ABOLITION REVIEW

#1

GENEVA CONGRESS PROCEEDINGS

includeed in

A HANDBOOK OF ABOLITION

March 2011

It falls to the "Proceedings of the 4th World Congress Against the Death Penalty" and to the many players and activists who gathered in Geneva from 24th to 26th February 2011 for the event, to inaugurate the creation of this new collection published by the association Ensemble Contre la Peine de Mort (ECPM) - "The Abolition Handbooks".

After more than 80 editions of the Abolition Email and around 15 Abolition Journals, ECPM decided to expand its range of publications with a new collection offering each year contributions and analysis which go beyond the latest abolition news.

Founded by publishers, Ensemble Contre la Peine de Mort has always believed since its creation in 2000, that abolition will only be universal when it is finally abolished from peoples' consciences once and for all. Thereby, these "Abolition Handbooks" are an additional, complimentary tool to raise awareness of the reality of the death penalty in the countries which practise it, developing abolitionist arguments and sharing strategies to eradicate abolition across the planet. They are also intended as a practical tool to educate on abolition.

This first collection of "Abolition Handbooks" is entirely devoted to the exchanges of the Geneva Congress. It is the least that ECPM can do to pay tribute to all these players who day after day save lives by driving back the death penalty and driving forward human rights across the world. Among these players, we must take this opportunity to thank in particular the coordinator of this work, Shirley Pouget, a tireless activist and outstanding legal expert, without whom these Proceedings would never have seen the light of day.

A word on the structure of these first Handbooks. The meetings in Geneva took the form of plenary sessions, roundtables and workshops. The plenary sessions and roundtables gave rise to articles reporting on the participants' words and exchanges. The content of the workshops, the main aim of which was to put forward tools and means of action for abolitionist activists, has been summarised in the "Practical Abolition Handbook".

We wish you all happy abolitionist reading!

ABOLITION REVIEW
4TH WORLD CONGRESS AGAINST THE DEATH PENALTY

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4TH WORLD CONGRESS AGAINST THE DEATH PENALTY

FOREWORD

by *Micheline Calmy-Rey*
Head of the Swiss Federal Department of Foreign Affairs

Robert Badinter
and Micheline Calmy-Rey

The fourth World Congress Against the Death Penalty, organised by the French organisation Together against the death penalty (*Ensemble contre la peine de mort- ECPM)* in February 2010, marked an important new step in our fight against the death penalty. Over the course of three days, more than 1300 people from all backgrounds gathered in Geneva to share their experiences and to define new strategies together.

Switzerland is proud to have sponsored this event. Our support for this courageous gathering enabled us to clearly demonstrate the Swiss Confederation's support for the abolitionist cause, as well as to proclaim loud and clear our unfailing defence for the respect of human dignity.

Arising from the series of intense debates, the final declaration of the Congress underlines the urgent need to intensify our efforts and to encourage other countries to join us. However the path to abolition did not come to an end in Geneva as the magnificent progress achieved since February demonstrates.

The most eloquent example is without doubt the adoption by the United Nations General Assembly of a third resolution calling for a universal moratorium "with a view to the abolition of the death penalty", with 107 votes in favour, 36 abstentions and 38 votes against.

This success underlines the universal and irreversible trend towards abolition. Moreover, the result marks real progress, both in the increase of the number of votes in favour as well as in the atmosphere of the discussions. Overall, states recognised a wider universality of the text and applauded the constructive approach of the negotiations.

Here again, the process is continuing and this vote is only a step – albeit a crucial one - on our road.

Just like the Congress held in Geneva, this success also illustrates the successful cooperation between governments and civil society.

The work achieved during the World Congress has also been rewarded by the strong commitments expressed since then by governments and international institutions. In this respect, I must applaud one of its most concrete results, the creation last October of the International Commission Against the Death Penalty (ICDP), an initiative launched by Spanish Prime Minister José Luis Rodriguez Zapatero in Geneva, in February, and with which my country is closely associated.

The objective of the ICDP, beyond the ultimate goal of the most extensive moratorium on executions possible between now and 2015, is to act for the suspension of executions where international law restricts the application of the death penalty.

Let us note to finish that as the February Congress opened, Hank Skinner, sentenced in 1995, was awaiting his scheduled death in Texas. His execution was in fact due to take place that same day, despite the fact that he had continuously maintained his innocence and fought to obtain the DNA tests which according to him would prove his innocence.

Today Hank Skinner is still alive. The American Supreme Court heard his case last October and a decision is expected at the beginning of 2011.

The road is certainly winding and difficult, but this latest news must further encourage us to move forward, to strengthen our efforts, out of dignity for prisoners.

I am conscious of having mentioned only some of the progress achieved since February and I hope that those who are striving every day to achieve a world without the death penalty will forgive me. I thank them from the bottom of my heart for their courageous work. I would like to seize this opportunity to once again applaud the fight led by the association Ensemble contre la peine de mort, in partnership with the World Coalition Against the Death Penalty.
To conclude, I would like to remind everybody that it is together - building on our respective experiences, our diversity and our expertise - that we will achieve the objective which we have set ourselves, that of a world completely free of the death penalty. For let us not forget that the death penalty constitutes a violation of the most fundamental of human rights and it does not have a place in today's world.

EDITORIAL THE ENTHUSIASM AND PROSPERITY OF THE WORLD ABOLITIONIST MOVEMENT

by *Arnaud Gaillard*
Congress coordinator, ECPM

Words of victims'evening and congress volunteers

The 4th World Congress Against the Death Penalty organised by Ensemble contre la peine de mort (ECPM) in Geneva in February 2010, was designed and structured in such a way as to integrate all the various aspects which need to be mobilised in order to move forward with unequivocal determination this civilisational cause on a world scale. The packed nature of the programme, in terms of its scientific debates, the desire to grant equal importance to the cultural programme, as well as the growing political mobilisation - around 50 delegations -, the heavy involvement of actors from retentionist countries - more than 100 countries represented -, the strong attendance of delegates from all professional, geographical, cultural or religious backgrounds, are all factors which testify to the vigour of a fight which we would be wrong to consider as flagging. After Geneva 2010, all the indications are that, on the contrary, there is every reason to realistically envisage growing progress in favour of universal abolition. This is thanks to the close collaboration with our host country, the Swiss Confederation, which, far from being contented with being a major financial donor, has acted as a solid and conciliatory political partner, whose advice has proven to be crucial in opening doors during the organisation of this international gathering. It is also thanks to the involvement of the members of the World Coalition Against the Death Penalty, called upon to establish the legitimacy both of the scientific orientation as well as the choice of participants. Finally it is thanks to the commitments of leading politicians, such as José Luis Zapatero, together with numerous representatives of governments from the four continents, that the roadmap set out in the final declaration draws for us all, abolitionist activists, legal experts, or political leaders, the outline of a context which is a real opportunity to advance towards universal abolition in a realistically near future.

There are tools available to support this abolitionist movement. The ratification of the second

optional protocol to the International Covenant on Civil and Political Rights (ICCPR), instituting an ultimate legal obstacle to the death penalty, must be promoted by signatory countries urging their counterparts, year after year, to join with those who say "no" to this criminal act of barbarity. Similarly, work on a diplomatic level is essential to entice abstentionist countries to adopt the United Nations resolutions for a universal moratorium, just like the last vote on 21st December 2010 with the result of 109 votes in favour, 41 against, 35 abstentions and 7 absentees. Yet what power would politicians have if the initial determination was not vigorously undertaken, demonstrated, exposed, by civil society? NGOs thereby prepare the fertile ground on which decision-makers can act. It is on the foundation of this movement of activists, in all its most imaginative and energetic forms that abolition will continue to progress and radiate signs of optimism.
In Geneva, the two major debates naturally focused on a common reflection, combining the respective points of view and the know-how of NGOs, intergovernmental organisations and governments, with particular emphasis on the equally worrying and emblematic situation, of the death penalty in China, the United States, Japan and Iran. For while it is true that the number of abolitionist states is continually growing, we must also note that in 2010, 90% of executions were carried out in five, particularly influential countries whose political weight constitutes a major obstacle. "Shaking things up" in these emblematic states is one of the challenges of tomorrow, a common challenge which can only be achieved through a joint and determined approach. This was also reflected in the determination expressed by Spain, when its Prime Minister, José Luis Rodriguez Zapatero, announced the imminent creation of an international commission made up of political figures, acting as a counterpart on a diplomatic level to what the civil society movement, as incarnated in particular by the World Coalition Against the Death Penalty, must represent tomorrow for the eagerly anticipated development of abolition.

Around these plenary sessions, a number of themes were tackled in the framework of roundtables which approached various issues from a specific or geographical angle. These debates were an opportunity, for all of the 1500 delegates present, to familiarise themselves with the problematic issues which the continued survival of the death penalty highlights. These roundtables also enabled specialists from across the world to evoke specific aspects of the fight in different regions of the world. While Africa is gradually moving towards abolition, progress remains to be made, combining here and there the desire for democratisation with the main principles of international criminal justice. Asia, on the other hand, is suffering from a notable lack of abolitionist debate.

As theory cannot do without pragmatism, nine workshops also provided an opportunity to share expertise and good practices. This 4th World Congress was also designed to open the floor to a host of players, activists and academics, who had the chance to present, for the first time, around thirty posters offering carefully chosen and well-thought-out perspectives, and in all cases, real experiences to serve the abolitionist debate.

Never before has the general public been so mobilised around civil society to assist in the international gathering of abolitionists. Alongside the particularly packed cultural programme, unprecedented local communication, combined with exceptionally vigorous media communication, based on the powerful personal accounts of former death row inmates, served to fuel an extremely high visibility which went far beyond European borders. Already 1200 articles and reports have been identified and gathered throughout the world, while the event achieves more than 250,000 Google hits. This extension of the abolitionist debate is of crucial importance, and it is up to each society, each country, each culture, to seize on abolitionist arguments, to appropriate them and convey them in accordance with their own cultural specificities. This is why ECPM chose to encourage the presence of more than one hundred abolitionist players from retentionist countries. Lawyers, activists or political figures, the challenge arising from the urgency of abolition, consists, we all know, in widening the debate in order to give it a universal dimension. This is how we can reinforce day after day the certitude of imminent universal and definitive abolition, as the irrefutable movement of recent history testifies. In twenty years, we have gone from 51 abolitionist countries to 139. These figures are not deceptive, they reflect a real trend, a determination on which our combined energies must and will rely in the weeks, months and years ahead.

PREFACE: WORLD CONGRESSES AGAINST THE DEATH PENALTY: MORE THAN AN INTERNATIONAL CONFERENCE, A STRATEGIC TOOL FOR ABOLITION

by *Raphaël Chenuil-Hazan*
director, ECPM

During a plenary

Uniting abolitionist forces, is the very essence of the French association Ensemble contre la peine de mort and it is the core principle of the World Congresses against the death penalty. From Strasbourg to Montreal, from Paris to Geneva, while the voices of the abolitionist movement are in unison, universal abolition of the death penalty is moving forward…

A recent phenomenon in the history of the fight for a world without the death penalty, the world congresses are today an unmissable event for hundreds of activists, decision-makers and experts united around a single cause, that of the respect of the right to life and human dignity. The *leitmotiv*? Debating the cruelty of a system and strategies to bring it to an end, getting together to exchange, to mobilise and to unite.

The World Congresses are also a platform for those who live, on a daily basis, with the suffering, cruelty and barbarity of the death penalty across the world, a shared moment, a humane experience where solidarity is order of the day. We work together to denounce the iniquity of a cruel system, so that the injustices which affect thousands of women and men, anonymous or emblematic figures, can be heard. So that they become our injustices. So that their voices are carried beyond the walls of the prisons which surround them. So that what affects these people is not alien to us…*Humani nihil a me alienum puto*[1]!

Let us look back at ten years of unprecedented mobilisation. The World Coalition Against the Death Penalty was created in Strasbourg, on the initiative of ECPM, following the first Congress in 2001. It was the first time that abolitionist organisations came together on an international stage and united their forces. Today, the World Coalition comprises more than 117 member organisations on five continents and can no longer be ignored.

In Montreal, in 2004, we called for abolition in the United States and mobilised American actors. Unimaginable a decade before, the question of the abolition of the death penalty then became a subject of debate in this highly emblematic country. Today, the latest report from the Death Penalty Information Centre (DPIC) confirms that a real change is taking place, with a decrease in the number of death sentences as well as a gradual change in mentalities.

In Paris, in 2007, the alarming situation of the death penalty in China and in the Arab world came under the spotlight. For the first time, Chinese abolitionists expressed in public their opposition to the ultimate punishment and enabled the debate to reach the most isolationist countries in the world. The Moroccan Coalition was created thereby launching the first step towards abolition in Morocco. Paris 2007 was also an unprecedented mobilisation of abolitionist forces with a view to the adoption of the 1st resolution for a moratorium at the United Nations General Assembly. Finally, it was the first time that a country, Switzerland, officially declared its intention to sponsor a World Congress Against the Death Penalty.

In Geneva, in 2010, the "world" city of human rights, the World Congress was able, thanks to the Swiss Confederation, to create bridges between international institutions, governments and human rights actors in order that together we would move forward in the same direction.

Today, the World Congresses far exceed the initial objectives which we set ourselves, i.e. the federation of abolitionist forces within an international conference. Today, the World Congress Against the Death Penalty is the place where civil society defines tomorrow's strategies, as well as being a formidable tool for abolition. In fact, the Congresses incite governments to include the abolition debate on the agenda of international timetables. Thereby, in the wake of the Paris Congress, Ukraine ratified the 2nd protocol. In Geneva too, the roundtables and plenary sessions were places where future changes, I am sure, were initiated. I am thinking in particular of the discussions and official stances on Belarus, Mongolia, Benin and Lebanon. ECPM invites you here and now to hear more about the progress made, at the 5th World Congress Against the Death Penalty in 2013.

GENERAL INTRODUCTION

by *Florence Bellivier*
Professor at the University of Paris Ouest Nanterre La Défense,
deputy general secretary of the FIDH, on behalf of the World Coalition

Florence Bellivier and Mario Marazzati representing the world Coalition

"Operationes spirituales" is the enigmatic title of a central passage of "*The Magic Mountain"* the major work published by Thomas Mann in 1924, in which the writer's characters discuss "concrete" subjects - cremation, corporal punishment and torture. The Jesuit Nafta and the rationalist Settembrini find no common ground; the novel's young hero, Hans Castorp, fearing the effect of the "logical impasse" on the general atmosphere, "tried to help out – as if it were his *métier* to guide such a conversation! Of his own accord, he flung into the arena the question of capital punishment. Torture, he said was abolished – though examining magistrates still had ways of making an accused person pliable. But the death penalty persisted, it seemed impossible to do without it. It was practised by the most civilized nations. The French system of deportation had worked poorly. There was nothing feasible to do with certain half-human beings, except to make them a head shorter!" (Thomas Mann, *The Magic Mountain*, Vintage Classics, p. 460). Settembrini, who corrects his clumsy friend (the so-called "half-human beings" are men like themselves, but who, are "weak-willed victims of a defective social system") is a member of an international "newly-formed league the scope of which was the abolition of capital punishment in all civilised countries" although it was not yet decided where it would hold its next Congress (p. 461). Almost a century later, Ensemble contre la peine de mort was behind the creation of the World Coalition Against the Death Penalty. The world abolitionist movement thereby took on a new momentum, as testified by the organisation of four congresses, the last of which, significantly, was held in the symbolic city of Geneva. Contrary to the predictions of Hans Castorp who, after having spent seven years learning about life in a sanatorium, would perhaps lose his life on the front line - the book ends at the outbreak of the First World War -, the death penalty is certainly not immortal. The abundant and fascinating *Proceedings* of this fourth Congress prove that capital punishment can no longer be said to be sur-

viving. On the contrary, it is most certainly decreasing thanks to the fight of thousands of activists, throughout the world - and not just within the narrow scope which contemporaries of Thomas Mann called, with a pride which we now know to have been tragically misplaced, "civilised" countries. It is also thanks to the courage of politicians who vote in favour of abolitionist laws sometimes going against public opinion, often instrumentalised, media, intellectuals and artists who, like Hans Castorp and his friends, think that it is a serious subject and not a marginal practice which will disappear of its own accord; the death penalty is in decline because lawyers are once again taking up cases which others thought were lost, because the families of murder victims rather than listening to their first intuition, which is altogether understandable, push to one side all feelings of vengeance, even institutional, and take a stance against the death penalty; the death penalty is not immortal because students, under the guidance of their teachers, uncover judicial errors, because in international chambers, the question of the death penalty is no longer considered as being within the sole remit of a country's sovereignty but also that of international human rights laws.

However, what is striking, from these few pages of the *Magic Mountain* to the *Proceedings*, is to what extent the speakers - addressing the upcoming congress which Settembrini mentions as well as the Geneva gathering – have "plenty of arguments at hand" (p. 461) - the possibility that "justice might err and judicial murder be committed" (p. 461); the hope of reformation (p. 461). In response, Naphta, the "reactionary revolutionist" derides "the humanist's reluctance to shed blood, and his reverence for human life" (p. 461), insists on the underlying continuity of the man who wanted to kill and remains as he has always wished to be "until his last breath" (p. 462), then underlines the absurdity of an "ignorant humanitarianism" which tries to "feed on skilly" the murderer who will end his days in prison (p. 462). The verbal jousting of the two "antagonists" (p. 468) finishes in "vasty confusion" (p. 469) on life, religion and individualism. However, on the subject of the death penalty, Settembrini nevertheless scores a point: "the death-and-murder mysticism" (p. 462), in which Naphta revelled, left "light-seeking youth" (p. 461) perplexed - H. Castorp "gave a little cough", one of his companions "set his jaw awry" and another "breathed a sigh".

On 21st December 2010, in the chamber of the United Nations, 109 countries voted, in a plenary session, for a resolution aiming to "institute a moratorium on executions with a view to abolishing the death penalty". We may think we are a long way from the "operationes spirituales" which agitate the imaginary characters of the German writer but in reality we are very close because in New York, as on the Magic Mountain, law, ethics, religion and politics confront each other. Despite the series of bitter disillusions which the 20th century inflicted on the Lights lauded by Settembrini, we can nourish the hope that the 21st century will refute the statement made by young Hans Castorp relating to the immortality of the death penalty. The reading of the *Proceedings* will show the reader that the process will be slow, consisting in a policy of taking a series of small steps in order to take one big step forward, with the only spark being that of the little candles which activists like to associate with abolition and which evoke Settembrini's Lights, wavering but never extinguished.

