

EXTERNAL

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Death penalty

30 September 1996

TRINIDAD AND TOBAGO Executions threatened by proposed constitutional change

The government of Trinidad and Tobago is attempting to pass legislation which would alter the country's constitution and allow it to carry out executions currently deemed unconstitutional. If the amendment, expected to come before parliament in the immediate future, is passed, many death row prisoners will face imminent execution. It could also have serious implications in other Caribbean countries.

Trinidad and Tobago's Constitution forbids cruel or unusual punishment. The Constitution (Amendment) Bill 1996, seeks to amend the constitution to provide that a delay of more than five years between death sentence and execution would not constitute cruel or unusual punishment. The Bill also gives parliament the right to vary the manner in which execution is carried out and will not allow legal appeals from prisoners under sentence of death on the grounds of any claim of cruel or unusual punishment and treatment.

If passed (it needs a two thirds majority vote), the Bill would in essence overturn the 1993 ruling of the Judicial Committee of the Privy Council (JCPC) in London (the highest court of appeal for Trinidad and Tobago) in the case of Jamaican death row prisoners, Earl Pratt and Ivan Morgan. This ruling stated that the execution of prisoners who have been on death row for more than five years constitutes inhuman or degrading punishment or treatment. It recommended that such prisoners should have their death sentences commuted to life imprisonment. In 1995, the JCPC ruled in a Trinidad case that the execution of a prisoner who had been on death row for 4 years 10 months would also constitute cruel or unusual punishment, and recommended commutation to life imprisonment.

The Bill proposes to apply retrospectively to prisoners who have been under sentence of death for longer than five years whose sentences have not yet been commuted.

According to news reports, the government's move has been criticised by anti-death penalty activists in Trinidad and Tobago who have said that the Pratt and Morgan case set important guidelines for ensuring that human rights standards were not subject to arbitrary political and other action. The President of the Trinidad and Tobago Bar Association reportedly said that the move "set us on the road back to the Dark Ages when torture and degradation of human beings was acceptable forms of judicial punishment".

BACKGROUND INFORMATION

The precedent set by the 1993 Pratt and Morgan ruling has led to over 50 prisoners having their death sentences commuted to life imprisonment in Trinidad and Tobago, as well as in several other Caribbean countries. However, since the JCPC's ruling, the government of Trinidad and Tobago has issued warrants of execution to prisoners who have been under sentence of death for more than five years. All but one, Glen Ashby, had their sentences commuted. On 14 July 1994, Ashby, who was just six days away from completing five years under sentence of death, was executed despite appeals pending and assurances from the Attorney General that there would be "no execution until all possibility of obtaining a stay of execution... has been exhausted" (see UA 266/94, AMR 49/03/94, 15 July 1994). Ashby's execution was the first in the country for 15 years.

Trinidad has experienced a rising crime rate, including a high number of murders, in recent years, and capital punishment remains popular with the public there and in other Caribbean countries. According to press reports, Attorneys General and Ministers of Justice of the 14 countries comprising the Caribbean Community (CARICOM) recently met in Barbados to discuss a common approach to the death penalty in view of their difficulties in carrying out executions, particularly due to the restrictions under the Pratt and Morgan ruling.

RECOMMENDED ACTION: Please send telegrams/faxes/express/airmail letters in English or your own language:

- expressing deep concern about the Constitution (Amendment) Bill 1996, which seeks to overturn the 1993 Pratt and Morgan ruling by the JCPC, and would allow the execution of prisoners currently entitled to commutation, as well as restricting other rights of those under sentence of death;
- pointing out that the retrospective application of the Bill in the case of prisoners who would otherwise benefit from the Pratt and Morgan ruling contravenes fundamental principles of international human rights law;
- urging them to oppose the Bill;
- welcoming the legislation proposed in the Offences Against the Person (Amendment) Bill 1996 (which is also being presented to parliament in the near future), which would remove mandatory death sentences for crime involving murder by introducing a charge of non-capital murder.

If possible, cite arguments against the death penalty:

- the death penalty has never been shown to deter crime more effectively than any other punishment; execution is irrevocable and despite the most stringent judicial safeguards, can be inflicted on the innocent;
- any attempt to increase the number of executions would be a retrograde step and contrary to international trends to abolish the death penalty;
- acknowledge the seriousness of the crimes for which prisoners are sentenced to death in Trinidad and Tobago, and express sympathy for the victims of violent crime and their friends and families.

APPEALS TO:

Amnesty International has been advised that the following three independent senators are particularly influential. They are prominent members of the community appointed to Parliament by the Prime Minister.

Senator Martin Daly
115A Abercromby Street
Port-of-Spain, Trinidad and Tobago
Fax: +1 809 627 5006
Salutation: Dear Senator

Senator Professor Kenneth Ramchand
2 Riverdale Terrace
Marracas
St Joseph, Trinidad and Tobago
Fax: +1 809 663 9684
Salutation: Dear Senator

Senator Diana Mahabir-Wyatt
3 Rust Street
Sinclair, Trinidad and Tobago
Fax: +1 809 622 7506

Salutation: Dear Senator

Leader of the Opposition:

Patrick Manning
Peoples' National Movement
Chepstow House, Port-of-Spain
Trinidad and Tobago

Fax: +1 809 625 3342 (if voice, aske for fax)

Telegrams: Patrick Manning, Chepstow House, Port of Spain, Trinidad

Salutation: Dear Sir

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

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your Section Office, if sending appeals after 20 November 1996.