

# AMNESTY INTERNATIONAL MEDIA BRIEFING

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## **Amnesty International's death penalty statistics 2008 – Case Studies**

### **AFRICA**

#### **MAURITANIA**

Yacoub (23) was arrested in May 2008 for complicity in murder and brought to the police station in Nouakchott, the capital, where he was tortured for 13 days. He confessed and was sentenced to death in November 2008. He explained to Amnesty International researchers: "They tied my feet and handcuffed me. They suspended me by the feet to the ceiling with a rope and beat me. They did that every night for 13 days asking me to confess. I finally said I did it".

#### **NIGERIA**

When he was 14, Solomon was arrested as a suspect in a murder committed in November 2001. He was brought before a Magistrates Court and, pending police investigation, was remanded to prison. He has still not been tried.

Even the prison staff does not know what to do for him, saying: "This boy, he has no lawyer, he never goes to court." He shares a cell with more than 70 adult men – all awaiting trial – and is only allowed outside his cell once a week and never receives visitors. "My family does not know I am in prison; they might think I am dead."

### **AMERICAS**

#### **USA**

Troy Davis has been on death row for 17 years for a crime he maintains he did not commit.

He was scheduled to be put to death on 27 October 2008 but on 24 October, the US Court of Appeals for the 11th Circuit granted him a provisional stay of execution.

Troy Davis was convicted in 1991 for the murder of 27-year-old police officer Mark Allen MacPhail -- who was shot and killed in the car park of a Burger King restaurant in Savannah, Georgia on 19 August 1989. Troy was also convicted of assaulting Larry Young, a homeless man, who was accosted immediately before Officer MacPhail was shot. At the trial, Troy Davis admitted that he had been at the scene of the shooting, but claimed he had neither assaulted Larry Young nor shot Officer MacPhail. There was no physical evidence identifying him as the gunman and the weapon used in the crime was never found. The case against him consisted of witness testimony. In affidavits signed over the years since the trial, a majority of the state's witnesses have recanted or contradicted their testimony. In addition, there is post-trial testimony implicating another man as the gunman.

In March 2008, the Georgia Supreme Court denied Troy Davis a new trial or a court hearing in which post-conviction evidence could be presented. The Chief Justice of the state Supreme Court, joined by two other Justices, dissented from this decision, arguing that "In this case, nearly every witness who identified Davis as the shooter at trial has now disclaimed his or her ability to do so reliably. Three persons have stated that Sylvester Coles confessed to being the shooter. Two witnesses have stated that Sylvester Coles, contrary to his trial testimony, possessed a handgun immediately after the murder. Another witness has provided a description of the crimes that might indicate that Sylvester Coles was the shooter." The Chief Justice stated that "the collective effect of all of Davis's new testimony, if it were to be found credible by the trial court in a hearing, would show the probability that a new jury would find reasonable doubt of Davis's guilt or a least sufficient residual doubt to decline to impose the death penalty."

The 11th Circuit has not yet ruled on the case.

## **ASIA**

### **CHINA**

Businesswoman Du Yimin was sentenced to death in March 2008. Her appeal was rejected on 13 January, and her sentence will now be reviewed by the Supreme People's Court. If it upholds her sentence, she could be executed within days.

She was convicted of "fraudulent raising of public funds." According to the verdict, she had illegally raised approximately 700 million Yuan (US\$102 million) from hundreds of people investing in her beauty parlours.

According to her lawyer, Du Yimin should have been convicted of the lesser offence of "illegally collecting public deposits," which carries a maximum sentence of 10 years' imprisonment and a fine of 500,000 Yuan (US\$73,000). Du Yimin argued that she had had no intention of keeping the money, but had rather put it into her companies, and obtained it without using fraudulent means.

Du Yimin's death sentence has caused a debate about consistency in the application of the death penalty. The day before she was sentenced to death, an official who used 15.8 billion Yuan of public funds to cover his personal spending was sentenced to a fixed term of imprisonment.

The death penalty is applicable for 68 offences in China, including non-violent ones.

### **JAPAN** (Photos available)

Hakamada Iwao has been on death row since 1968. He was convicted after an unfair trial for the 1966 murder of the boss of the factory where he worked, the man's wife and two children.

Hakamada confessed to the crime after 20 days of interrogation by police without a lawyer present. Under the *daiyo kangoku* (substitute prison) system, suspects can be detained for up to 23 days of questioning. There is no limit on the length of interrogation sessions, during which the detainees' lawyers have only restricted access to them. He retracted his confession and testified during his trial that police had beaten and threatened him to force him to sign a confession. Hakamada claimed that police pulled his hair and slapped him during interrogations that lasted more than 12 hours every day. Nonetheless he was found guilty and sentenced to death in 1968. His appeals were rejected by the Tokyo High Court in 1976 and the Supreme High Court in 1980. He went on to petition for a retrial: he was rejected by the

Shizuoka District Court in 1994 and the Tokyo High Court in 2004. The Supreme Court rejected his petition for a third time on 24 March 2008; his lawyers submitted a second appeal the following month to the Shizuoka District Court.

One of the judges who convicted Hakamada, Kumamoto Norimichi, stated publicly in 2007 that he believed Hakamada was innocent. He said that during the trial he had argued with the other two judges that they should find Hakamada not guilty, but was outvoted.