PRIORITY ACTIONS FOR ABOLITION

The final declaration

We,
the delegates at the 4th World Congress Against the Death Penalty, held in Geneva, Switzerland, from 24th to 26th February 2010, organised by the association Ensemble contre la peine de mort (ECPM), sponsored by the Swiss Confederation and in partnership with the World Coalition Against the Death Penalty,
adopt this Declaration after three days of intense debates, exchanges of experiences, definition of strategies, sharing of testimonies, as well as commitments and strong support expressed by governments and international institutions:

Noting with satisfaction the implementation of several recommendations made after the 3rd World Congress held in Paris in 2007 - the increase in the number of countries having ratified the United Nations Second Optional Protocol to the International Covenant on Civil and Political Rights from 62 to 72; the majority vote, on two occasions, by more than 100 countries, at the United Nations General Assembly, in favour of an immediate and universal moratorium on executions; the creation of new regional coalitions against the death penalty; the significant increase in the number of member organisations of the World Coalition currently standing at 104 members;

Noting also the urgent need to intensify our efforts, in courts, bar associations, in the media, in schools and universities, within human rights organisations, parliaments, governments, international and regional organisations, to continue to encourage retentionist countries, currently in the minority within the international community, to demonstrate transparency in their practice of the death penalty, to reduce in their criminal codes the number of crimes punishable by the death penalty, and to join the community of abolitionist countries;

Underlining the actions and the continued support of the European Union in the fight against the death penalty.

Welcoming the initiatives and commitment of Switzerland, beyond the Congress, and of Spain, which has set itself the objective of achieving a universal moratorium on executions by 2015, with the ultimate aim of universal abolition.

Reconfirm that the death penalty can in no circumstances be considered as an appropriate response to the violence and tensions which arise in our societies, despite the emotional force which they provoke, including in a context of terrorism.

And urge, in this city, the home of international organisations and a symbol of peace:

- de facto abolitionist states to adopt legislation to abolish the death penalty in law.
- abolitionist states to integrate the issue of universal abolition into their international relations by making it a major focus of their international policy to promote human rights.
- international and regional organisations, to support the universal abolition of the death penalty notably by the adoption of resolutions advocating a moratorium on executions, by supporting educational actions, and through increased cooperation with abolitionist non-governmental organisations working on the ground.
- abolitionist associations and players in retentionist countries, to unite their forces and their determination by creating and developing national and regional coalitions, with the aim of promoting, on a local level, total and universal abolition of the death penalty.

Geneva,
26th February 2010.

PART 1

GENEVA, ABOLITIONIST CO-OPERATION INITIATED ON ALL LEVELS

José Luis Zapatero, Robert Badinter and Abdou Diouf during the opening in the room XX, human rights council, Palais des Nations.

ACTIVISTS AND POLITICAL LEADERS IN ALLIANCE AGAINST THE DEATH PENALTY

by *Raphaël Chenuil-Hazan*
director, ECPM

The opening session of the 4th World Congress was an incredibly powerful moment. A number of activists from retentionist countries came up to me to tell me how moved they were to know that they were not alone, to know that so many people could mobilise themselves at their side. How moving it was to bring together so many leading actors in a place as prestigious as the Human Rights and Alliance of Civilisations Room XX at the United Nations, in this city which is so symbolic of human rights in the eyes of the world! In fact, both in terms of the number of people, as well as their level of representation, the political establishment and international diplomacy were present in force during this Congress, lending the event unparalleled scope. An additional "medal" for Switzerland and for Geneva in particular, whose historical commitment to the abolitionist fight was underlined by Micheline Calmy-Rey, head of the Federal Department of Foreign Affairs and the patron of this 4th Congress.

In addition to those political figures whose official status inevitably made them more "visible", the success of this Geneva Congress also owed much to numerous diplomats and politicians less familiar to the media spotlight, as it is often they who are working on a daily basis on death penalty cases and on abolition in their own country. This was notably the case for the delegations from Vietnam, Belarus, Kyrgyzstan, etc., and even Japan and the United States who sent representatives who wished to remain discreet, even anonymous. Several meetings were therefore able to take place on the fringe of the Congress, such as the meeting between representatives of Belarus and members of the Council of Europe and the annual meeting of the Asian Death Penalty Association Network (ADPAN).

The international recognition of an event such as the World Congress Against the Death Penalty is the result of several factors - the scope of the debates, the number of participants, the quality of the speakers, the progress and stances announced during the event. Political mobilisation enables all these factors to find a sounding board in the media as well as lending credibility to our international movement. This 4th Congress was above all, in the words of the father of abolition in France, Robert Badinter, "A Congress of activists...the salt of the earth in the abolitionist fight." However, the presence of these leading political figures undeniably strengthens the international alliance against the death penalty and encourages the adoption of multilateral commitments on universal abolition.

SPAIN SPEARHEADING UNIVERSAL ABOLITION

The participation and commitment of Spanish Prime Minister, José Luis Rodríguez Zapatero alongside the Swiss authorities made a huge impact on this 4th Congress through the extensive diplomatic mobilisation which he instigated, as well as through the initiatives announced. In fact, this diplomatic success is due as much to the powerful mobilisation of the Swiss authorities as to the commitment of Spain to the abolitionist fight and, as an indirect result, that of the European Union (EU), as Spain held the presidency of the EU during the first half of 2010. Boosted by his country's powerful abolitionist voice within the international community, the head of the Spanish government officially launched an invitation to *Ensemble contre la peine de mort and all abolitionists at the United Nations* for the next World Congress Against the Death Penalty to be held at Madrid, sponsored by Spain. Moreover, José Luis Rodríguez Zapatero announced the creation in the third quarter of 2010 of an International Commission Against the Death Penalty[2], made up of representatives from civil society from a variety of different backgrounds and geographical areas (ethical, religious, political authorities, etc.), with a view to achieving an international moratorium by 2015. While this announcement may be an ambitious aim, its merit lies in its incorporation of the abolitionist fight into the work to fulfil the Millennium Development Goals (MDGs), thereby linking the abolition of the death penalty to other global fights against poverty, violence, hunger and disease. Robert Badinter however stated that a moratorium

would only be fair if it applied to sentences and not just executions.

THE POLITICAL COURAGE AND DISCREET PROGRESS OF RETENTIONIST COUNTRIES: BENIN, MONGOLIA, LEBANON AND MOROCCO

The success of the World Congresses also lies in the significant presence of official representatives of retentionist countries and the commitments they made during the congress. Political courage is always the central focus for any abolitionist progress. This 2010 Congress was, in this sense, a real success with official stances, announcements of change, as well as other forms of progress and commitments which, although discreet, were equally pro-active.

This was firstly demonstrated by the presence during the opening ceremony at the Palace of Nations, of an official representative of the Beninese president, Thomas Yayi Boni, to announce the future bill on abolition in his country and showing once again that Africa (particularly western Africa) is making rapid progress.

Mongolia also, through the voice of its president who sent an official message read out during the solemn ceremony, announced a formal moratorium on the use of the death penalty and the commutation to life imprisonment of the sentences of prisoners currently on death row in the country. In this speech, the President stated that the practice of the death penalty went against the principles of human dignity and individual freedom. Mongolia thereby becomes one more de facto abolitionist country, in an Asian continent which is still overwhelmingly retentionist.

The Arab world is also gradually considering the issue of abolition. Ibrahim Najjar, the Lebanese justice minister, undertook to open the debate in his country, while Morocco, represented by the president of the Advisory Council on Human Rights (CCDH), Ahmed Herzenni, stressed, during the closing ceremony, the need to move from a moratorium to abolition pure and simple.

THE OPPORTUNITY FOR DIALOGUE WITH IGOS

By hosting the opening ceremony at the Palais des Nations, the United Nations has, like the OIF, the Council of Europe and the European Union, clearly expressed its commitment to the abolitionist movement and its "opposition to the death penalty in all circumstances". This was further demonstrated by the United Nations' official participation in the debates and the solemn ceremony through Navanethem Pilay, the UN High Commissioner on Human Rights. This was one of the aims of this 4th Congress, which however encountered the usual difficulty (even in Geneva) of mobilising the key players from regional organisations, notably the highest representatives of the African Union, the ASEAN and the Arab League. This must therefore remain one of the crucial aims of future congresses so that the voice of abolition is heard and conveyed by international law and multilateral organisations.

CONSTRUCTING AND LEADING A SHARED STRATEGY

Ensemble contre la peine de mort saw Geneva as the ideal city for sealing the strategic alliance between national and international diplomatic powers and civil society with a view to universal abolition. Geneva 2010 enabled this vision to be fulfilled. This 4th Congress created the necessary links between diplomacy and abolitionist citizens to construct and lead a shared strategy in order to abolish the death penalty country by country. Through his invitation for the 5th World Congress, José Luis Rodríguez reiterated his choice of being at the heart of current and future abolition strategies. After Strasbourg 2001, Montreal 2004, Paris 2007 and Geneva 2010, Madrid 2013 (if it becomes a reality) should act as a bridge between Hispanic, European, Mediterranean and Arab cultures as well as convey international concerns in terms of the fight against the death penalty. This commitment must aim to establish dialogue with the Arab and African world. At the same time, after the commitment of Switzerland, it is a continuity of the intense dialogue between committed abolitionist governments and civil society.

INTERNATIONAL AND REGIONAL ORGANISATIONS ALONGSIDE CIVIL SOCIETY IN THE FIGHT FOR UNIVERSAL ABOLITION

by *Céline Bretel*
in charge of the Death row inmate space, ECPM

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Ruth Dreifuss, former Federal Councillor, Swiss Confederation

MODERATOR
Maurice Possley, American journalist

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Taghreed Jaber, Director, Middle East and North Africa regional office, Penal Reform International
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Jan Kleijssen, Director of standard-setting at the Directorate General of Human Rights and Legal Affairs, Council of Europe
William Schabas, Professor of International Law on Human Rights at the University of Ireland, Galway – consultant for the UN secretary general's five year review of the death penalty.
Karel Kovanda, Deputy Director-General for Foreign Affairs of the European Commission, European Union.
Claudio Cordone, Secretary-General, Amnesty International
Miri Sharon, Legal Affairs Officer, treaties division, United Nations Office on Drugs and Crime

According to Claudio Cortone, Amnesty International's secretary-general, the battle against the death penalty has made considerable progress over the last twenty years. Currently, 95 countries are opposed to the death penalty and will not reintroduce it. Civil society, NGOs and governments are increasingly strongly opposed to its use, and not just in their own country or for their own nationals. In 2009, while Kenya commuted 4000 death sentences to imprisonment, countries once openly retentionist, including Indonesia, Mongolia, Pakistan, Indonesia, etc. carried out no executions. Others, such as South Korea, give good reason for optimism for abolition in the near future. Of course, thousands of people are still executed in China; Iran and Saudi Arabia even execute juveniles and the United States obstinately continues to include itself on the list of offenders. Despite these problem areas, we can reasonably consider that the death penalty will continue its decline across the world.

International and regional organisations, or IGOs, have, over the last fifty years, been actively involved in this abolitionist fight, creating an unprecedented synergy with civil society and political leaders in favour of abolition. Through the power of their regulatory instruments and the influence which they can exert directly on governments, international and regional organisations have a major role to play in the fight for abolition. Co-operation between IGOs and civil society is crucial. According to Claudio Cordone, Amnesty International's secretary-general, "good co-operation leads to good synergy: we have to ensure that the NGOs are supported in their role and that they throw light on the issue from various angles."

What is the involvement of the IGOs in the fight against the death penalty? What actions do they carry out to achieve the ultimate goal of universal abolition? How can we encourage stronger co-operation between the international and regional IGOs and civil society? These were the questions discussed during this plenary session attended by leading players and chaired by Ruth Dreifuss, former

federal councillor of the Swiss Confederation. A dialogue between eminent representatives of IGOs and civil society.

THE IMPORTANCE OF INTERNATIONAL INSTRUMENTS: THE GROWING INVOLVEMENT OF THE UN IN THE CONSTRUCTION OF AN INTERNATIONAL ABOLITIONIST STRUCTURE

THE DEATH PENALTY VIOLATES THE RIGHT TO LIFE AND CONSTITUTES AN ACT OF INHUMANE, CRUEL AND DEGRADING TREATMENT

While on 10th December 1948, the Universal Declaration of Human Rights adopted by the General Assembly established that "all individuals have the right to life, liberty and security of person" and that "no one shall be subjected to torture or cruel, inhumane or degrading sentences or treatment", the United Nations only really became involved in the abolition debate very gradually from the 1980s. Without stipulating the abolition of the death penalty, the International Covenant on Civil and Political Rights of 16th December 1966 specified in article 6 that "every human being has the inherent right to life." In 1989, the Second Optional Protocol relating to this Covenant and aiming at the abolition of the death penalty was adopted by the UN General Assembly.

The debate surrounding the abolition of the death penalty, traditionally approached in the framework of the protection and respect of human life, was thereby extended to that of the prohibition of cruel, inhumane and degrading treatment prescribed by article 7 of the International Covenant on Civil and Political Rights. For the death penalty not only violates the right to life, its application very often constitutes an extreme act of torture prohibited by international instruments relating to human rights. According to Ruth Dreifuss, "NGOs are relying on organisations to create instruments which will make any U-turn impossible."

THE UNITED NATIONS AND CIVIL SOCIETY, TOGETHER FOR A UNIVERSAL MORATORIUM ON EXECUTIONS

Beyond the international instruments, the UN is today heavily involved in the debate for universal abolition. While the High Commissioner for Human Rights, Navanethem Pillay and the UN Secretary-General are strongly committed to the fight against the death penalty, the Human Rights Committee no longer holds back from making recommendations to countries on the issue. Above all, the adoption in 2007, by the UN General Assembly, of resolution 62/149, calling on states which still retain the death penalty to institute a moratorium on executions with a view to abolishing the death penalty, showed that the majority of UN member states could themselves play a central role in this fight. This vote, repeated in 2008 and 2010, was possible thanks to a strong synergy with the NGOs, which led a tireless campaign in its favour. "The resolution is a very useful instrument for promoting our work," states Professor William Schabbas.

CO-OPERATION BETWEEN THE UN AND CIVIL SOCIETY TO MONITOR THE SITUATION OF THE DEATH PENALTY IN THE WORLD

While the UN General Assembly's resolutions are crucial with regard to the ultimate goal of universal abolition, the work carried out on the ground by civil society remains essential. Co-operation between the UN and civil society is in this respect pivotal. Indeed the effectiveness of lobbying depends very often on the ability of the players to gather accurate information on the state of play of the death penalty in the world. The task is extremely difficult as secrecy surrounding the application of the death penalty is a major obstacle in the abolitionist fight. How, for example, is it possible to denounce the Chinese killing machine when no official statistics are available to enable its extent to be measured? The involvement of the United Nations in this area is considerable.

Since 1975, the Secretary-General has presented, every five years, a periodical, analytical report on the death penalty, to the Economic and Social Council, the Commission on Crime Prevention and Criminal Justice, as well as to the Council of Human Rights. As Miri Sharon, in charge of legal affairs with the United Nations Office on Drugs and Crime, summarises, this report contains all the known data in the world relating to the death penalty. Its methodology consists mainly in surveys and questionnaires sent to member countries. The response rate is however very low (around sixty responses for the last report). The information gathered by the Committee on Human Rights and the Council of Human Rights through the periodical universal examination, by NGOs and intergovernmental organisations help to complete the data collected in order to draw up a picture corresponding as closely as possible to reality.[3] The two special rapporteurs also help to communicate information, through inquiries carried out on the ground.

Information gathering which must benefit local civil societies!

According to Philip Alston, a United Nations Special Rapporteur on extrajudicial, summary and arbitrary executions, "We must not forget that it is necessary to use other points of entry to fuel a debate - civil society, in these countries, has more and more influence, we must encourage it." The situation in China, in this respect, is significant. The government claims that public opinion supports the application of the death penalty. However, public opinion has no information on the number of executions carried out each year or on the crimes punishable by the death penalty. Transparency is a major problem in many countries such as China, India, Bangladesh and Pakistan, all of which refused to respond to the survey. The problem is also evident in some Arab countries.

The perspectives and levers provided by international law and the lifting of the secrecy surrounding the death penalty are crucial challenges for the abolition movement and are shared by regional organisations.

THE GROWING INFLUENCE OF REGIONAL ORGANISATIONS

IN EUROPE, REGIONAL ORGANISATIONS' LONG-STANDING COMMITMENT ON THE DIPLOMATIC, FINANCIAL, AND LEGAL FRONTS

Council of Europe, a spearhead for abolition in Europe

"The Parliamentary Assembly of the Council of Europe demonstrated its commitment to abolition in 1982, with the creation of an Optional Protocol calling for abolition in times of peace, accepted by all member states, with the exception of Russia - which currently respects a moratorium," explains the Director of standards-setting at the Directorate General of Human Rights and Legal affairs at the Council of Europe, Jan Kleijssen.

The Council of Europe, which now comprises 47 member states representing 800 million people, can thereby pride itself on having contributed to the creation of a region which is campaigning for the abolition of the death penalty. The European Court of Human Rights, responsible for ensuring the commitments made by European states are respected, has had to rule several times on this subject. The United Kingdom, for example, despite being abolitionist for many decades, was condemned, on 2nd March 2010, in the case of Al-Saadoon and Mufdhi for violating article 3 of the European Convention on Human Rights prohibiting inhumane and degrading treatment. In 2008, the country had handed two prisoners over to the Iraqi authorities, thereby subjecting them to the risk of execution.

Today, Belarus is the only country in Europe to continue to use the death penalty. Jan Kleijssen points out that observers sent by the Council were effectively sent away. If the Belarusian government aims to join the organisation, it must at least respect a moratorium on the death penalty.

The Council of Europe also plays a very active role with regard to the United States and Japan, both observer states. The institution has intervened on several occasions whenever executions have been scheduled, to ask for clemency. "We have always tried, as has the European Union, to intervene in the United States and in Japan to stop individuals being executed. This is still a crucial task for us today. We systematically advocate in favour of clemency," says Jan Kleijssen.

