

# £BELIZE

## @Death By Hanging - The Death Penalty in Belize

### INTRODUCTION

The death penalty is mandatory for murder in Belize, and may be imposed for certain offences against the defence ordinance and the "power of the commanding officer". The last execution for murder was that of Kent Bowers carried out in June 1985, despite a petition for clemency reportedly signed by 2,500 people. The government of Belize informed the United Nations' Secretary General for his 1985 report on capital punishment that between 1979 and 1985, twenty-eight death sentences were imposed and one execution was carried out. Since 1969 four people have been executed for murder. Since 1985 Amnesty International has learned of at least 20 cases where the death penalty was imposed. In the majority of these cases the sentences were overturned on appeal. The defendants were either released due to irregularities in their trial or had retrials ordered.

Amnesty International opposes the death penalty unconditionally, believing it to be the ultimate cruel, inhuman and degrading treatment and a violation to the right to life.

There are currently four people awaiting execution in Belize and Amnesty International has been monitoring their cases. Two of those convicted Dean Edwardo Vasquez and Catalino O'Niel one of whom was due to hang in October 1992 were given a last minute leave to appeal by the Judicial Committee of the Privy Council (JCPC) in London<sup>1</sup>. The appeals were granted following arguments that the Belize Criminal Code's definition of "extreme provocation" was unclear and contradictory, and the failure of the court to clarify the contradictory definitions to the jury. In September 1992 an appeal to the Court of Appeal on behalf of Elis Taibo was dismissed. He was convicted in August of rape and murder. He has applied for a commutation of his sentence. An appeal on behalf of Francisco Coronique sentenced to death for murder in May 1992 is scheduled to be heard in early 1993.

### Dean Edwardo Vasquez and Catalino O'Niel

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<sup>1</sup> The Judicial Committee of the Privy Council is the final court of appeal of Belize.

On 30 October 1992 Dean Edwardo Vasquez was due to be executed for murder in Belize. Only a last minute decision, on 27 October 1992, by the JCPC, to reverse their earlier decision and allow leave to appeal, rendered the warrant for execution invalid and saved him from being executed.

Dean Vasquez was charged with the murder of his common-law-wife during a domestic dispute on 16 August 1990; he was found guilty and sentenced to death by hanging by the Supreme Court of Belize on 21 June 1991. He appealed against his conviction, but his appeal was dismissed and the sentence affirmed by the Belize Court of Appeal on 17 September 1991. In October 1991, the Advisory Council<sup>2</sup> again affirmed the sentence and the defendant sought leave to appeal to the JCPC in the United Kingdom. In July 1992 his appeal was initially dismissed by the JCPC. However, the lawyers representing him in London on his appeal to the JCPC appealed the decision on the grounds of inconsistencies in Belize law related to the case.

In a similar and parallel case the JCPC also decided to grant leave to appeal to Catalino O'Niel, also sentenced to death by the Supreme Court on 14 March 1991 for the murder of his ex-common-law-wife on 10 May 1990. On 12 June 1991 his appeal against conviction was dismissed and as in the case of Dean Vasquez, the Advisory Council affirmed the sentence in October 1991 and in October 1992 leave to appeal to the JCPC was denied. Catalino O'Niel's lawyers in London again appealed the decision on same grounds as in the case of Dean Vasquez.

In both cases the lawyers highlighted inconsistencies in Belize law surrounding the issue of provocation. They argued that the Belize Criminal Code's definition of the term "extreme provocation", which, if present, would reduce the offence from murder to manslaughter, was so unclear and the references to it in the Criminal Code so contradictory that the sentences therefore did not even satisfy the Constitution's requirement that death sentences may only be carried out "in respect of a criminal offence" and be "authorized by law". They also argued that the failure of the Criminal Code to inform defendants of the burden of proof which they had to meet to reduce a charge of murder to manslaughter on the grounds of extreme provocation, as well as the court's directions to the jury based on contradictory definitions in the Criminal Code of extreme provocation deprived the defendants of their constitutional right to a fair trial. In addition, they claimed that placing on the defendants the burden of establishing the existence of extreme provocation violated

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<sup>2</sup> The Advisory Council is made up of 12 members, all citizens of Belize, appointed by the Governor-General. One of its functions is to advise the Governor General on the royal prerogative of mercy, through the Advisory Council exercised through the Privy Council.

the constitutional principle of the presumption of innocence. This principle places the burden on the prosecution to prove a defendant's guilt beyond reasonable doubt.