A key part of the evidence against Hakamada was a set of clothing, stained with the victims' blood, which was found abandoned in a tank at the factory. They were too small for Hakamada, but the prosecution claimed they had shrunk while in the tank. According to his lawyer, the knife Hakamada was supposed to have used was too small to make the fatal wounds, and the door by which he was supposed to have entered and left the victims' house had been locked.

Hakamada is one of Japan's longest-serving death row inmates. Death row inmates are banned from talking to other prisoners and they are not allowed to watch television or engage in personal interests or hobbies. He is suffering from mental illness from spending over 28 years in solitary confinement. He is at constant risk of being executed at any time, unless he is pardoned by the Minister of Justice, or granted a retrial.

## **AFGHANISTAN**

Student and journalist Perwiz Kambakhsh was sentenced to death for blasphemy in January 2008. The sentence was quashed on 21 October 2008 by a court of appeal in Kabul and replaced with a 20-year prison term. He was convicted under a law that provides for a sentence of no more than five years imprisonment.

Perwiz Kambakhsh had been arrested on 27 October 2007, and was sentenced to death three months later by a Primary court in the northern city of Mazar-e-Sharif. There were no legal grounds for either his conviction or his sentence. According to the prosecution, he had downloaded an article from the internet that questioned the condition of women in Islam, added some commentary and distributed it at Balkh University, where he was studying. He denied this, saying that he had been "coerced" into confessing. Despite this, he was convicted of breaching Article 347 of the Penal Code (disturbing or stopping a religious ritual or process or damaging a place of worship). This offence carries a maximum sentence of five years' imprisonment, but the court claimed there was a gap in the law, meaning that Sharia could be applied, under Article 130 of Afghanistan's Constitution.

The trial proceedings at the primary and appeal hearings were grossly unfair. At the primary level hearing, which only lasted four-minutes, Perwiz Kambakhsh had no legal representation and no opportunity to effectively defend himself. The appeal court failed to determine beyond reasonable doubt that Kambakhsh's confession had not been coerced. According to Afghanistan's Criminal Procedure Code, he should have been released when his appeal had lasted more than two months without reaching a result, but he was not released even though his appeal lasted five months.

## **EUROPE**

### **BELARUS**

Ihar Danchenka was sentenced to death on 1 December 2006 for murder. He was accused of participating in a series of murders committed by a criminal gang that allegedly took place between 1990 and 2004 in the Homyel region. He was tried along with 46 other people including five police officers. The trial was held in the remand prison where the suspects were detained for security reasons and relatives and members of the public were not permitted to

attend. When Ihar Danchenka's 12-year-old son found out from watching television that his father and his godfather, Syarhey Marozaw, had both been sentenced to death he asked his mother: "Mama, why are they taking away both my Dads at the same time?"

Ihar Danchenka was probably executed on 12 January 2008 by a shot to the back of the head. Neither he nor his family was told the date in advance and his widow received a notification by post only at the end of January. His lawyers can only guess at the exact date the execution was carried out. The family does not know where his body is buried and relatives have not been able to organize a funeral. Ihar Danchenka was tried and convicted in the Supreme Court as a court of first instance and therefore he could not appeal to a higher court.

He had applied to the President for clemency. His lawyer told Amnesty International that he did not agree with the punishment, and felt that Ihar Danchenka had been sentenced to the death penalty because he had a criminal record. "In effect we [sic] were punished for the past ...for crimes for which he had already served a sentence. Strictly speaking you can be punished for crimes that you have committed today, but to punish you for having always been a bad boy, that is not right."

## **MIDDLE EAST**

### **IRAN**

Juvenile offender Mohammad Feda'i, convicted in 2005 of a murder in 2004 when he was only 17, wrote in a letter from prison in June 2008 of his experiences of torture to extract a false confession, and when he was nearly executed in April 2008.

"They asked me to write my will the night I was going to be hanged. I didn't know what a 'will' was. When they put the noose around my neck, I closed my eyes and asked my God for help. Just few seconds before hanging, it was halted, because they found out that my lawyers were fake. When I was coming down from the stairs, once again I saw hope and felt I am going back to the school again!"

Mohammad Feda'i remains on death row in prison.

### **SAUDI ARABIA** (Photo available)

Suliamon Olyfemi, a Nigerian national, has been sentenced to death after facing unfair trial in 2004-5 in connection with the killing of a policeman in 2002. He continues to maintain his innocence. According to reports, on 28 September 2002, a group of men, among them one policeman, arrived in an area where many African nationals worked as car cleaners. An argument escalated into a fight and the policeman was killed. The following day, security forces carried out mass arrests in the area.

Suliamon Olyfemi and 12 other Nigerian men were tried in connection with the policeman's death. They did not have legal representation and apparently were not provided with adequate translation assistance during interrogation and trial, which was conducted in Arabic.

During interrogation, they were reportedly instructed by the police to sign with their fingerprints statements that they could not read and whose contents were not clear to them. There is concern that these statements contained "admissions" that were then used as evidence against them in their trial. Some of the men have allegedly been tortured in detention. All 13 were convicted: Suliamon Olyfemi was sentenced to death and the others were sentenced to prison terms and flogging. He is now at risk of imminent execution as he has exhausted all levels of appeal.

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