In parallel, while Bianca Jagger, a Council of Europe Goodwill Ambassador for the fight against the death penalty, gives a face to the organisation's commitment, NGOs are involved in the exchange of experiences and awareness raising campaigns. "NGOs take part in our work; we exchange our experiences and they carry out many awareness-raising campaigns," says Jan Kleijssen. The Council of Europe has thereby recognised the 10th October as the European Day Against the Death Penalty. "It is essential to have such a day, because in a lot of member states, we have seen that the death penalty is still a very popular subject. We must remind people that the death penalty does not resolve anything; it is an ongoing battle which is why this annual day is so important."

"There are a lot of people who perhaps will not raise the subject, but within their hearts believe that the death penalty is a good thing. They would not dare say so as it is not politically correct," says Professor William Schabas. It is a question of "diffused sentiment" which needs to be fought against by increasing the number of arguments - the lack of any proof of the death penalty's deterrent effect, the analogy with slavery which is now inacceptable, the risk of judicial error. This means organising year after year, theme after theme, the European and World Day Against the Death Penalty. "We must continue to convince people!" concludes Jan Kleijssen on behalf of the Council of Europe.

The European Union, an advocate for the universal abolition and a political and financial partner of the NGOs

"The abolition of the death penalty has, for a long time, been one of the main objectives of the European Union's policies," says Karel Kovanda, the Director-General for External Affairs at the European Commission. Through multilateral policy declarations, direct negotiations with third-party countries to defend individual cases, collaboration with American or Japanese courts, dialogue on human rights established with certain target countries, the European Union is striving to actively promote abolition outside its borders.

On a wider scale, the European Union works closely with NGOs. In fact, the European Instrument for Democracy and Human Rights provides direct financing, in the framework of calls for project proposals, for campaigns promoting abolition. One of the most prominent successes of this collaboration was the adoption of abolition by the Philippines, in 2006, after an intense campaign led by civil society with the support of the EU. For Karel Kovanda this synergy is essential. "It is recognised that the involvement of civil society is crucial to the mobilisation of expertise and the circulation of knowledge necessary to stir up public debate and encourage transparency on the abolitionist process."

The Organisation for Security and Co-operation in Europe (OSCE), more modest but real support

The OSCE, due to its method of operating through consensus, is bound by no particular obligations concerning abolition. However, Janez Lenarnic, director of the OSCE Office for Democratic Institutions and Human Rights, states that, "as member states have undertaken to provide information on the subject and to cooperate with international organisations, information is regularly published, and constant pressure is applied to the two remaining retentionist countries - the United States and Belarus." A declaration in favour of an immediate moratorium on all executions was thereby voted in 2009 by the Parliamentary Assembly. Janez Lenarnic, is proud of the work carried out. "Our instruments are powerful, they work well. We have not yet achieved all the objectives, but we have made a lot of progress." He continues, "There is also the peer review. It is a very powerful instrument as 50 out of the 56 member states are in favour of abolition, and it is a subject which is regularly brought up during high-level meetings. It is an instrument which increases pressure on retentionist countries."

SIGNIFICANT PROGRESS FOR AFRICAN AND SOUTH AMERICAN REGIONAL ORGANISATIONS

On the African continent, the question of the abolition of the death penalty remains a constant source of debate. However the continent is undeniably progressing towards abolition, as abolition in Burundi and in Togo in 2009 demonstrates. The American continent is also divided on the issue. While Latin America has been almost totally abolitionist for some time, the United States and the English-speaking Caribbean remain retentionist, going so far as to sometimes fail to respect the injunctions of the Inter-American Court of Human Rights.

Although African intergovernmental organisations are beginning to get involved in the abolitionist debate, Lievin Ngondji, a lawyer and president of the Congolese association Culture for Peace and Justice (DRC) points out that for the moment they are not very involved on the ground and have few tools to help them observe the reality of the death penalty and to apply laws already adopted in favour of its restriction. "The World Coalition Against the Death Penalty, which comprises more than 100 members committed to the fight for abolition, expects a lot from these intergovernmental organisations, notably intense co-operation on the ground, to help the abolitionist cause progress!" insists the lawyer from Kinshasa.

The African Commission on Human and People's Rights, an increasingly important player on the continent

The African Commission on Human Rights, which has spoken out a lot on the issue over the last few years, has set up a task force for the abolition of the death penalty. Professor Philip Iya, a member of the Commission, points out that two resolutions to this effect have already been voted - the resolution of Kigali, in favour of a moratorium and the resolution of Abudja, which calls on member states to sign the Second Optional Protocol to the International Covenant on Civil and Political Rights. In this respect, the Commission envisages drawing up, based on the model of the Second Protocol, an Optional Protocol to the African Charter on Human and People's Rights, which, ideally, would be ratified by all member states.

Moreover, the Commission is implementing a policy to raise awareness and expose the application of the death penalty: condemnation of executions; examination of reports submitted by states obliging them to justify themselves; active support to states considering abolition. The Commission is also involved in organising debates on the death penalty and communicating information on the issue.

A conference was held in 2009 in Kigali in Rwanda, bringing together NGOs, researchers, and political leaders to share experiences. Similar conferences are planned for the rest of Africa. A document has been drawn up exposing the situation on the continent. "Its objective," explains Philip Iya, "is to create a certain level of awareness with regard to the death penalty, and to provide in-depth knowledge on the subject, in order that anybody who takes a decision relating to abolition can take it in full knowledge of the facts, whether they be politicians, or people from civil society, who are not sufficiently informed." It is clear that these instruments are being developed.

The Inter-American Commission on Human Rights: a difficult commitment

After quoting respectively Article 1 of the American Declaration on the Rights and Duties of Man[4] and Article 4 of the American Convention on Human Rights[5], Felipe Gonzalez, vice president of the Inter-American Commission on Human Rights, refers to the existence, since 1990, of the Protocol to the American Convention on Human Rights concerning the abolition of the death penalty which allows "a unique exception for states wishing to apply the death penalty in times of war, in accordance with international law, for extremely serious crimes of a military nature." This Protocol was ratified by 11 Latin American countries out of the 35 member countries of the Organization of American States.

He deplores however the fact that the American Convention on Human Rights is largely unknown in Commonwealth countries, except in Jamaica, due to an insufficient presence of civil society. Conversely, the presence of American NGOs within the Inter-American Commission has grown over the last few years, which has led to a certain amount of publicity in the American media, surrounding various rulings.

The Inter-American Commission on Human Rights is made up of 7 independent experts who are in charge of examining the violations of human rights by member states, in relation to the above-mentioned treaties. Thereby, "The Inter-American Commission made reference to the fact that 'No one shall be arbitrarily deprived of life', when it examined the compliance with article 4 of the American convention, in cases relating to the application of the death penalty in Commonwealth and Caribbean countries such as Trinidad and Tobago, Jamaica and the Bahamas," explains Felipe Gonzalez.

Felipe Gonzalez points out that the Inter-American Commission can refer cases to the Inter-American Court, which also plays a crucial role in ridding the continent of the death penalty. In its first judgement, in 2002, in the Hillaire Constantine and Benjamin versus Trinidad and Tobago case, it ruled against the mandatory death penalty in this country's legislation, a sentence automatically imposed for certain crimes, such as murder, without taking into account mitigating circumstances.

HESITANT PROGRESS FOR ARAB AND ASIAN ORGANISATIONS

The Arab League for Human Rights: a lot of work ahead

The Arab Charter on Human Rights, drawn up in 2004, comprises ten member states. Convinced of the strong potential for the mobilisation of civil society, Taleb Al Saqqaf, a rapporteur for the Permanent Arab Commission on Human Rights and member of the Arab League, deplores the fact that the League remains a working framework reserved for governments, which lacks mechanisms to ensure its decisions are applied. It is in this region that the challenge of abolition proves to be most arduous, as it appears particularly difficult to confront violence through suitable legal instruments. "We must firstly prepare the Arab world to deal with violence through non-violent means, through co-operation with the international community in order to adopt legislation enabling the death penalty to be abolished," explains the rapporteur.

Let us also remember that the Arab plan for the promotion of human rights makes no allusion to abolition, whilst referring to the need to protect the right to life. In this context, international pressure, whether it comes from the European Union or the United Nations, could incite countries to reveal information on the number of people executed and the crimes which they committed, as well as to revise article 7 of the Arab League's Charter on Human Rights which authorises, for the moment, its members to apply the death penalty.

The adoption of the 2009-2013 plan for the reinforcement of human rights in the Arab world, which aims to find mechanisms to protect human rights on all levels - notably that of criminal justice -, the growing number of alliances with Arab NGOs, the organisation of a Congress Against the Death Penalty in an Arab country are all avenues to follow in order to strengthen means of action and to trigger debate in this region which traditionally uses religion to justify the retention of the death penalty.

The Asian Commission on Human Rights: a fledgling commitment

According to Danthong Breen, president of the Union for Civil Liberty, it is difficult to envisage initiating an abolitionist movement within the recently created Asian Commission on Human Rights, a new human rights body of the Association of South East Asian Nations (ASEAN) created in 2009 which groups together nine countries, half of which are openly retentionist.

The simple fact that no representative of this commission wished to come to make itself heard at this 4th Congress (a platform which would have enabled this young organisation to make itself known and to grow on the international stage), shows the extent to which the problematic issue of the death penalty does not yet enter into the scope of its concerns (or is rejected by its members).

In conclusion, it is in Asia and the Middle East that activists are encountering most difficulties in successfully carrying out their fight. By breaking their isolation, by creating national networks and mobilising civil society, we can strengthen this movement in environments which are not always ready to consider such issues. Philip Alston points out that action on cultural processes must be accompanied by support from international humanitarian law for certain tenuous situations; it is in this area that international and regional organisations can demonstrate their synergy. Nigeria is a textbook case: the authorities regard sodomy and homosexuality as destroying the very tissue of society and they are therefore considered as very serious crimes punishable by the death penalty. In this type of situation, it is crucial to work on the penal level, and to prioritise the limitation of the number of crimes punishable by the death penalty.

Ruth Dreifuss shares two conclusions. Firstly, she underlines the importance of "attacking the death penalty on different levels. We cannot limit ourselves to a purely abolitionist stance, but we must also tackle very concretely and pragmatically the issues relating to the application of the death penalty in countries which have not chosen abolition, because we have to convince and because the dignity of men and women who are currently facing truly intolerable situations is at stake."

The second point, Ruth Dreifuss goes on to say, is the duty to "demonstrate our solidarity with those who are on death row and those who are threatened in certain countries, and with activists, in particular in countries where acting against the death penalty means putting oneself in danger." Finally, the chairwoman reminds the UN of its role in providing "absolutely urgent support for these activists."

RECOMMENDATIONS

> To continue the development of the work to form networks of NGOs with international and regional organisations.

> To stress the importance of the ratification of international instruments and the campaign in favour of a worldwide moratorium.

> To fight against the withholding of information by retentionist countries.

> To encourage targeted action by regional organisations, by working to strengthen their action when needed.

> To maintain as a priority objective abolition in law by governments.

> To break the isolation of activists under threat.

THE DIPLOMATIC ROUTE TO ABOLITION: ADVOCACY BY ABOLITIONIST STATES

by *Eric Bernard*
lawyer, administrator, ECPM

MODERATOR

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The choice of Geneva, the city of peace, international organisations and diplomacy as the host city of the 4th World Congress was meant as a strong signal in favour of a rapprochement between NGOs, IGOs and governments to increase consultation, and even co-operation, in the fight for universal abolition. The high level of participation in the exchanges of this workshop demonstrated, if this was still necessary, the need to make progress in this area for the abolitionist cause and its actors.

The question of the abolition of the death penalty has become a foreign policy issue for abolitionist countries; in 2010 its application became illegitimate in international public policy. While the fight for universal abolition requires a coordinated approach by civil society and the world abolitionist movement, diplomatic pressure from states, either bilateral or multilateral, is essential and complementary to the action of the NGOs. Through the adoption of resolutions, bilateral dialogue or public declarations, numerous countries put constant pressure on those who continue to use this iniquitous form of punishment. Bringing civil society associations from abolitionist countries closer together, such was the challenge of Geneva. Offering a platform to those government representatives who work on a daily basis for universal abolition, such was the objective of the discussion on advocacy by abolitionist states. From Switzerland to Spain to Chile, the paths are in unison, the approach is identical…committed, persuasive and progressive.

ABOLITION OF THE DEATH PENALTY: A FOREIGN POLICY PRIORITY

Micheline Calmy-Rey, the Swiss Foreign Affairs Minister, declared in an interview for the newspaper *Le Temps* on the opening day of the Congress, "Switzerland makes the abolition of the death penalty one of its foreign policy priorities." Thomas Gréminger, leader of the political affairs Division IV, Human Security, of the Federal Department of Foreign Affairs, agrees. "The fight against the death penalty is part of Swiss national identity."

While Switzerland sees itself as an active player in the abolitionist movement, it is not alone. Spain's national plan for human rights adopted in December 2008 made the abolition of the death penalty a priority for the country's foreign policy in the area of human rights. Spain, which held presidency of the European Union in the first six months of 2010, "continues to promote the adoption of a moratorium in non-abolitionist countries as a step towards the abolition of the death penalty," explains Rafael Valle Gargorri, Special Mission Ambassador and National Coordinator Against the Death Penalty at the Spanish Foreign affairs and Co-operation Ministry. Indeed the abolition of the death penalty is an external affairs priority for the European Union. The Spanish prime minister, Jose-Luis Zappatero, announced in the chamber of the United Nations during the opening of the World Congress, the Spanish initiative aiming for a worldwide moratorium before 2015.

European countries are not the only ones to be actively involved in the abolitionist cause. One delegate, the representative of the Australian mission to the UN in Geneva, points out that his country is currently lobbying all those countries which continue to execute or which maintain the death penalty in their penal systems. According to Carlos Portales, the Chilean permanent representative to the United Nations in Geneva, Chile, like many other countries in the region, often intervenes on behalf of South American citizens sentenced to death in the United States. Even though the specific activism of the European Union must be recognised, initiatives by southern hemisphere countries show that the importance of placing the abolition of the death penalty firmly on the diplomatic agenda is understood and demanded by countries on all continents.

PLACING ABOLITION ON THE AGENDA OF BILATERAL EXCHANGES

For the government representatives participating in the discussion, dialogue with retentionist countries, notably during bilateral meetings, is an essential tool for diplomatic action. With China, Iran, Vietnam, Cuba or Belarus, the question of the death penalty is always on the agenda of discussions. Australia's representative testifies also to the frequent bilateral discussions his country holds with China, Vietnam and Laos, in a region where the death penalty is the rule rather than the exception. It is the same for Swiss diplomats who bring up the subject of the death penalty in all their bilateral meetings with China, Iran and the United States.

ADOPTING A PRAGMATIC, STEP-BY-STEP APPROACH

Active abolitionist countries adopt a common approach - comprehensive, pragmatic and step-by-step. For them, it is a question of avoiding being perceived as "hostile". "Universal abolition in all circumstances is the ultimate objective, but in exchanges with these countries, it is necessary to define the intermediary objectives, with realistic, increasingly bigger steps which your partner in the dialogue can achieve in a reasonable timeframe," explains Thomas C. Greminger (Switzerland). Carlos Portales (Spain) insists, "It is necessary to use persuasion and raise awareness. Intermediary measures are very important. Pressure will not work."

Switzerland has worked with China to obtain a reform of the judicial system, in order that all death penalty sentences are referred to the Supreme Court, and no longer simply to the local Court of Appeal. This measure, which was accepted a few months before the Olympic Games of August 2008, appears to have reduced the number of executions. Switzerland also stresses the importance of transparency in the publication of the number of sentences and executions carried out. This is a question of helping to open up a debate within the population, based on reference statistics. The participants consider another proposal to put forward to retentionist countries during bilateral talks. This approach was used for example in Vietnam and involves asking a retentionist country to reduce the number of crimes punishable by the death penalty in its national criminal legislation. This call to relax the criminal law is being made to other countries.

It is indeed from this progressive perspective that Spain is working. "Spain continues to promote the adoption of a moratorium in non-abolitionist countries as a step towards the abolition of the death penalty," says Rafael Valle Garagorri (Spain). Carlos Portales (Chile) also adheres to this approach. "While awaiting the abolition of the death penalty, we can use this idea; make it more difficult to apply the death penalty by reforming procedures as well as by reducing the number of crimes punishable by the death penalty."

CHOOSING A SUITABLE ARGUMENT

All the participants agree on the importance of a pragmatic dialogue which is adapted according to each individual case. Of course, traditional arguments (the right to life, the risk of executing innocent people, the proven lack of a deterrent effect,

etc.) must be used. However, moral arguments are not the only ones and, each time, it is necessary to take into account the social and political context to help bring out constructive and effective arguments. Thereby, in the United States, in a period of latent crisis, the economic argument of the very high cost of the death penalty is more persuasive than it would normally be. In other countries, religion is so important that it must form part of the discussions. China and Vietnam are more sensitive than others to their international reputation.

However, the Australian representative raises the question of whether it is better to act within bilateral frameworks, which is often more effective as each case is considered individually, using consular resources to assist prisoners and taking into account the specificities of each country, or whether in fact it is better to coordinate actions.

DEVELOPING A MULTILATERAL AND COORDINATED APPROACH

The participants are unanimous - a multilateral approach is essential. It complements, rather than substitutes, the bilateral approach. The main focus of action is the UN. The states represented at the workshop all confirm that they actively carry out diplomatic lobbying activities at the UN with a view to persuading retentionist countries to vote in favour of the moratorium. The debates which took place in the context of political meetings of the UN High Commission for Human Rights are also mentioned. The issue can be discussed there in relation to the fight against torture and cruel, inhumane, and degrading treatment. Other opportunities for lobbying in a multilateral setting are also referred to. Spain intends to wield the international influence of its newly-created International Commission Against the Death Penalty, made up of figures of high moral and international standing, which aims to strengthen the efforts of the international community to establish a universal moratorium by 2015. It will be backed up by a support group, made up of abolitionist countries from all continents. Switzerland speaks of the importance of its action within the Council of Europe, to convince Belarus to renounce the death penalty in order to recover its status of Observer. Rafael Valle Garagorri (Spain) sums up, “Anything that can be done on a multilateral level is essential. The key to success is coordination. We can do things independently, but the best is if we work together.”