### **Ellis Taibo**

The death penalty was also imposed on Ellis Taibo, aged 36, who was convicted in August 1992 for the rape and subsequent murder of a British-born volunteer health worker on 13 August 1991. Ellis Taibo was convicted on apparently mainly circumstantial evidence and his appeal to the Court of Appeal was dismissed in September 1992. Ellis Taibo is currently awaiting the decision of the Advisory Council, to whom he applied for commutation of his sentence.

According to the Constitution of Belize, the Governor General has the prerogative of mercy in death penalty cases, acting under the advice of the Belize Advisory Council. Amnesty International is urging the Governor-General to grant the prerogative of mercy in the case of Ellis Taibo and to commute the death sentence. Ellis Taibo had previously been sentenced to death in 1979 for the murder of his homosexual partner. The Court of Appeal at that time awarded him a new trial, and Ellis Taibo subsequently served ten years for manslaughter.

### **Francisco Conoquie**

On 14 May 1992 Francisco Conoquie, aged 22, was sentenced to death for the murder of a man in June 1991, following a dispute over a drink. His case is due to be heard by the Court of Appeal in early 1993.

## **AMNESTY INTERNATIONAL'S CONCERNS**

Amnesty International opposes the death penalty unconditionally, believing it to be the ultimate cruel, inhuman and degrading treatment and a violation to the right to life as proclaimed in the Universal Declaration of Human Rights and other international human rights instruments. Amnesty International works for the abolition of the death penalty throughout the world and for clemency in all cases where executions are feared to be imminent, regardless of the nature of the crime for which a prisoner has been convicted.

In addition, in Amnesty International's experience of how the death penalty is applied, it has identified additional concerns. These include the following general concerns:

- an execution is irrevocable and, despite the most stringent judicial safeguards, can be inflicted on the innocent;
- it is brutalizing to all who are involved in the process;

- it is an act of violence, and violence tends to provoke violence;
- it has never been shown to deter crime more effectively than other punishment;
- it is arbitrary and often falls disproportionately on minority and underprivileged groups;
- it denies the widely accepted principle of rehabilitating the offender;
- it does not alleviate the suffering caused to the victims of the crime;

Death Penalty trends in the Caribbean demonstrate that on the whole executions are becoming increasingly rare. The death penalty was abolished in Anguilla, the Cayman Islands, Montserrat, Turks and Caicos and the Virgin Islands in 1991. Also in 1991, in Grenada, the death sentences of all prisoners who had exhausted their appeals were commuted. However, there have been moves in Trinidad and Tobago recently to resume executions after 13 years, and in Jamaica it is proposed to resume hangings in February 1993 after an interval of five years, following a review of the cases of more than 130 prisoners at present under sentence of death.

## **THE DEATH PENALTY AND THE UNITED NATIONS**

Intergovernmental organizations have expressed support for abolishing the death penalty in recent years, and have set up machinery for attempting to ensure that the agreed safeguards and restricts are observed in countries where the death penalty has not yet been abolished. In December 1989 the United Nations' (UN) General Assembly adopted a Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the Abolition of the Death Penalty, providing that "Each State party shall take all necessary measures to abolish the death penalty within its jurisdiction". In the table of voting on the protocol Belize appears as "Absent". Belize is not a signatory nor has it ratified the UN Economic and Social Council resolution 1984/50 on Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty adopted in December 1984. Neither has Belize signed or ratified the Protocol to the American Convention on Human Rights to Abolish the Death Penalty adopted on 8 June 1990. Amnesty International is urging the Belize government to sign and ratify the above main international standards on the death penalty.