acts of "terrorism", are committed by people who are ideologically motivated and ready to make sacrifices, even of their own life, for the sake of their cause. Politically motivated crime can be fraught with danger. If risks, taken in order to pursue their goals, do not impress the perpetrators, the remote prospect of the death penalty is even more unlikely to deter them.

Violence breeds violence. In Algeria the scope of the death penalty has been widened by anti-terrorist legislation since 1992. In 1993, 26 people were executed and thousands have since been sentenced to death. Such increased use of the death penalty has not deterred armed opposition groups from killing both civilians and members of the

security forces. By 1997 more than 60,000 had been killed by both government forces and armed opposition groups.

Real changes in society are the way forward to fight crime

Amnesty International campaigns for the abolition of the death penalty worldwide and for all offences. Capital punishment has no proven positive effect in reducing the level of crime; instead, it devalues the integrity of human life in the public consciousness and it promotes the use of violence by setting the example of violence by the State.

Only effective measures to address the real social, economic and political problems, which have affected many African countries in the past decade, will radically solve the problems of rising crime. A reform of ineffective, and sometimes corrupt, legal apparatuses could contribute to lowering the levels of crime.

State killing of people will not make these complex problems simply go away.

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THE DEATH PENALTY IS
UNJUST

" The legal system is not transparent and even the legal system can be used to pervert the very cause of justice and many innocent people have been killed"

*Sam Okudzeto, President of the Ghana Bar Association,
1996*

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The death penalty and the principle of retribution

Some people who defend the death penalty argue that offenders need to be punished adequately and in a way commensurate with the gravity of the offence committed; only so will citizens respect the law and not feel compelled to take the law into their own hands.

In cases of very serious crimes, such as murder or genocide, their argument is that only through the death penalty will the legitimate demands for justice from victims, relatives and the citizenship as a whole be adequately met. Sometimes it is even claimed that the death penalty will ensure greater respect for human rights, as the Gambian government argued in 1995 when it reinstated the death penalty.

Amnesty International's position is that the legitimate demands for full accountability for serious crimes, including abuses of human rights, do not require recourse to a crude principle of equal retribution. Just as the state does not rape to show that raping is wrong, it must not kill to show that killing or any other serious crime is wrong. In 1995 the South African Constitutional Court stated this principle clearly: "Punishment must to some extent be commensurate with the offence, but there is no requirement that it be equivalent or identical to it.[..]the state does not need to engage in the cold and calculated killing of murderers in order to express moral outrage at their conduct".

When the state kills, it sets standards which encourage violence in society, thus allowing people to think that killing is right in order to achieve certain goals.

Judicial error, unfair trials and the use of the death penalty as an instrument of political repression

Death sentences are often the result of deeply flawed judicial proceedings in contravention of international norms for a fair trial. In 1984 the United Nations Economic and Social Council adopted a set of "Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty". The Safeguards state that a prisoner may only be sentenced to death after a final judgement by a competent court; the defendant should be entitled to adequate legal assistance at all stages of the proceedings, to the right of appeal to a court of higher jurisdiction, and to the right to seek pardon or commutation of sentence. Guilt of the prisoner must be established on the basis of clear and convincing evidence leaving no room for an alternative explanation of the facts.

These rules are, however, often disregarded. Serious infringements of legal safeguards occur especially when offences are of a political nature.

In some countries people charged with capital offences of a politically sensitive nature are tried by special military or civilian courts, which do not provide valid

guarantees of impartiality and competence; proceedings in such cases may not be free from interference by the government.

In many cases the right of appeal to a higher court does not exist. In Egypt civilians charged with "terrorist" offences have been sentenced to death by military courts and denied the right to appeal to a higher court. In Libya 12 people were re-tried and sentenced to death by a military court, after the authorities allegedly disregarded a first trial which resulted in the imposition of prison sentences they considered too light. Eight death sentences were upheld by the Supreme Military Court and the eight defendants were executed on 2 January 1997.

In some countries subjection to unfair trial procedures is compounded by the refusal to guarantee defendants the right to defence counsel of their choice. In Nigeria, in mid-1995, 43 persons were convicted of treason-related offences, some of them carrying a mandatory death sentence, without legal representation of their choice.

Even when states have no political interest in interfering in a trial, people are still convicted in error. Many legal systems in Africa are frail and many states are unable or unwilling to provide legal representation to disadvantaged persons facing capital charges. Evidence shows that people convicted on capital charges often belong to marginalised economic or ethnic groups, or are unable to secure adequate legal representation; such imperfect legal systems should not be allowed to decide on the life of a human being. As the South African Constitutional Court stated in 1995: *"In the infliction of capital punishment judicial and executive error can never be wholly excluded nor, of course, repaired"*.