MAINTAINING THE PRESSURE: USING INTERNATIONAL LEGAL INSTRUMENTS AND SUPPORTING ABOLITIONIST PLAYERS

The tools used by abolitionist states are adapted to the international context. The most important is the United Nations Second Protocol to the International Covenant on Civil and Political Rights (ICCPR). Switzerland is one of the “Friends of the Second Protocol” and advocates the ratification of this treaty, the only international global legal instrument aiming at the abolition of capital punishment. Carlos Porales (Chile) also suggests using the recently created Universal Periodic Review of the Council of Human Rights mechanism, which will make recommendations to a country under review and urge retentionist countries to abolish the death penalty. Of course, these recommendations have no binding power, but for Thomas Greminger (Switzerland), it is “a major innovation.” The traditional tools of international diplomacy must not be neglected either, such as putting at stake the reputation of the targeted country or raising individual cases with local authorities. Switzerland reports on its recent intervention in the United States in favour of Hank Skinner, whose execution was scheduled to take place on the opening day of the Congress. Finally, the support given to local and international NGOs, with whom co-operation is recommended, is also included in the means of action used by abolitionist countries.

RECOMMENDATIONS

> The abolition of the death penalty must become one of the priorities of the foreign policy of abolitionist countries.

> Abolitionist countries recommend a pragmatic, step-by-step, persuasive approach. They aim to proceed in stages (reduction in the number of executions, reform of the judicial system, reduction in the number of cases punishable by the death penalty), in order to ultimately obtain the abolition of the death penalty.

> International legal instruments must be promoted (Second Protocol, UN vote on the moratorium and use of the UN Universal Periodic Review of the Commission for Human Rights).

> The bilateral diplomatic approach must be coordinated with a multilateral approach and more intense consultation with abolitionist actors.

PART 2

STRATEGIC AREAS OF ACTION TO MOVE UNIVERSAL ABOLITION FORWARD

Navy Pillay, Hight Commissionner for the human rights of UN and Antoinette Chahine, Lebanese exoneree, during the 4th Congress

IRAN, JAPAN, CHINA, THE UNITED STATES: UNIVERSAL ABOLITION WILL BE ACHIEVED WHEN THESE FOUR KEY COUNTRIES CHANGE SIDES

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Ning Zhang, professor, University of Geneva, China/Switzerland

"If the United States, Japan, China and Iran adopted abolition, it would be a crucial step on the road to universal abolition," announces Eric Bernard, a lawyer and administrator of *Ensemble contre la peine de mort*. Each of these countries aims, in its respective geographical area, to be powerful and exemplary. Progress on their part would impact on all neighbouring countries. These four countries however remain very different. Japan and the United States are solid democracies, which have aroused much hope - with the election of Barack Obama in the United States, and the nomination in Japan of a Justice Minister openly hostile to the death penalty. China sadly stands out for the number of death sentences imposed each year, and the absence of any reliable information on the number of executions, whilst in Iran, the number of executions is increasing, and people are sentenced to death for political reasons or for their sexuality. These four countries continue to execute prisoners, and inflict on them, according to international human rights law, cruel, inhumane and degrading treatment. Despite their specificities, is it possible to draw up common strategies in these four countries? The participants explored several levers which may facilitate abolition in the United States, Japan, China and Iran to progress - diplomacy, public opinion and the economic argument.

IN IRAN, DEMOCRACY IS A PREREQUISITE FOR ABOLITION

In Iran, 388 people were executed in 2009, compared to 346 in 2008. Nonviolent crimes may be punished by the death penalty as well as serious crimes - the consumption of alcohol is for example punished with whipping, but sanctioned by the death penalty after two repeat offences. Iran also executes for political reasons. According to Shirin Ebadi, winner of the Nobel Peace Prize in 2003, at least four people have been executed for political reasons since the presidential election of June 2009[6]. Shirin Ebadi is also concerned about the execution of juveniles, or of prisoners who were juveniles at the time of the offence. "More than 80 years ago,

the execution of juveniles was prohibited in Iran," the Nobel peace laureate states. Teheran executed at least five juveniles in 2009.

However, according to Shirin Ebadi, "The Iranian population constantly rejects this culture of violence." This is demonstrated by several campaigns against the death penalty, including the "Right to Life" campaign, led by Emadeddin Baghi, a journalist imprisoned after the June 2009 elections[7]. Members of the Shi'ite clergy have joined in these campaigns, notably by highlighting the fact that the execution of minors is contrary to Islam. However, "The government does not listen to the demands of the people," according to Shirin Ebadi. "In Iran, the path towards the abolition of the death penalty is therefore democracy. The day when democracy is restored to Iran, the day when the government lends its ear to listen to its people, that, I am sure, will be the day the death penalty disappears. The groundwork has already been laid in Iran."
Mina Ahadi is also Iranian, condemned to death in absentia because she opposed the death penalty, stoning and the restrictions of fundamental liberties. Her husband was arrested and executed, while she managed to escape the country. "The world is too patient in the face of the death penalty," Mina Ahadi believes. An activist and the President of the International Committee Against Executions, she goes on to say, "We must hurry, and condemn the Islamic republic. Dialogue is not enough, we need to close the doors of all the embassies."

IN CHINA, GREATER TRANSPARENCY IS REQUIRED

At the United Nations High Commission for Human Rights, in March 2007, the Chinese representative announced a reduction in the scope of the application of the death penalty[8]. However nothing has been achieved so far. China is refusing to adopt a moratorium. According to the government, the death penalty is not a human rights issue.

THERE IS NO "NATIONAL ENTHUSIASM FOR THE DEATH PENALTY"

As in a number of other countries, China justifies the application of the death penalty by basing its argument on the supposed "will" of public opinion. However, as Roger Hood, Emeritus Professor of criminology at the University of Oxford, points out, many countries, such as France, Canada and South Africa, abolished the death penalty while the majority of the population was still in favour of it. It is only once it becomes law that abolition is accepted and assimilated by the population.

In China, recent studies put the "myth" of a population completely in favour of the death penalty into perspective. According to the results obtained by the Great Britain-China Centre, the Death Penalty Project and Beijing Normal University, 58% of Chinese people say they are in favour of the death penalty, while 14% are opposed to it, and 28% say they are "unsure". These figures "are not sufficient to prove there is national enthusiasm for the death penalty," according to Roger Hood. All the more so as almost two-thirds of people questioned believe that they are not sufficiently informed on the subject.

LAWYERS CAN HELP TO CONVINCE PUBLIC OPINION

"Lawyers can play an important role in influencing public opinion," according to Ning Zhang, a professor at the University of Geneva. According to her, the debate on the death penalty began in 2000 within the legal establishment. However, it was not well received by the population. In China, almost a third of death penalty sentences are imposed for financial crimes[9]. Many Chinese people therefore associate abolition with the defence of corrupt people. Messages on the internet accuse abolitionists of being "hypocritical moralists", of "the same species as corrupt managers". "Legal experts must now show themselves to be sensitive to the objection, from the masses, that, under the guise of abstract principles, abolition in the area of financial crime could favour the powerful and maintain inequalities," suggests Ning Zhang.

DEMANDING MORE TRANSPARENCY AND REINFORCING THE DEMOCRATIC PROCESS

According to Joey Lee, from the organisation Human Rights in China, one of the main obstacles to the abolition of the death penalty in China is the authorities' control over information, inside the country as well as outside. The result is that it is very difficult to influence public opinion, because it is impossible to base arguments on official figures. Despite repeated requests from human rights organisations, information relating to the death penalty is classed as a state secret. In this respect, no progress has been made.

According to the Chinese lawyer Tainyong Jiang, as long as "counterrevolutionary activities" are punishable by the death penalty, it is clear that the death penalty is above all a means of being able to maintain power over the population. "Human rights are not part of the government's priority interests," he continues. Tainyong Jiang believes that while one

of the first steps would be to reduce the number of crimes punishable by the death penalty it is necessary above all to strengthen the democratic process.

IN THE UNITED STATES: LIFE IMPRISONMENT RATHER THAN THE DEATH PENALTY

THE COST OF THE DEATH PENALTY: AN ARGUMENT TO BE USED WITH THE PUBLIC AND LEGISLATORS

"We must talk about the cost of the death penalty," says Gail Chasey. In her state of New Mexico, the democrat member of the House of Representatives does not hesitate to put forward this argument. "Those who are in favour of the death penalty say, 'How dare you talk about the cost?' But legislators put a cost on everything - roads, education - so why not do so as well for the death penalty?" In New Mexico, a single execution has taken place in 40 years and acts as proof that the death penalty has no deterrent effect. The year before this execution, 99 murders were reported in the state. The following year, 151 murders were committed, an increase of more than 50%. "That doesn't necessarily thrill me," says Gail Chasey, "but for public opinion, there is an alternative to the death penalty - life imprisonment without parole."

The former Attorney General of California, John Van de Kamp, agrees with this analysis. He quotes a survey, dating back to 2006, in which 47% of Americans said they preferred the idea of life imprisonment without parole, to the death penalty (compared to 48% in favour of the death penalty). "Life imprisonment without parole is much less costly," says John Van De Kamp. In his state, he estimates that $125 million could be saved each year by abolishing the death penalty, to which are added $400 million required for the construction of a new structure to hold prisoners sentenced to death - in California, there are 700 inmates on death row. "A trial involving the death penalty costs half a million more, while imprisonment on death row costs $90,000 more per prisoner and per year," estimates the former Attorney General of California. Money which taxpayers would prefer to see allocated to education or to the compensation of victims, he believes.

THE MEDIA MUST POINT THE FINGER AT THE INADEQUACIES OF JUSTICE.

According to the American journalist Maurice Posley, the media can play a crucial role, as was the case in Illinois, following the Rolando Cruz case. Accused of raping and murdering a young girl in 1983, Rolando Cruz spent twelve years behind bars - most of them on death row - before being acquitted. Throughout the trial, Maurice Posley and his colleagues of the *Chicago Tribune* wrote about the inadequacies of justice. They carried out a thorough investigation, sifting through the 300 death sentences handed down in Illinois since 1977. Their conclusions revealed such deep-rooted dysfunction that in 2000, the Governor of Illinois, George Ryan, imposed a moratorium on the death penalty, still in force today. Maurice Presley points out that the information provided by the press played a fundamental role in this state. "The debate started to move. We were no longer talking about the fact that the state may or may not kill people to prevent other murders being committed. We were starting to ask if we could have confidence in the system to arrest and execute the real perpetrators."

IN JAPAN, THE DEATH PENALTY IN THE HANDS OF JURORS

In September 2009, a government formed by the Democratic party came to power in Japan. It aroused much hope among abolitionists, notably due to the nomination of Keiko Chiba as Justice Minister. Until then a member of parliament, she was a member of the League Against the Death Penalty. However, while there have been no executions since her nomination[10], no moratorium has been adopted to date. Although Japan is one of the safest countries in the world, a large part of the population is still convinced that the death penalty is necessary for the families of victims (more than 85% according to the government's latest figures).

According to the lawyer and member of the Centre for Prisoners' Rights, Maiko Tagusari, "Japan hides behind public opinion, the majority of which is in favour of retaining capital punishment." As in China, the overall lack of information and transparency is an obstacle in the fight against the death penalty - prisoners are not informed of the date of their execution. It is more necessary than ever to inform the population. In fact, a new system was introduced for the sentencing of crimes - *Saiban-in*. Six jurors are selected from the population and accompanied by three professional judges. These jurors must not only find the defendant guilty or not guilty, they must also decide on the sentence to be applied. The death penalty can be imposed by simple majority, without unanimity. Despite everything, Maiko Tagusari believes that some progress is being made - the media today look at the issue of the death penalty from different angles and dialogue has been established with the new Justice Minister Keiko

Chiba[11]. According to the Japanese lawyer, it is necessary to exert greater pressure on the public authorities.

Renate Wohlwend believes that it is not up to the Council of Europe to exert this pressure. A rapporteur on the death penalty for the Council of Europe Parliamentary Assembly, she points out that as Council of Europe observer states, Japan and the United States must share the values of this institution. The death penalty is considered throughout Europe as a violation of human rights and the European Court of Human Rights has even considered the conditions of imprisonment on death row as cruel, inhumane and degrading treatment.

RECOMMENDATIONS

> Call for the reinforcement of the democratic process in Iran and in China, and for greater transparency on the part of these two countries concerning the application of the death penalty.

> The need to involve the media for improved reporting on the latest judicial developments, particularly in the United States and in Japan.

The death penalty in the United States

IN 2010
> 46 executions were carried out
> In March 2010, New Mexico abolished the death penalty, a decision which came two years after that of New Jersey. In December 2007, New Jersey was the first state to abolish the death penalty in 40 years in the United States. In 1965, Iowa and West Virginia had become abolitionist.

IN 2009
> 52 executions took place.
> 106 death sentences were imposed.

ON A NATIONAL LEVEL
> Thirty-five states allow for the death penalty in their legal arsenal.
> Fifteen states apply the death penalty and have executed prisoners over the last ten years.
> Fifteen states have abolished the death penalty in the United States.
> Three thousand three hundred people are on death row.

CRIME AND POPULISM PREVENTING ABOLITION IN THE CARIBBEAN

by *Julie Lerat*
journalist

ORGANISERS
Puerto Rico Bar Association, ECPM

CHAIRPERSON
Juan Matos de Juan, President of the Committee Against the Death Penalty, Puerto Rico Bar Association, Puerto Rico.

SPEAKERS
Piers Bannister, Death Penalty Coordinator, Amnesty International-International Secretariat, United
Carmelo Campos Cruz, Coordinator, Puerto Rican Coalition Against the Death Penalty, Puerto Rico.
Saul Lehrfreund, lawyer, Co-director of Death Penalty Project, United Kingdom.
Douglas Mendes SC, Constitutional and Human Rights Lawyer, Trinidad.

A "vast region and a vast subject," according to Juan Matos de Juan, chairperson of the roundtable and president of the Puerto Rican Committee Against the Death Penalty. "There is not one single Caribbean, but at least four different Caribbeans which can be identified according to their colonial past: the countries which were under British, Spanish, French and Dutch rule. There are therefore several communities of cultures living live side by side." Far from being a monolithic block, the Caribbean region, made up of 25 countries and territories, is a region of contrasts when it comes to the application of the death penalty. In some areas, crime and populism are used as arguments to justify retention. In others, a trend towards a reduction in the number of executions and the reform of laws on the death penalty is emerging. What then are the catalysts of this momentum? An overview and analysis of the death penalty and its abolition in the Caribbean region.

THE CARIBBEAN STILL PREDOMINANTLY IN FAVOUR OF THE DEATH PENALTY

Some Caribbean states were among the first in the world to abolish the death penalty. However, "the situation of the death penalty in the region is quite worrying," explains Carmelo Campos Cruz, coordinator of the Puerto Rican Coalition Against the Death Penalty. "As in many English speaking countries in Africa, the death penalty in the British Caribbean is a colonial inheritance," adds Saul Lehrfreund, co-director of Death Penalty Project. The most common form of execution is hanging.
Only a quarter of Caribbean counties voted for the UN resolutions in favour of a moratorium on the death penalty, on 18th December 2007 and 2008. While twelve countries in the region have abolished the death penalty, thirteen others are still retentionist. Carmelo Campos Cruz estimates that 122 people are awaiting execution on death row, but states that there are no reliable sources concerning the number of people sentenced to death in the region. According to Saul Lehrfreund, "In these countries,

abolitionist movements struggle to organise themselves and the political momentum needed to support them is completely lacking."

CRIME AND IDENTITY: TWO FACTORS USED TO JUSTIFY THE DEATH PENALTY

PARTICULARLY HIGH CRIME RATES: A "VICIOUS CIRCLE DIFFICULT TO BREAK"

The participants agree that the increase in crime rates in the Caribbean countries is the main argument used to justify the retention of the death penalty. According to Carmelo Campos Cruz, it is commonly accepted that the death penalty constitutes "the maximum sentence faced by serious offenders." The crime rate in this region is one of the highest in the world and in response the authorities adopt "hard-line policies", adds the coordinator of the Puerto Rican Coalition Against the Death Penalty. "Public opinion, as well as the political and religious establishment, supports the death penalty because people believe that it has a deterrent effect," he continues.

Piers Bannister, Amnesty International's Death Penalty Coordinator, agrees with this analysis. He notes that crimes punishable by the death sentence are mostly acts of violence or criminal acts. "Many islands are prey to drug-related violence or the trafficking of drugs to the United States," he explains. In Jamaica 1800 murders are committed each year. In Trinidad and Tobago, the number of murders increased by 75% between 1998 and 2002. "Faced with such insecurity, the population itself demands that the authorities impose the death penalty," Piers Bannister continues. The Caribbean is thereby caught in a "vicious circle which is difficult to break."

THE DEATH PENALTY HAS BECOME A FACTOR OF IDENTITY

The situation is such that, according to Carmelo Campos Cruz, the death penalty "is perceived as a factor of national and regional independence, and as a factor of identity." The role of churches, which refer to the *Old Testament* and support Talion law, make the abolition process difficult. Popular support for the death penalty is so strong, that some politicians, "whether they are favourable or not, openly advocate the retention of death sentences for electoral and political purposes," Piers Bannister states.

While the death penalty is perceived as a "factor of independence," paradoxically, the influence of the United States is apparent in the Caribbean. The coordinator of the Puerto Rican Coalition Against the Death Penalty talks of a "mirror effect" with the United States neighbour. The participants agree that a change in the United States' situation would certainly have a major impact on the practices used in the Caribbean.

INTERNATIONAL LAW OFFERS PERSPECTIVES FOR THE ABOLITIONIST PROCESS

INTERNATIONAL LAW BRINGING ABOUT A DECLINE OF THE DEATH PENALTY

According to Saul Lehrdreund, a lawyer and co-director of Death Penalty Project, "the current trend is towards a reduction in the number of executions due to the influence of international law on national laws." By adapting their national laws to meet international standards, some Caribbean countries have modified their perception of the death penalty. "The death penalty is now perceived as a violation of fundamental human rights," Saul Lehrfreund states. These countries are adopting a more restrictive approach to the death penalty and no longer impose it systematically. The power of pardon, amnesty and the commutation of sentences are more widely practiced.

This trend is illustrated by examples given by Carmelo Campos Cruz. In Cuba, in April 2008, President Raul Castro commuted most death sentences. In February of the same year he signed the International Covenant on Civil and Political Rights – but has not yet ratified it. In August 2008, in Trinidad and Tobago, 52 death sentences were commuted by the *Privy Council*. Another encouraging example is that of Guatemala, a country which has applied a de facto moratorium since 2002. In March 2008 President Alvaro Colom vetoed a law aimed at reinstating the death penalty.

THE IMPORTANCE OF THE PACT OF SAN JOSÉ

"The system put in place by the American Convention on Human Rights is in line with an abolitionist approach," says Douglas Mendes SC, a constitutional and human rights lawyer in Trinidad and Tobago. Also known as the Pact of San José, this Convention came into force in 1978. It enables the American Court of Human Rights to act to prevent national courts from applying the death penalty. "The Pact of San José prohibits the death penalty and encourages its abolition," explains Douglas Mendes SC. Thanks to this convention, a country which has abolished the death penalty cannot reinstate it and pregnant women and juveniles cannot be sentenced

to death. According to Douglas Mendes SC, the system set up by the Organization of American States offers a "useful" and "permanent" platform which will serve as a framework for discussions on the abolition of the death penalty. Eight Caribbean states however have not ratified this Convention.

LAWYERS, THE VECTORS OF ABOLITION IN THE CARIBBEAN REGION

Beyond the perspectives offered by international law, "the creation of political momentum to establish a debate on the death penalty is necessary," Saul Lehrfreund explains. Judges and lawyers are the possible champions of new abolitionist strategies. Piers Bannister agrees: "Hopes are pinned on the judicial community which, alone, can put an end to death sentences." Douglas Mendes SC agrees that the participation of politicians is "improbable" and he also places his hopes in the legal establishment. According to him, politicians will only follow suit at a later point in time.

RECOMMENDATIONS

> Call for the creation of a Caribbean network against the death penalty, which would bring together organisations and activists from abolitionist and retentionist countries and integrate emigrant Caribbean communities. "70% of foreigners on death row in the United States come from the Caribbean," the roundtable notes. It is necessary to "reinforce the abolitionist movement with a Caribbean perspective and to share our experiences." Such a network would enable us to centralise and update information relating to the death penalty.

> Call for the creation of a platform enabling politicians to publicly display their opposition to the death penalty. This platform would serve as a framework for a debate between different actors and would enable the creation of an abolitionist movement.

The death penalty in the Caribbean

ABOLITIONIST COUNTRIES: 10
(DATE OF ABOLITION)
Colombia (1910), Costa Rica (1877), El Salvador (1983), Haiti (1987), Honduras (1956), Mexico (2005), Nicaragua (1979), Dominican Republic (1966), Panama (1903), Venezuela (1864)

DE FACTO ABOLITIONIST COUNTRIES: 2
(DATE OF THE LAST EXECUTION)
Grenada (1978), Suriname (1982)

RETENTIONIST COUNTRIES: 13
(DATE OF THE LAST EXECUTION)
Antigua and Barbuda (1991), the Bahamas (2000), Barbados (1984), Belize (1985), Cuba (2003), Dominica (1986), Guatemala (2000), Guyana (1997), Jamaica (1988), Saint Lucia (1995), Saint Kitts (2008), Saint Vincent and the Grenadines (1995), Trinidad and Tobago (1999).

With the exception of Cuba, which abstained, and Guatemala, which voted "yes" in 2007 and abstained in 2008, these countries all voted against the two UN resolutions calling for a universal moratorium on the death penalty.

BRINGING THE ABOLITIONIST DEBATE TO THE FORE IN THE MIDDLE EAST AND NORTH AFRICA

by *Céline Bretel*
in charge of the Death row inmate space, ECPM

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Penal Reform International (PRI) et ECPM

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PARTICIPANTS
Miloud Brahimi, lawyer, Algeria
Ahmed Karaoud, Director of the Middle East and North Africa regional office, Amnesty International, Lebanon
Nassr Abood, Iraqi Alliance for the Prevention of the Death Penalty, Iraq
Nisreen Zerikat, lawyer, Head of the Criminal Justice Department, National Centre for Human Rights, Jordan

One very small state saves the region's situation: Djibouti, the only country of the 22 members of the Arab League which is abolitionist. As far as the other countries are concerned, the figures speak for themselves: the Middle East and North Africa, the second largest region of countries to apply the death penalty, accounts for 21% of people executed in the world. However, the situation of the death penalty in this heterogeneous region presents a mixed picture. While some countries declare themselves to be de facto abolitionist, others are progressing slowly on the road towards a moratorium; finally, many raise hopes for abolition in the near future. To achieve this goal, abolitionists must be increasingly more persuasive of the futility of this form of punishment in a region where states and society are mainly linked to Islam. In fact, in this geographical area, there are many obstacles to abolition, but local players have several strategic means at their disposal. In this context, how can we convince authorities to abolish the death penalty in law? For Taghreed Jaber, the director of the Penal Reform International Middle East and North Africa office and the chairperson of the roundtable, it is necessary to "find means and strategies which can back up the movement to fight against the death penalty in the Arab world." These were the issues tackled during this roundtable.

MIDDLE EAST AND NORTH AFRICA: A REGION OF CONTRASTS WITH REGARD TO THE APPLICATION OF THE DEATH PENALTY

In 2010, Iran, Saudi Arabia and Iraq carried out the highest number of executions in the region. "These countries hand out dozens of death sentences every year and apply them," explains Ahmed Karaoud, director of Amnesty International's Middle East and North Africa office. Worse, the Iranian regime continues to execute juvenile offenders thereby violating all international treaties prohibiting such practices.

In contrast other countries, including Tunisia, Algeria, Morocco, Mauritania and Lebanon "impose

dozens of death sentences but have not applied them for years," continues Ahemd Karaoud. Some, such as Algeria and Israel, have gone even further, by supporting the resolution in favour of a moratorium presented to the United National General Assembly in 2008.

In the face of this evolution, opponents to the death penalty have for several years now been creating well-organised national and regional coalitions. While some activists risk their lives proclaiming their arguments – the issue of abolition is sometimes taboo -, success is, little by little, edging ever closer. The example of Jordan is encouraging, as its government, after having gradually reduced the number of crimes punishable by the death penalty, may introduce new legislation in 2011 bringing it closer to abolition.

THE CHOICE OF AN ABOLITIONIST STRATEGY DEPENDS ON THE LOCAL CONTEXT

We must nevertheless recognise that progress is slow and laborious. Ahmed Karaoud sees three main reasons explaining the reticence felt towards abolition.

Firstly, penal law is a powerful instrument for anti-abolitionists. The fight against terrorism is in this respect particularly significant as it is often used as an argument to extend the scope of the death penalty! Consequently, one of the main strategic difficulties for abolitionist movements is what must they focus on? Abolition for all crimes? A reduction in the number of crimes punishable by the death penalty? Or to question the competency of military tribunals and other exceptional courts, particularly prone to imposing the death penalty?

The final, but no less significant difficulty is that of cultural and religious reticence. The sharia (Islamic law) is in fact often evoked by supporters of the death penalty to justify its application. For Taghreed Jaber, "One of the main obstacles confronting activists is the poor interpretation of the sharia." This phenomenon can moreover be easily applied to the whole field of human rights. Dialogue would seem to be the only avenue: a wide-reaching programme to convince opponents to abolition to consider the idea that the sharia must be interpreted differently.

IN ALGERIA, "RELIGION IS A PARADOX IN THE JUSTIFICATION OF THE DEATH PENALTY."

No executions have taken place in Algeria since 1993, the year of a terrorist attack at Algiers airport. While the country is de facto abolitionist, "religion is a paradox in the justification of the death penalty," explains Miloud Brahimi, an Algerian lawyer and the first president of the Algerian Coalition for Abolition. Although the moratorium seems to be widely supported in the country, the courts continue to impose death sentences.

On the one hand, Islam, the state religion according to the Algerian Constitution, would not allow the abolition of the death penalty for murder, "an irrefutable argument as it relates to the sacred," continues Miloud Brahimi. On the other hand, the Algerian Penal Code is completely secular. For example, while Islam does not distinguish between two people below or over the age of eighteen, Algerian penal law excludes the death penalty for juveniles below the age of 18 at the time the crime was committed. Certain crimes punishable by the death penalty in other Arab countries do not receive the same punishment in Algeria: apostasy, for example, is not an offence.

However, it is indeed the religious motive that the president of the national assembly evoked when refusing to study the proposal of the abolition law. However, hopes of de jure abolition in Algeria are palpable. In fact, with the country's president declaring that he is personally an abolitionist, and the justice minister promising a decision on the issue, things should move forward, making Algeria an example in the Arab world. Milhoud Brahimi believes that there are reasons for optimism: "Algeria is not mature on an internal level, but we can hope that the solution will come from outside."

IN IRAQ, THE DEATH PENALTY IS USED AS AN INSTRUMENT AGAINST THE OLD REGIME

According to Nassr Abood, a representative of the Iraqi Alliance for the Abolition of the Death Penalty, "The government is weak and focuses mainly on taking revenge on the old regime. Those against whom the death penalty was applied, apply it today against their enemies or against the members of another religious community (…). Nongovernmental statistics show that it is applied two to three times a week." Civil society is poorly mobilised on the issue: "Ninety-nine percent of Iraqis are not aware of and do not know that an abolitionist movement exists, people laugh in your face and think you are joking when you talk to them about it." The death penalty in these countries is therefore highly politicised, hence the difficulty in determining which arguments to use.

WHAT ARE THE WAYS TO ACHIEVE ABOLITION IN NORTH AFRICA AND THE MIDDLE EAST?

TO ACHIEVE ABOLITION, INTENSIFY THE DEBATE ON THE DEATH PENALTY

Ahmed Karaoud stresses the importance of working on an internal level, aiming firstly at the population, by increasing the use of awareness-raising tools: training, propaganda posters, workshops – all used reasonably successfully in Iraq. Most important is the use of audiovisual media, considered as one of the most effective means of conveying information in these countries. "Some television channels in our region have more influence than all the region's governments put together."
Moreover, debates on an internal level inevitably involve holding dialogue with religious leaders, Muslims and Christians in particular: their cooperation would appear to be a *sine qua non* condition for the success of such campaigns. "The approval of religious authorities – Muslims or Christians – is an essential element," confirms Taghreed Jaber.

USING INTERNATIONAL LAW

Finally, on a legal level, Ahmed Karaoud believes it is essential to emphasise the fact that the death penalty constitutes a violation of human rights. Penal legislation as it stands contravenes international standards of human rights and the penal process and must be reformed. "The campaign in favour of a moratorium is an opportunity for opponents and governments to expound this cause from a legislative as well as a religious point of view and to develop the judicial establishment, in a region where justice is quite weak," Ahmed Karaoud concludes.

Furthermore, it would be a shame not to exploit the perspectives offered by international law. Nassr Abood believes the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights, as well as that of the Rome Statute establishing the International Criminal Court (ICC) to be interesting strategic areas of focus. Iraq became the 20th state to ratify the Convention on Forced Disappearance which came into force on 23rd December 2010.

Taghreed Jaber dares to hope for one thing: that the Arab League will draw up a protocol for the abolition of the death penalty, which member states would have to ratify in order to remain in the league, just as the European Union has successfully created a region free of the death penalty, with, for example, Poland and Turkey abolishing it in order to abide by European requirements!

ABOVE ALL, JOINING TOGETHER IN NATIONAL AND REGIONAL COALITIONS

All this action cannot be implemented without the creation of effective networks. NGOs have understood this need and over recent years have grouped together in national coalitions (Moroccan Coalition Against the Death Penalty in 2003, Iraqi Alliance for the Prevention of the Death Penalty in 2004, etc.), and regional coalitions (Arab Coalition against the Death Penalty created in 2007). The Jordanian example is encouraging. Nisreen Kerikat, a lawyer and head of the criminal justice department for the National Centre for Human Rights, points out that in fact following a 2006 campaign not only was a moratorium on executions announced, but the death sentences already pronounced were frozen. The government has also adopted a plan to reduce the number of crimes punishable by the death penalty. "We are starting on the road towards abolition," says Nisreen Zerikat, "but a lot of efforts have already been made. This country, where security arguments have never won out over concerns for human rights, is a positive example for the region."

RECOMMENDATIONS

> Push the political argument as a priority.

> Encourage dialogue with religious authorities.

> Encourage the emergence of national coalitions.

> Support the creation of networks between professors, lawyers, magistrates and intellectuals;

> Display, from the outside, solidarity with activists, whose arguments have not always been welcomed.

> Use the argument of international instruments (2nd Protocol, Rome Statute on the International Criminal Court).

THE JUDICIAL PATH TOWARDS ABOLITION IN ASIA

y *Flora Barré*
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According to Bikramjeet Batra, "Between 75% and 95% of the world's executions take place in Asia. The importance of working for abolition, a moratorium or at least a reduction in the number of executions in Asia, is obvious and crucial." This figure is clearly a good reflection of the size of the challenges to come. However, the lack of homogeneity in the region makes it difficult to define common strategies. An overview of progress and difficulties in four countries: China, Taiwan, Indonesia, and South Korea. A debate organised by Amnesty International.

CHINA: NOTABLE PROGRESS IN A CONTEXT WHICH REMAINS WORRYING.

While China easily holds the world record in executions, no official statistics are available by which the extent of its execution machine can be measured. The number of death sentences as well as the number of executions are classed as state secrets. However, some real improvements are worth mentioning. According to lawyer Sun Zhongwei, a number of notable legal advances have been made over recent years.

Firstly, a system of suspended death sentences "has enabled the number of executions in China to be reduced," the lawyer believes. China has two types of capital punishment: immediate execution and the death sentence suspended for two years. The sentence only becomes definitive if the prisoner commits other offences during the period of suspension. In reality, few people are executed after the two years of probation. "And the Supreme Court is encouraging lower-level courts to use the suspended sentences provided by law," explains Sun Zhongwei.

Next, the reform of the penal procedure has helped to reduce the scope of the death penalty. It can now only be applied to "extremely serious crimes"[12]. Moreover, the minimum age at which an offender can receive the death penalty has been increased from 16 to 18.

Finally, since 1st January 2007, all death sentences must be examined by the Supreme Court of Beijing

meaning the 31 Provinces no longer make the final decision. “This measure has also reduced the number of death sentences,” Sun Zhongwei confirms. Effectively, local political control over the courts of the Provinces could lead to the executions of innocent people.

In addition to the legal progress, Sun Zhongwei notes the mobilisation of lawyers. Organised into a network since 2006, they have created a national alliance to campaign for the reduction of the scope of the death penalty with a view to its final abolition, providing legal assistance, psychological support and help for the children of executed prisoners.

TAIWAN: FOUR YEARS OF DE FACTO MORATORIUM... FOLLOWED BY A SHARP TURNAROUND

The political stances of the last ten years have not been enough to prevent the resumption of executions. An account of a failure, in a country where the debate continues to rage.

GOOD REASONS TO REMAIN HOPEFUL ...

Hsinyi Lin, director of the Taiwan Alliance to End the Death Penalty recalls, “In April 2000, President CHEN Shui-Bian announced that the government was going to take measures in favour of the abolition of the death penalty. In May 2001, its justice minister promised that Taiwan would abolish capital punishment within three years.” Hsin-yi Lin deplores the fact that “these commitments were not respected”, but emphasises that executions decreased, from seventeen in 2000 to three in 2005. The following year, 2006, was a key year as no executions were recorded. This *de facto* moratorium was to last for four years, mainly thanks to the Justice Minister Wang Ching-Feng who joined the government in 2008. Personally opposed to the death penalty, she declared as soon as she was nominated that she would refuse to sign any execution order. On her instigation a task force was set up to fight against the death penalty and suggest alternative measures. It was made up of 27 members including NGOs, professors, lawyers and members of the government.
In April 2009, the government unreservedly ratified the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). For Hsin-yi Lin, “It was an excellent opportunity to improve the respect of human rights in Taiwan. 2010 promised to be a decisive year…” It would be.

30TH APRIL 2010: RESUMPTION OF EXECUTIONS[13]

On 11th March, the justice minister Wang Ching-Feng was forced to resign after refusing to sign execution orders for 44 prisoners. On 30th April 2010, the new Justice Minister announced the execution of four prisoners by firing squad. These were the first executions in Taiwan since December 2005. The new minister undertook to process death sentences and to exert his functions in accordance with the law.

How can such a reversal be explained? Hsin-yi Lin talks of a lack of commitment on the part of politicians. “The death sentence is used for electoral reasons and the respect of human rights is a secondary concern.” According to a recent poll, 74% of people are in favour of the death penalty. The explanation for such figures lies mainly in a lack of information among the public and a lack of research into possible de jure abolition. Strategies need to be rethought. Civil society is fighting for a new judicial examination of the constitutionality of the death penalty. To be continued…

For Bikramjeet Batra the situation of Taiwan is similar to that of India where “the question of the abolition of the death penalty is more the hostage of relationships between political forces, rather than a result of an institutional decision.” Which is also the case in Indonesia.

INDONESIA: AN ABOLITIONIST MOVEMENT STRUGGLING TO MAKE HEADWAY

In Indonesia, the abolitionist movement has existed for decades. Coalitions for the abolition of the death penalty were created as early as 1978. However, while there are few executions in the country, they have nevertheless been increasing in numbers over recent years. In February 2009, 109 prisoners were awaiting execution on death row. Bhatara Ibnu Reza, a human rights coordinator, member of the Indonesian penal court and member of Imparsial (an Indonesian human rights NGO), explains the issues and challenges lying ahead.

POLITICAL AND RELIGIOUS ISSUES JOIN THE DEBATE

“It is common in Indonesia for the issue of the death penalty to rear its head around presidential elections,” Bhatara Ibnu Reza explains. “During the election period, governments attract votes by carrying out executions.” Magistrates and politicians also use

religious sentiments to attract the attention of the Muslim population, by far the largest in the country. However, the legal system inherited from Dutch colonisation is not influenced by Islamic principles. Religion is used to justify the death penalty while there is no connection between Islam and national law.

CONSTITUTIONALITY AND PUBLIC OPINION

The Constitution protects the right to life. However terrorism has completely changed the picture. On 6th March 2003, the Chamber of Representatives transposed into law an emergency anti-terrorism decree introduced in October 2002 following the Bali bombings which killed two hundred and two people. The law introduced the death penalty for any person suspected of organising or carrying out terrorist attacks.

According to Bhatara Ibnu Reza the issue of the constitutionality of the death penalty is a question of interpretation. If the Court took inspiration from international law to interpret the constitution, it could come out against the death penalty. But the Constitutional Court does not want to risk a confrontation with public opinion which, according to the polls, is in favour of the death penalty.

"INDONESIA MUST CONFRONT TWO MAJOR CHALLENGES"

Firstly, legislators must follow the example of other states and act courageously in favour of abolition as it is above all a political decision which falls to the government. "It is always easier to impose a state decision on public opinion than to impose a commitment on the government on the basis of public mobilisation," Bhatara Ibnu Reza declares.

Secondly, Indonesia must respect international law and its interpretation, as well as human rights. "When Indonesia decides to respect international law, it will then have to adapt its national law, respect the right to life and thereby abolish the death penalty," Bhatara Ibnu Reza concludes.
But we are not there yet. Indonesia is a signatory, like 57 other states, of the verbal note addressed to the United Nations Secretary General, Ban Ki Moon, on 11th January 2008 in reaction to the vote on the resolution for a universal moratorium. This note reasserts the refusal of these states to institute a moratorium on executions with a view to the abolition of the death penalty.

SOUTH KOREA: DE FACTO ABOLITIONIST, WHY NOT DE JURE?

NO EXECUTIONS IN THIRTEEN YEARS AND AN ACTIVE ABOLITIONIST CIVIL SOCIETY ...

In South Korea, the death penalty is imposed for certain crimes mentioned in the constitution and for others defined in the national security law. This law was enacted in 1948 to fight against North Korean communist ideology. According to the report published in 2001 by the justice ministry, South Korea had executed a total of 1634 prisoners for serious crimes since the country was freed from Japanese domination in 1945. More than half of the people executed up to 1987 had violated the national security law. It remains in force today but its application was slackened with the relaxation of relations with North Korea and especially since the arrival in power of Kim Dae-jung in 1998. But the fact that no one has been executed since February 1998 is also a result of civil society which has been highly mobilised for many years. According to Andy Kim, the majority of the population is in favour of reducing the scope of the death penalty, notably since the execution of more than 200 people in the 1980s, in application of the national security law. Following these executions, South Korean society rallied against the death penalty. And in the 1990s, "numerous religious groups – including Catholics, Presbyterians and Buddhists in particular – formed coalitions to encourage the mobilisation of public opinion, lobbying for a moratorium with a view to abolition and organising petitions," explains Andy Kim.

...BUT THE CONSTITUTIONAL COURT IS STANDING FIRM... FOR NOW.

The decision to abolish the death penalty in South Korea could be made by the Constitutional Court. In 1996, it ruled by seven votes to two in favour of the constitutionality of the death penalty. The Court's nine judges recently ruled on the question again. The result was the same but with a vote of five to four. "We are close to our objective," Andy Kim ~~proudly~~ claims, especially as two of these five judges recognised that it was necessary to "reorganise the South Korean judicial system from top to bottom, notably with regard to the death penalty." He adds, "The Constitutional Court's decision is very important and we must respect it, but it does not justify the death penalty."
Moreover, Andy Kim points out that in 2007, the Civil Court cleared eight people thirty years after their execution. Compensation amounting to 600 million dollars was paid to the families. Let's hope that soon, no one else will have to be posthumously pardoned.

AS A CONCLUSION

Despite the disparity of the situations, there are two characteristics common notably to Taiwan, Indonesia and South Korea. The first is the role of public opinion, or at least the idea that politicians make of it. As part of pre-election tactics, the death penalty becomes a tool used to manipulate and attract the electorate. However Bikramjeet Batra points out that it is necessary to interpret polls with a lot of caution. For example, in India, the results of a poll varied between 90% and 50% of people favourable to the death penalty depending on the questions asked.

The second common characteristic is the fight to make the death penalty unconstitutional. In South Korea, while the situation gives reason to be hopeful, without *de jure* abolition, vigilance is required, as the Taiwanese example unfortunately proves. Finally, according to Bikramjeet Batra, we are wrong to treat governments as monolithic "as there are cracks in the governmental machinery and they must be exploited."

Focus on the ADPAN, the Anti-Death Penalty Asia Network

The Anti-Death Penalty Asia Network (ADPAN) is a regional platform committed to the abolition of the death penalty in Asia and the Pacific. An informal and independent group made up of NGOs, activists and others, ADPAN was created in 2006 in Hong Kong during a consultative meeting organised by Amnesty International and launched on World Day Against the Death Penalty in the region on 10 October 2006.

ITS ACTIVITIES

> Publication of press releases, ADPAN statements.
> Action in favour of legislative reforms, lobbying and those in danger of execution.
> Support individual initiatives of its members.
> Information sharing.
> Participation in the World Day Against the Death Penalty.
> Participation in Cities for Life.

ADPAN, through its members is developing a regional abolitionist movement. It also campaigns across the Asia Pacific region through putting pressure on countries where the death penalty poses a major concern and where there is scope for moving towards abolition .

For Bikramjeet Batra, an ADPAN member, described ADPAN as especially important as "government representatives often claim that the abolition of the death penalty is a western concern. It is essential to show them that there are many voices in Asia calling for abolition of the death penalty"

SUB-SAHARAN AFRICA: HOW CAN THE REGION MOVE FROM A MORATORIUM TO ABOLITION IN LAW?

par *Julie Lerat*
journalist

ORGANISERS
FIACAT, ACAT France and ACAT Switzerland.

CHAIRPERSON
Lucienne Zoma, founder and President of ACAT-Burkina, member of the FIACAT international office, Burkina-Faso

PARTICIPANTS
Johnson. O. R. Byabashaija, Commissioner-general for prisons, Uganda
Liévin Ngondji, president of Culture for Peace and Justice (CPJ), coordinator of the Great Lakes Coalition against the death penalty, RDC
Philip Iya, member of the death penalty task force at the African Commission for Human and People's Rights (CADHP), African Union, South Africa.
Mabassa Fall, professor and representative of the International Federation of Human Rights Leagues (FIDH) with the African Union, Senegal.

"Over the last ten years or so, we have witnessed relative progress in sub-Saharan Africa, as some countries have become abolitionist in practice or in law," states Lucienne Zoma, chairperson of the roundtable and president of ACAT-Burkina. However, many countries, despite a moratorium, retain the death penalty as part of their legal arsenal. "Governments put forward cultural and religious obstacles, but is it possible to dare to imagine an Africa without the death penalty?" asks Lucienne Zoma. During this roundtable, the participants endeavour to draw up concrete and operational strategies to move forward from a moratorium and towards the abolition of the death penalty.

MORATORIUM: A FIRST STEP TOWARDS ABOLITION?

STATE OF PLAY: "AFRICA HAS NEVER BEEN A 'CHAMPION' OF THE DEATH PENALTY"

"Africa has never been a 'champion' of the death penalty," says Professor Mabassa Fall, a representative of the FIDH with the African Union. However, in 1990, only one African country had abolished the death penalty - Cape Verde. Today, out of the 48 states which make up sub-Saharan Africa, 15 have abolished the death penalty in law[14], around one third, while 18 have not executed any prisoners for more than ten years[15], and are therefore considered as abolitionists in practice.

In 2009, Togo and Burundi abolished the death penalty, while the Beninese president, Thomas Boni Yayi, asked the Beninese parliament to entrench abolition in the Constitution. In many countries, "the process is underway," concludes Mabassa Fall. Around thirty sub-Saharan African countries have so far ratified the Rome Statute of the International Criminal Court, and fix life imprisonment as the maximum sentence for the most serious crimes[16]. But while an overwhelming majority of sub-Saharan African countries no longer apply the death penalty (33 out of 48), 15 states still nevertheless retain it[17].

Among these 15 states, two are particularly worrying cases - Sudan and Somalia, among the last five countries in the world which still execute juveniles[18]. In Somalia, the situation is particularly "critical", according to Mabassa Fall, as "all the warring parties without exception authorise the death penalty - the government, clan leaders and Islamic militia."

THE CULTURE OF IMPUNITY IS AN OBSTACLE TO ABOLITION

"The application of the death penalty in traditional African customs is not proven by historians, at least in the Great Lakes region," states Liévin Ngondji, lawyer at the court of appeal of Kinshasa and registered on the List of Counsel of the International Criminal Court. Rather than culture, it is "the lack of confidence in the governments, perceived as corrupt and inefficient," which explains the support for the death penalty, says Philip Iya, a member of the death penalty task force of the African Commission for Human and People's Rights.

This lack of confidence in the institutions is also felt with regard to the judicial system, prison administration and the police, deemed responsible for the impunity which prevails in a large number of sub-Saharan African countries. The result is that people sometimes decide to take justice into their own hands. In eastern Africa and particularly in Uganda, "communities apply punitive justice, with a view to vengeance, to the point that if the law is not applied quickly, lynching is commonplace," states Johnson O.R. Byabashaija, Uganda's Commissioner-General for prisons.

However, according to Johnson Byabashaija, the weaknesses in the justice system are actually an argument for the abolition of the death penalty. In poor countries, under-equipped and with limited investigation resources, "there is always the risk that an innocent person can be wrongly sentenced and executed, and then there is no going back".

While the majority of public opinion is favourable to the death penalty, Philip Iya also notes a persistent widespread ignorance in sub-Saharan Africa with regard to the issue. Due to a lack of information, and the high level of illiteracy, "the masses accept more easily the arguments in favour of the death penalty," he explains. For this reason, governments do not want to risk upsetting public opinion and prefer to adopt a middle-ground approach: a moratorium, rather than abolition or the death penalty. Which explains the choice which 18 out of the 48 sub-Saharan African states have made.

THE RETENTION OF A MORATORIUM: A DAMOCLEAN SWORD FOR PRISONERS

"A state which introduces a moratorium on executions remains free to reinstate them at any time," states Philip Iya. Cameroon reinstated executions after eleven years of moratorium, Libya after twenty-three years, the Comoro Islands after twenty-two years, Chad after twelve years, and Guinea-Conakry after seventeen years. A moratorium is generally perceived as progress, or as a first step towards abolition. It is notably the idea behind the three resolutions adopted by the United Nations General Assembly calling for a moratorium adopted in 2007, 2008 and 2010, and the resolution adopted by the African Commission for Human and People's Rights in Abuja (Nigeria) in 2008. These four resolutions call on countries to implement a moratorium with a view to abolition. "The African experience has shown that it was not necessarily the case," states Philip Iya.

According to Mabassa Fall, from the FIDH, "A U-turn is always possible if legal measures are not adopted to guarantee life," in particular on a continent susceptible to a high level of political unrest, regularly shaken by violent or anti-constitutional changes such as was recently the case in Guinea, Madagascar and Niger.

FROM A MORATORIUM TO ABOLITION: INDIVIDUAL AND COLLECTIVE STRATEGIES

INNOVATIVE AND VARIED STRATEGIES DEPENDING ON THE COUNTRY

Togo and the opportunity of a new president

Togo abolished the death penalty on 23rd June 2009. Civil society took advantage of the election of a new president seeking legitimacy to ensure that a certain number of measures relating to the protection of human rights were passed. This mobilisation bore fruit, as the death penalty was abolished unanimously by members of parliament.

Uganda and the pressure of international aid

According to Johnson O. R. Byabashaija, the Ugandan Commissioner-General for prisons, abolition must be achieved by lobbying the political establishment. "This can be carried out by friendly European governments, in particular Germany, the Netherlands and Sweden," he believes. "It would be a starting point." Johnson O.R. Byabashaija also points out that the context is particularly ripe for abolitionists, as, after 17 years of civil war involving the

Lord's Resistance Army in the north of the country, a special court will be created to try war criminals. This court will be partly financed by European donors, who could seize the opportunity to exert pressure on the Ugandan government. The example of Rwanda has shown that in this type of context, external pressure can play a crucial role.
Moreover, Ugandan civil society has explored the legal route to move the abolitionist cause forward, with an original initiative from the NGO *Foundation for Human Rights Initiative*: in September 2003, it brought an appeal before the Constitutional Court in the name of 417 prisoners on death row in Uganda on the grounds that their sentence was unconstitutional, inhumane and degrading. Without ruling completely in their favour, the Constitutional Court, on 10th June 2005, judged the death penalty to be unconstitutional when it is automatically imposed on certain crimes, and considered that a long wait on death row constituted inhumane and degrading treatment. It is a big step forward in the fight against the death penalty.

Burundi and the joint opportunities of an abolitionist radio station and a change of regime

In Burundi, the debate on the death penalty was launched in 2003, on the airwaves of the private radio station Isangarino, by partisans of abolition[19]. From then on, the radio station made the death penalty the transversal theme of its programming until abolition, in 2009. Abolition is also the result of "converging circumstances," according to Liévin Ngondji. "There was a change of regime, and among the people who came to power, some had themselves been sentenced to death in the past."

The Democratic Republic of Congo and the creation of an abolitionist network

In the DRC, there are many different players advocating abolition, and therefore numerous strategies: the mobilisation of international opinion[20], the lobbying of ambassadors and foreign diplomats, work with members of parliament, often more open to this type of issue than the government. In the eastern Congo, a documentary[21] was produced in order to convey a message: we cannot continue sentencing people to death on the pretext that we are waiting for security to prevail in the country. In the DRC, as a result of the very high number of abolitionist movements, two coalitions were created: the Congolese Coalition Against the Death Penalty and the Network of Human Rights Associations Against the Death Penalty (RADHOMA). On Thursday 25th November 2010, the Congolese national assembly rejected a measure relating to the abolition of the death penalty discussed on the instigation of a member of parliament, André Mbata, in the framework of a wider bill aiming to bring Congolese law into line with the Rome Statute on the International Criminal Court. This proposal opened the gates to an unprecedented parliamentary debate. At the end of an unusually vehement discussion, the MBATA bill was judged to be inappropriate in the current climate in the DRC, according to the Congolese daily newspaper "Le Phare". In parallel to the examination of the bill, an intense lobbying activity was carried out by the Coalition of the African Great Lakes Against the Death Penalty, represented by Liévin Ngondji, president of the association Culture for Peace and Justice and with the support of ECPM.

Rwanda and international justice

In Rwanda, the fact that international justice refuses to transfer suspected perpetrators of crimes against humanity and of genocide to a country applying the death penalty, was a crucial factor which facilitated the abolition of the death penalty.

THE IMPORTANCE OF REGIONAL COALITIONS

During the 3rd World Congress Against the Death Penalty in Paris, in 2007, the idea was launched of a coalition in the Great Lakes region of Africa. It became reality in Kinshasa during a workshop which brought together human rights organisations from Burundi, Uganda, the Democratic Republic of Congo and Rwanda, organised in the framework of the World Day Against the Death Penalty in October 2007. Since then, three meetings of the Regional Coalition have taken place in Kinshasa. "We have not performed any miracles, but we have made some small gestures of observation, persuasion and synergy," Liévin Ngondji sums up. The Coalition seeks to obtain areas of expression (the media, universities, etc), it approaches members of parliament and church leaders in order to rally them to its cause, and strives to unite the initiatives of different players of civil society.

THE CREATION OF A DEATH PENALTY TASK FORCE BY THE AFRICAN COMMISSION ON HUMAN AND PEOPLE'S RIGHTS

The African mechanism for the defence of human rights, the African Commission on Human and People's Rights, is also increasingly involved in the fight for the abolition of the death penalty across the continent says Philip Iya.

No measure in the African Charter on Human and People's Rights explicitly allows for the abolition of the death penalty; article 4 of the charter protects the right to life but does not specify the limits. To

compensate for this shortcoming, the African Commission on Human and People's Rights, the body of the African Union responsible for overseeing the implementation of the African Charter on Human and People's Rights, decided to tackle the issue of the death penalty in 1999 by adopting in Kigali, Rwanda, during its 26th Ordinary Session, a resolution *"calling on states to envisage a moratorium on the death penalty."*

Following this Resolution, it was decided to set up a task force to study the specific question of the death penalty in Africa composed of members of the Commission and independent experts. Since 2007, the task force has carried out four types of activity: it has put forward to the Commission proposals to adopt resolutions on the theme of the death penalty, it has worked on drawing up a document on the death penalty which will become the Commission's official stance on the issue, it has organised sub-regional conferences on the death penalty and has issued urgent appeals.

The task force organised a sub-regional conference on the issue of the death penalty in Africa in Kigali (Rwanda) from 23rd to 25th September 2009 for central, southern and eastern African countries. At the end of this conference, the participants adopted the "*Kigali framework document on the abolition of the death penalty in Africa"* which contains strategies for the abolition of the death penalty in Africa as well as a recommendation on the need to draw up an additional protocol to the charter on the abolition of the death penalty in Africa.

The task force has also extended its mandate to issue urgent appeals to some governments on the question of the death penalty whenever it has been informed of an impending risk of execution. It seems that the task force wishes to develop this new activity; Mr. Iya exhorted all the NGOs present at the 4th World Congress and who work on the death penalty in Africa to forward information to the task force in order that it can address these appeals to the governments concerned.

RECOMMENDATIONS

> To carry out priority actions in countries which retain the death penalty as an instrument of repression against opposition.

> To push for the adoption of national and international instruments to create a solid legal context. It is important for African abolitionists to find references which are legitimate and relevant to African public opinion (examples of Nelson Mandela, or Kwame Nkrumah).

> To support the work of the task force on the death penalty carried out by the African Commission on Human and People's Rights.

> To encourage the setting up of an Additional Protocol to the African Charter on Human and People's Rights on the abolition of the death penalty.

> To build on references which are specific to Africa and which appear legitimate and relevant to African public opinion (examples of the prison experience of Nelson Mandela in South Africa or Kwame Nkrumah in Ghana). To mobilise all non-government players around various forms of action: media, legal, and political.

> To support the creation of national or regional coalitions of organisations engaged in the fight for the abolition of the death penalty.

> To promote international justice as an instrument in favour of abolition.

> To encourage the international community to take strong stances in favour of abolition in Africa.

Review of 2009 in sub-Saharan Africa

THE DEATH PENALTY IN SUB-SAHARAN AFRICA - 48 COUNTRIES

Table presented by FIDH during the "Sub-Saharan Africa: How can the region move from moratorium to abolition in law?" roundtable

	Abolished		Suspended		Maintained
1	South Africa	1	Benin	1	Botswana
2	Angola	2	Burkina Faso	2	Cameroon
3	Burundi	3	Congo	3	Comoros
4	Cape Verde	4	Gabon	4	Eritrea
5	Ivory Coast	5	Gambia	5	Ethiopia
6	Guinea Bissau	6	Ghana	6	Guinea
7	Djibouti	7	Kenya	7	Equatorial Guinea
8	Mauritius	8	Liberia	8	Lesotho
9	Mozambique	9	Madagascar	9	Nigeria
10	Namibia	10	Malawi	10	Uganda
11	Rwanda	11	Mali	11	Democratic Republic of Congo
12	Sao Tome and Principe	12	Mauritania	12	Sierra Leone
13	Senegal	13	Niger	13	Somalia
14	Seychelles	14	Central African Republic	14	Sudan
15	Togo	15	Swaziland	15	Chad
		16	Tanzania	16	Zimbabwe
		17	Zambia		

EXECUTIONS

Sudan: nine executions
Botswana: one execution

DEATH SENTENCES

According to information gathered by Amnesty International, at least 194 death sentences were pronounced in 19 sub-Saharan African countries in 2009.

Sudan (at least 60)
Nigeria (58)
Somalia (12, including six in Puntland and six in the jurisdiction of the transitional federal government)
Ethiopia (at least 11)
Mali (at least 10)
Ghana (at least seven)
Zimbabwe (at least seven)
Burkina Faso (at least six)
Benin (at least five)
Botswana (two)
Gambia (at least one)
Liberia (three)
Mauritania (at least one)
Sierra Leone (at least one)
Tanzania (?)
Chad (?)
Uganda (?)
Democratic Republic of Congo (?)
Kenya (?)

PROGRESS SINCE 2009

Togo (23rd June 2009) and **Burundi (22nd April 2009)** have abolished the death penalty.

Angola: the Angolan government undertook before the African Commission on Human and People's Rights to ratify the Second Protocol to the International Covenant on Civil and Political rights.

Kenya: 3rd August 2009, President Mwaye Kibaki commuted 4000 death sentences to life imprisonment. On 30th July 2010 the Kenyan Court of Appeal, decided that section 204 of the criminal code, which allows for the automatic death penalty in the case of murder, is considered as "contrary to the constitutional measures relating to the protection against inhumane or degrading sentences or treatment and to the fairness of trials", as it deprives the people concerned of any possibility of reducing the sentence imposed on them.

Nigeria: in the state of Lagos, the government granted a pardon to three prisoners condemned to death and commuted the sentence of 37 others.

Benin: a project to reform the constitution is undergoing examination by the Beninese national assembly, article 15 allows for the abolition of the death penalty. To accompany this process, several Beninese civil society associations created a

Beninese Coalition Against the Death Penalty on 27th July 2010.

Burkina Faso: the government of Burkina Faso undertook before the United Nations and the African Commission on Human and People's Rights to abolish the death penalty and ratify the Second Protocol to the International Covenant on Civil and Political Rights.

Uganda: on 13th September 2010, the Supreme Court decided to commute to life imprisonment the death sentence of at least 167 death row prisoners. In January 2010, the Supreme Court ruled that death row prisoners who have not been hung in the three years following their sentence were thereby being subjected to a double sentence.

Niger: on 15th December 2010, the Council of Ministers of the Nigerien government adopted an ordinance for abolition, but the National Consultative Council, which is acting as a transitional parliament voted to reject the ordinance on 16th December 2010 and it was duly abandoned.

DRC: on 25th November 2010, the national assembly rejected a bill presented by a member of parliament André Mbata, relating to the abolition of the death penalty.

Mali: in 2010, the national assembly again postponed a vote on the bill proposed by the government in 2007 to abolish the death penalty.

Mauritania: creation of a National Coalition Against the Death Penalty on 10th October 2010, in Nouakchott by civil society associations.

Two regional conferences on the death penalty in Africa were organised by the African Commission on Human and People's Rights (ACHPR) in Kigali in September 2009 and in Cotonou in April 2010.

SETBACKS

Western Africa: the increase in the number of death sentences imposed since the beginning of 2010 in western Africa is "worrying" according to Amnesty International. In total, at least 64 death sentences were handed down in eight countries, including in countries where this type of sentence is rare. For example, Amnesty International has recorded 11 death sentences in Liberia, 13 in Gambia and 16 in Mauritania since the beginning of 2010.[22]

Gambia: on 6th October 2010, the Gambian national assembly amended the law on the fight against drugs by entrenching in law the death penalty for any person found guilty of possessing more than 250 g of cocaine or heroin. On 5th November, President Yahya Jammeh declared that he would allow the execution of people found guilty of treason, murder and drug trafficking. There are around twenty prisoners on death row in Gambian prisons, but no one has been executed since this declaration.

Uganda: a bill called the "Anti-homosexuality Bill" will make Ugandan legislation (which already considers homosexuality as a criminal activity punishable by life imprisonment) even tougher with notably the death penalty for "aggravated homosexuality" or for homosexuals suffering from AIDS. Under international pressure, this bill has not yet been voted and remains pending.

Zambia: the National Constitution Conference decided, on 3rd February 2010, to maintain the death penalty in the Constitution bill which must be submitted to public consultation.

PART 3

POVERTY, VULNERABILITY AND VICTIMS IN THE FACE OF THE DEATH PENALTY SYSTEM

Kids against death penalty, Lievin Ngondjii, Shirin Ebadhi and Eric Bernard during the 4th Congress

DISCRIMINATION IN THE APPLICATION OF THE DEATH PENALTY: THE DEATH PENALTY AS A "SINISTER PRIVILEGE" RESERVED FOR THE POOR AND MINORITY GROUPS

by ***Shirley Pouget***

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To the question of whether the death penalty is reserved for the "worst of the worst", the answer is no. "A prison guard once told me that the death penalty is a privilege reserved for the poor," recounts Robert Bryan, a lawyer specialised in defending prisoners on death row, notably Mumia Abu-Jamal. "I have dealt with more than 200 capital punishment cases. The common denominator in death penalty cases is poverty. My clients are all poor, and very often Afro-Americans. I used to think that racism was only present in the south east of the United States. But I can see that racism is unfortunately part of human nature. Justice varies along racial lines."

The abolitionist community constantly stresses that the application of the death penalty is discriminating and discriminatory with regard to the poor, ethnic, racial or religious minorities and vulnerable people. A billionaire who has killed 40 people, defended by the best lawyers, would probably have little chance of being given the death penalty, while a poor young Afro-American without any legal representation will be executed before perhaps being proved innocent. Such is the reality of the application of the death penalty. Despite this, hopes for a world free of the death penalty are palpable, like they were on the day the death penalty was declared unconstitutional in South Africa, says lawyer Henderson Hill, chairing the roundtable. It is therefore essential to identify the factors which push governments to use the ultimate punishment, to show that they are discriminatory, in order to use the argument as a lever for abolition.

IN THE UNITED STATES, THE APPLICATION OF THE DEATH PENALTY VERY OFTEN DEPENDS ON LEGALLY INADMISSIBLE VARIABLES

"Ridgway, convicted as the Green River killer in Washington was sentenced to life imprisonment for the murder of 48 people. John Spenkeling was executed in Florida thirty years ago for murdering a man

who had stolen some money from him," Michael Radelet, a professor from the University of Colorado, recalls.
The United States has a past, a continuous history of discrimination. Abolitionists use the racist administration of the death penalty as a key argument to demonstrate the injustice of the system. For Michael Radelet, "the disparities in the sentences are mysterious and indiscriminate." In 1972, Potter Steward, from the Supreme Court, stated, "These death sentences are as cruel and unusual as it is cruel and unusual to be struck by lightning." While factors such as the number of victims or serious offences are elements which help partially predict who will be sentenced to death, the application of the death penalty depends very often on legally inadmissible variables. The racial question is not the only issue to cause travesties of justice; social and economic status is also a discriminating factor. The examples are telling. Statistically, a poor defendant will be more likely to receive a death sentence for the same murder than a rich defendant, benefiting from the services of a good lawyer. If resources can constitute a variable, the social status of the victim can also be a determining factor in the application of the death penalty. The killer of an important citizen is more likely to be sentenced to the death penalty than the killer of a poor person. The victim's profession can also influence judges' assessments. "Prosecutors in Denver for example did not call for the death penalty for the murderer of six people, five of whom were prostitutes," Michael Radelet explains. As well as social status, race is obviously a major factor of discrimination. The figures are frightening. "We only know of 30 cases out of 16 000 executions, in American history before 1972, where a white person was executed for having killed a black person (…) Between 1930 and 1972, when the black community made up 10% of the American population, it accounted for 54% of prisoners executed. Of the 455 people executed for murder during this period, 405 (89%) were black," the professor continues.

IN THE GULF COUNTRIES, THE DEATH PENALTY IS A SINISTER "PRIVILEGE" RESERVED FOR

Freedom of expression flouted, access to justice or healthcare denied, payment of salaries refused, physical, sexual or verbal abuse commonplace: migrant workers are subjected to discrimination on a daily basis in the Gulf countries where violations of human rights are the norm and where migrant workers form an exceptionally vulnerable community. Half of those executed in Saudi Arabia are migrant workers. According to Najeel Rajab, president of the Centre of Bahrain for Human Rights, "The legal systems in the Gulf countries are quite simply impossible to understand by non Muslims." Local laws apply to migrants, notably the interpretation of the sharia in Saudi Arabia, even though they do not understand it. As well as the procedural difficulties there is corruption and the use of personal connections to ensure nationals receive favourable sentences. In Saudi Arabia, migrant workers represent 35% of the workforce. Around 1.5 million foreigners are domestic workers, mainly women. "The victims of abuse (often sexual), especially illegal domestic workers, are treated as criminals by the institutions responsible for applying the law. (…) In many cases, migrant workers who have been raped by their employers are imprisoned or sentenced to corporal punishment," explains Najeel Rabab. The Saudi legal system is based on the government's interpretation of the sharia, applicable to non-Muslims for crimes committed in the country. In accordance with the penal procedure code, defendants are not presumed innocent. Saudi law allows for the right to be defended by a lawyer before a criminal court but has no system of legal aid for cases where the defendant cannot afford to do so. Judicial proceedings in capital punishment cases are held in camera, making it impossible to determine if the defendant's rights have been respected and if the judgement has been given in due form.

IN PAKISTAN, ONLY MONEY AND CONNECTIONS PROVIDE ESCAPE FROM THE DEATH SENTENCE

In Pakistan, as elsewhere, the death penalty affects mainly marginalised people. The poor and religious minorities are the main victims of a defective legal system: lack of integrity of the Pakistani police, confessions extracted under duress, slapdash investigations and unfair trials. Only money and connections provide escape from the death penalty. No budget is allocated to investigations and in particular the search for scientific evidence (DNA, finger prints, etc.), no legal aid mechanism is in place. It is not uncommon for a decade to pass between the arrest and the execution. "Last year the media highlighted the freedom of a prisoner, Saeed ul Haq, a mentally disabled 85 year old man, in prison for 38 years without ever having been tried," explains Kamran Arif, a lawyer with the Commission of Human Rights in Pakistan. In the face of this state of affairs, money in Pakistan provides immunity. Only a rich defendant can hope for a proper investigation and a fair trial.

While the weaknesses in the legal system explain the staggering number of prisoners on death row

(see box), it is important to understand that in Pakistan, is not only the state which has the power to pass judgement on crimes punishable by the death penalty. In fact, Pakistani law prescribes the application of the concepts of Qisas and Diyat, blood money, which enables families to settle conflicts outside the courtroom. With a justice system discredited in the eyes of the population, families prefer private justice. The impunity of crimes is a question which politicians are starting to look into as the settling of murder cases between families leaves the door open to abuse where women for example can be killed with total impunity. It is not uncommon for a family to kill one of its own members on the pretext that crimes must not go unpunished. It is a question of honour.

In consideration of the various contributions made by the participants, social, economic and racial discriminations, defects in the criminal justice system as well as the lack of access to information are all common points with which many people sentenced to death are faced. However, this state of affairs does not prevent Henderson Hill from concluding on a positive note, "Things can change and evolve. Concerted international efforts can and must succeed."

RECOMMENDATIONS

> It is essential that quantitative, qualitative and empirical research is carried out to show that the death penalty is mainly applied in accordance with legally inadmissible variables.

> Anybody facing the death penalty must have legal representation, regardless of his/her ethnic, social and religious origins.

> In the Gulf countries, it is essential to establish an office on a consular level in order to provide immigrants with representation from their country of origin and to inform them on the country's penal practices and law.

> Lawyers have a major role to play. It is therefore essential to lead campaigns to raise the awareness of lawyers working in courts in order to curb the practices of retentionist states and provide defendants with fair trials. Training for the police and judges is very important and must be developed.

Focus on the state of the death penalty in Pakistan

FACTS AND FIGURES

> In 2010, 7700 people were on death row, including 40 women and two juveniles.
> In 2009: no executions
> In 2008: 36 executions
> In 2007: 137 executions

ON THE ROAD TO ABOLITION...?

> In 2008, the Prime Minister announced a plan to commute the death penalty to life imprisonment. Approved by the cabinet, the plan was immediately rejected by the Supreme Court of Justice. Sixteen people were executed after the Prime Minister's announcement.
> The commutation plan has nevertheless been referred to the president. The interior minister is reported to have informed the Senate that the plan is under examination.

JUVENILES AND MENTALLY DISABLED PEOPLE: VULNERABLE IN THE FACE OF THE CRUELTY OF THE CAPITAL PUNISHMENT SYSTEM

by ***Shirley Pouget***

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Rather than protecting their delinquent juveniles or treating their mentally disabled people, some countries prefer to execute them. Countries such as Iran, Saudi Arabia, Sudan, Yemen, Nigeria and Japan have no scruples in applying the death penalty to vulnerable groups, who are nevertheless protected by international law and the domestic law of many countries. Traditionally, age or mental disorders constitute grounds for mental irresponsibility or mitigation of penal responsibility. With regard to juveniles under the age of 18, medical experts agree that child or adolescent offenders "lack maturity" and have an "under-developed sense of responsibilities, which can result in impulsive and ill-considered actions and decisions". As for the mentally disabled, their impaired intellectual faculties prevent them from understanding the consequences of their acts, to want them or to be conscious of them. How then can we protect these vulnerable groups? Who are the players and what are the arguments which have led to a reversal of case law in the United States? Specialists on the subject of child executions and mental health and death penalty experts provide their analysis during a roundtable chaired by Antonio Stango, from the organisation Hands Off Cain and a representative of the world campaign for a universal moratorium on the death penalty.

INTERNATIONAL PRESSURE, ESSENTIAL FOR ENDING THE EXECUTION OF JUVENILES UNDER THE AGE OF 18

IN IRAN, 160 MINORS ARE THREATENED WITH EXECUTION...

"A few years ago, with the help of Mohammad Mostafei, we launched an international campaign to save the life of a young girl accused of stabbing one of the three men who had tried to rape her. Thanks to international pressure, we succeeded in putting enough pressure on the Iranian legal authorities (…) and the young girl was freed," reports

Nazanin Afshin Jam, president of the Stop Child Executions organisation. Through the publication of reports, urgent appeals and demonstrations, her organisation, made up exclusively of volunteers, puts relentless pressure on the Iranian regime to bring an end to the execution of juveniles under the age of 18.

In fact, the Islamic Republic of Iran holds the dubious honour of being the world leader in child executions. "One hundred and sixty juveniles are currently on death row in Iran," Nazanin Afshin Jam explains. Despite its ratification of the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights prohibiting these practices, the Iranian regime has issued reservations concerning the Conventions with regard to the application of the sharia. According to sharia law, the legal age of majority is 9 for girls and 15 for boys. While the regime generally does not execute before the 18th birthday, many children are executed before then. "Most children are sentenced to the death penalty following a fatal fight at school (…) The crimes are not premeditated." According to the sharia, the punishment for murder is for the families to decide. They can either demand the execution of the juvenile offender or grant a pardon in return for the payment of blood money. "In some cases, the families ask for more than a million *diyeh.* Many families are poor and are not able to pay the compensation," Nazanin Afshin Jam explains.

In the face of international pressure, representatives of the regime are beginning to take a stand to bring an end to child executions, as seen by the circulars sent by the former justice minister Ayatollah Sharoudi urging judges to refrain from giving the death penalty to children under 18. As for religious representatives, some maintain that the age of puberty should not be the only factor in determining the legal age of majority, but point to mental maturity, which is not reached between the ages of 9 and 15.

For Nazanin Afshin Jam, the main obstacle to any change remains the ultra conservative Council of Guardians which strongly opposes any reform in this direction. In addition to the opposition of radical Islamists recent events also suggest that Iran has no intention of bringing an end to the systematic abuse of human rights. On the contrary. Iran has recently rejected 45 of the recommendations made by the United Nations human rights council during the universal periodic review of Iran. Moreover, the widespread repression of the demonstrations which were held after the fraudulent presidential elections in June 2010 are an omen of increasing numbers of child executions in this country where 47% of the population is under the age of 18…

IN SUDAN, THE CONSTITUTION PROHIBITS THE DEATH PENALTY FOR JUVENILES, EXCEPT FOR CHILD SOLDIERS…

According to Ameir Mohamed Suliman, the coordinator of the legal programme of the African Centre for Peace and Justice Studies, the situation in Sudan is similar in terms of the application of the sharia, with two differences: the existence of the conflict in Darfur and the fact that the government respects the rules on the treatment of juveniles in the event of detention and trial. "In the face of international pressure, most children arrested following the attack on Khartoum on 10th May 2009 were quickly freed and integrated into rehabilitation programmes. Only some were accused of terrorism," Ameir Mohamed Suliman explains. Sudan is in fact party to the main international mechanisms relating to the protection of children. Article 27 of the Constitution incorporates international measures into domestic law while article 38 prohibits the death penalty for juveniles, except for child soldiers. Fifteen laws allow the death penalty as a punishment for the most serious crimes, including crimes of genocide and crimes against humanity. As in many countries, there are no official statistics available on the number of executions which are considered to be a state secret. "According to the African Union Commission, 52 people were on death row in 2005, while the United Nations' Special Rapporteur counted only 49." Some juveniles were reportedly executed on 28th January 2010, following the attack on Karthoum, others are awaiting execution.

The case of juveniles engaged in armed conflicts and facing the death penalty is a serious problem. Michel Monot, a delegate and representative of the International Fellowship of Reconciliation notes that many juvenile deserters are executed in Africa, sanctioned by Protocol 2 of the International Covenant on Civil Rights and Policies, which does not prohibit it.[23]

NO TO THE DEATH PENALTY FOR THE MENTALLY DISABLED!

Alongside the issue of the execution of juveniles under the age of 18 is that of the mentally disabled. The example of the United States here is interesting. In 2002 and then in 2005, the American Supreme Court declared the execution of mentally

disabled people and juveniles under the age of 18 to be contrary to the eighth amendment of the American constitution, prohibiting cruel and unusual punishments.

THE DEATH PENALTY FOR THE MENTALLY DISABLED IS IRRATIONAL

For James Welsh, the coordinator for health and human rights issues at Amnesty International, mental health issues are a major concern for humanity. According to the World Health Organisation, one quarter of families in the world is affected by mental disability. A stigmatising factor, one third of these mentally disabled people one day come up against the criminal justice system. While the main aim of a punishment is to punish criminal behaviour, it also has a resocialising and preventative function, says James Welsh. "With regard to people suffering from mental disorders, the rationality of the punishment fails. If a prisoner has a voice – which is just an illusion – in their head telling them to behave in such or such a way, do you really think that this person will be conscious of the consequence of their acts? If we execute prisoners who have acted impulsively, with no consideration of their behaviour, the execution will fail, totally, pathetically, miserably."

Offenders suffering from mental disorders have to face two major problems. On the one hand, "what should be considered as a mitigating circumstance – the disability – can become before the courts an aggravating circumstance. People don't want to see an uncontrollable person set free," James Welsh exclaims. On the other hand, judicial systems lack the resources to assess prisoners' mental health, or even do not allow it. He goes on to say, "There is a real ethical problem in the use of mental health to open or close the door of the execution chamber. Instead of focusing the debate on the inhumanity of the death penalty, it focuses on the fact of knowing if the person in question has an IQ of 68 or 75," 70 being the IQ threshold to determine mental retardation. In countries such as Japan, where the lack of transparency is blatant "even prosecutors do not have access to the medical records of the accused," continues James Welsh.

THE MEDICAL ESTABLISHMENT IS CALLING FOR THE PROHIBITION OF THE EXECUTION OF MENTALLY DISABLED PEOPLE IN THE UNITED STATES

"The battle for the unconstitutionality of executing mentally disabled people was led on a dual front, political and constitutional," explains James Ellis, a lawyer and president of the Association on Mental Retardation. The tactic? Campaigning in those federal states which are mainly in favour of the death penalty with the hope that the Supreme Court would decide to reconsider the question. In 2001, 18 states, including North Carolina, Arizona and Florida changed their law. In 2002, the American Supreme Court declared, in the affair of *Atkins vs. Virginia,* that the execution of mentally disabled people was contrary to the Eighth amendment of the American Constitution, prohibiting cruel and unusual punishments. According to James Ellis, the arguments were accepted by legislators because they were supported not by the abolitionist community but by mental health experts. "Separating the problem of the abolitionist effort, sometimes controversial, has enabled us to obtain the support of legislators in favour of the death penalty. It was crucial for guaranteeing our success." As paradoxical as it may seem, opinion polls carried out in the 1980s showed strong opposition among American citizens to the execution of the mentally disabled. According to James Ellis, "It is not the disability itself which led these people to death row. But, because of their disability…these people did not understand the charges against them, were allocated poor lawyers."

Invited in 1988 to declare its position on the constitutionality of the execution of mentally retarded people[24], the American Supreme Court stated that due to a lack of national consensus, the Constitution did not prohibit the execution of mentally disabled people. At that time only the state of Georgia had passed a law prohibiting the execution of the mentally disabled.

While the death penalty for mentally disabled people is today unconstitutional, the laws still need to be applied. "We are now engaged in a battle on a case by case basis for mentally disabled individuals, with prosecutors contesting the mental retardation. Case after case, the courts find excuses to refuse the exemption of the responsibility of mentally disabled people, which they have the right to thanks to our Constitution," continues James Ellis. The challenge now remains to prohibit the execution of people suffering from mental illnesses. As strange as it may seem, the first campaigns targeted mentally disabled people, relating to an intellectual deficiency, and not mental illnesses such as schizophrenia.

While pressure from civil society organisations, abolitionist governments and inter-governmental organisations must be maintained to bring an end to the execution of vulnerable people, hopes for a world

free of capital punishment are palpable. James Welsh declares: "Five years ago, I was not optimistic, but I am now. We are making progress and we are living in a great time, we must continue the work!"

RECOMMENDATIONS

> Call for the abolition of capital punishment, particularly for vulnerable groups, including women executed for adultery and children.

> Call for the reform of the justice system for juveniles in Iran, notably by the creation of ad hoc courts for juveniles, and the adoption of mechanisms to prevent the commission of crimes.

> Call for a programme to train judges on the reform of justice for juveniles.

> Call for the creation of a national system to protect and promote human rights in Iran.

> Call for penal reform in Sudan and a judicial aid system for juveniles.

Mental health: some definitions

Source: Hanging by a thread. Mental health and the death penalty in Japan, Amnesty International

MENTAL ILLNESS
Reasoning, mood or behaviour disorders which can impede a person's ability to behave rationally and in accordance with the law.

INTELLECTUAL DISABILITY (OR MENTAL RETARDATION)
State of a person whose mental capacities have not developed during childhood and adolescence and whose abilities to adapt to an independent life and decision-making are poorer than those of the average population.

MITIGATION OF RESPONSIBILITY
Legal expression referring to the opinion that a person suffering from mental disorders cannot be held responsible for an act to the same degree as a person in full possession of their mental faculties.

PERSONALITY DISORDERS (IN PARTICULAR, ANTISOCIAL OR BORDERLINE PERSONALITY)
This is not a mental disorder which can be treated with drugs or therapy, but a disorder or behaviour characterised by an inability to empathise and understand others and a disregard for social and legal conventions.

LAW ENFORCEMENT AUTHORITIES VERSUS DEFENCE OF OFFENDERS SENTENCED TO DEATH: A VIOLATION OF THE PRINCIPLE OF EQUALITY OF ARMS

par ***Shirley Pouget***

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"The death penalty is necessary for maintaining order and public security!" its supporters proclaim. Yet according to Elizabeth Zitrin, a lawyer in the United States and the international communications and mobilisation coordinator for the association Death Penalty Focus, an increasing number of studies tend to show the opposite. A number of university professors and law and order professionals agree that the death penalty exerts no deterrent effect and that its administration is discriminatory[25]. While the fight against crime is a priority, the death penalty has no contribution to make to this fight. Other tools prove more effective and far less costly in maintaining public order. It was essential as part of this 4th World Congress Against the Death Penalty to offer a platform to those responsible for executing laws – police officers, judges or prosecutors – opposed to the application of the death penalty.

FOR MANY POLITICAL, LEGAL AND POLICE AUTHORITIES, THE DEATH PENALTY IS THE MEANS OF MAINTAINING PUBLIC ORDER

IN THE DRC, THE DEATH PENALTY IS JUST THE SIGN A OF FIRM RESOLVE TO FIGHT CRIME

While, in 1999, the Democratic Republic of Congo was among the worst offending countries in terms of executions, ten years later mention of the death penalty had been removed from the constitution. The new Constitution of 2006, without formally abolishing the death penalty, no longer makes reference to it. However, the sentence is still handed down by civil as well as military courts, leaving thousands of prisoners on death row. In fact, the status of the death penalty in the DRC could not be more ambiguous. Professor Akele, president of the military High Court and adviser to the justice ministry states, "There is a contradiction between the theoretical situation, whereby the death penalty has been abolished, and practice, with courts still imposing it." According to him, the public authorities are incapable of conceiving that public order can be main-

tained without the death penalty. While the Justice Ministry calls for "responsible abolition" in stages in order to maintain public order, the abolitionist solution remains unthinkable for the military justice authorities. Therefore, neither side dares to officially cut the umbilical cord. "It really feels as if the debate is descending into a game of table tennis," says Pierre Akele.

The reflection of a system of powers and practices typical of the DRC, the death penalty has above all a political function. The professor quotes Robert Badinter: "Cutting off somebody's head, however rarely, means demonstrating publicly that the authorities are ready to take extreme action when it comes to defending the community." The public, police and judicial authorities like to use their right to take a hard line, in the name of the law which they are responsible for executing. Beyond the political function, the death penalty is a means of avoiding other crucial debates, notably that of the alarming prison situation, the overpopulation and atrocious conditions.

"Far from being a means of scaring criminals, the death penalty is just the sign of a determination to fight crime. It thereby enables authorities to conceal from the public the absence of any policy which would attack the very sources of crime. It is the handy alibi of powerlessness, a hateful substitute for action," declares Professor Akele.

IN CALIFORNIA, POLICE AUTHORITIES STRONGLY OPPOSE REFORMS AIMING TO IMPROVE THE ADMINISTRATION OF THE DEATH PENALTY

In California, as in many other American states, the death penalty remains a punishment which can be and indeed is applied. Here like elsewhere, it has wide support from politicians and their electorate. John Van de Kamp, as the former Attorney General of California and Los Angeles district attorney, had to apply the law of his state even though he was personally opposed to the death penalty. His observation is hardly encouraging. "The police and judicial authorities follow public opinion," he explains. From imprisonment to the death penalty, sheriffs, police officers or prosecutors support a hard-line policy with regard to murderers and rapists. Proposed reforms to improve the system of administration of the death penalty are systematically rejected. As were the recommendations of the Commission, headed by John Van de Kamp, charged with studying all aspects of judicial administration. While the Commission recommended retaining the death penalty in 2008, it also recommended reforms aimed at speeding up the process – prisoners spend on average twenty-five years on death row before being executed – as well as measures to avoid judicial errors. All the proposals for reform were blocked by the authorities responsible for maintaining public order, every single one! According to John Van de Kamp we will not achieve abolition by appealing to the police or judicial authorities. We have to convince public opinion.

FACED WITH THE SUFFERING OF VICTIMS' FAMILIES, POLICE AUTHORITIES CAN CHANGE THEIR MIND.

In favour of the death penalty before his nomination as a member of the commission leading the study into the death penalty in New Jersey, James Abbott, chief of police in New Jersey in the United States, would never have imagined that he would one day end up supporting abolition. The personal accounts of the families of murder victims opened his eyes to the horror of the capital punishment system. "I have no sympathy for murderers! My sympathy lies with the families, the victims; it is they who changed my mind on the death penalty," he states. He goes on to say, "At the Commission, I heard these families' stories, one after the other. Their tears of suffering devastated me. The victims, who supported the death penalty at the time of the murder of their loved one, suffered so much during the whole process that they ended up changing their mind. They begged us to recommend life imprisonment." While James Abbott favours a hard-line policy on crime and tough punishments, what used to appear to him as good in theory – the death penalty – proved to be a failure in practice. Not without reason: the judicial process in capital punishment cases is interminable. The period between the sentencing through to the execution can run to many years, the wait is unbearable and, in the end the offender is not executed. For while the death penalty has existed for twenty-four years in New Jersey, no executions have taken place since 1963. No American state has yet found a way of applying the death penalty quickly, economically and fairly. "It takes years and millions of dollars to implement an execution!" The Commission dismissed the argument of the deterrent effect. The study demonstrated that on the contrary, in southern states where most of the executions in the United States take place, the crime rate, particularly regarding offences against on duty police officers, is one of the highest in the country. Following the Commission's recommendations, the state of New Jersey abolished the death penalty in 2007, the first American state to vote for abolition since 1956.

OTHER TOOLS TO FIGHT AGAINST CRIME HAVE PROVED TO BE EFFECTIVE

From the 1960s to 1980s Italy went through an unprecedented period of crime. Neo fascist groups opposed left-wing terrorist groups, notably the Red Brigades, responsible for numerous attacks costing human lives. In the face of the terrorist threat, "the first reaction was on a security level," recounts Vito Monetti, deputy general counsel at the Italian supreme court of appeal. The use of the death penalty was therefore evoked as the ultimate means of curbing organised crime. However, this was not the solution chosen by politicians, who instead bravely opted for penal measures suited to repressing the crime. How? By improving the tools available to investigators through a reform of penal procedures. "Reinforcing and widening communications and conversation surveillance; the introduction of mitigating circumstances for people agreeing to collaborate with the police and tougher prison sentences," Vito Monetti explains. These measures brought an end to right-wing terrorist activities. Left-wing terrorism continued into the 1990s and still remains under surveillance today. For Vito Monetti, the government's reaction to terrorism used the penal process whilst respecting procedural safeguards and human rights.

According to Professor Akele, the abolition of the death penalty goes hand in hand with a reform of the penal system in the DRC. "The fight [against crime] is about neither repression, nor reparation, but rather the prevention of crime."
James Abbott is in favour of replacing the death penalty by life imprisonment without parole in a high security prison. This punishment is tough and guarantees public safety. It also helps to prevent ethnic and social discrimination in the application of the sentence as well as the risk of an irreversible judicial error. Finally, it gives priority to the victims' families. "Life in prison with no possibility of release is the best alternative."

John Van De Kamp agrees. He says, "If the death penalty is abandoned in favour of life imprisonment without parole, it would save $125 million a year. Over five years, we would save $1 billion. The money saved should be used to carry out DNA analyses in order to solve crimes and provide support for the reparation of victims. Moreover, there should be "a possibility of redemption." It is essential to use the argument of the cost of the death penalty to convince public opinion of its ineffectiveness, its dysfunction and its cruelty.

Elisabeth Zitrin concludes with these words, "The death penalty does not fulfil any public security aims. On the contrary, public security requires abolition, so that the resources can be used for other purposes."

Focus on the New Jersey Death Penalty Study Commission

The New Jersey Death Penalty Study was created in 2006 by the New Jersey parliament. The Commission's final report, published 2nd January 2007, recommended the abolition of the death penalty and its replacement by life imprisonment without parole. The legislature abolished the death penalty on 17th December 2007.

A QUALITY DEFENCE FOR DEATH PENALTY CASES: A QUESTION OF LIFE OR DEATH

par ***Shirley Pouget***

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In cases involving the death penalty, the quality of the defence is a question of life or death. According to Richard Sédillot, a lawyer and ECPM administrator, "The lawyer is an essential player in abolition. The last line of defence against the application of the death sentence, for me the lawyer is the front-line soldier in the army of abolitionists." From the United States to Japan to Uganda, the defence of death row inmates is inadequate; this is the heart of the problem. Firstly, many poor people facing trial do not have access to competent and experienced lawyers to defend their case, due to a lack of efficient legal aid systems. Moreover, the lawyers of death row inmates, very often exposed or threatened, do not have sufficient resources to provide a quality defence. Governments frequently refuse to allocate the necessary budget when it is a question of defending criminals, often for political opportunity. Through systematic violations of the principle of equal opportunities, defence teams are vulnerable in the face of all-powerful prosecutors. According to Richard Sédillot, only solidarity between lawyers, bar associations and NGOs can compensate for these insufficiencies. "To carry out the fight against the death penalty we must implement this solidarity."

WHY IS THE DEFENCE OF DEATH ROW INMATES INADEQUATE?

The fate of too many death row inmates depends solely on their financial ability to recruit a good lawyer. The poor defendant has in all probability every chance of seeing the threat of a death sentence and an execution being fulfilled. According to Robin Maher, director of the Death Penalty Project of the American Bar Association (ABA), "Our defence system does not work for poor people."

LACK OF FUNDS FOR THE DEFENCE OF DEATH ROW INMATES

While international law[26] obliges governments to finance legal aid systems, many are not inclined to finance the defence of offenders in cases punishable by the death penalty.

According to Parvais Jabbar, co-director of the Death Penalty Project in the United Kingdom, a number of institutional obstacles hinder lawyers in carrying out their functions. In Caribbean countries, the principle of equality of arms is very often violated. Firstly, legal aid is limited. "There are no constitutional guarantees that it can be relied on," explains Parvais Jabbar. Furthermore, it is often up to lawyers to pay various experts to testify for the defence.

"The defence of prisoners sentenced to death has a cost, particularly in common law countries where the investigation is the basis of any defence activity," says Maiko Tagusari, secretary-general of the Centre for Prisoners' Rights in Japan. The gathering of exculpatory evidence or the use of medical experts to find mitigating circumstances are absolutely essential for a quality defence. In Japan, the defence teams in cases involving the death penalty are generally limited to three court-appointed lawyers. No financial aid is available to carry out the investigations necessary for an effective representation of death row inmates. In addition to the lack of resources there is also the time factor. The time between the pressing of charges and the trial is relatively short. Defence lawyers often spend their time negotiating access to the evidence gathered by the prosecution teams and consequently are unable to devote themselves fully to the inquiries and counter-inquiries. "Without an inquiry, it is virtually impossible to convince lay judges in the face of arguments charged with the experience and strong emotions conveyed by the victims," continues Maiko Tagusari.

Robin Maher adds, "The account of a nightmare childhood, physical or sexual abuse (…) or of situations of extreme poverty are all circumstances which can lift the threat of a death sentence." In the United States, even the best lawyers are unable to be effective if they do not have the necessary resources. The amount of fees allocated to court-appointed lawyers is often derisory. A typical violation of the principle of equality of arms! Prosecutors generally have four to five times the resources of the defence teams. According to Robin Maher, defence lawyers simply do not have the means they need to be able to do their work.

IT IS UNPOPULAR TO ALLOCATE PUBLIC FUNDS TO THE DEFENCE OF DEATH ROW INMATES

From the United States to Japan and across the English speaking Caribbean, the death penalty is obviously a political issue. In the United States, it is the judges who nominate the court-appointed lawyers and decide on the funds available to the defence of death row prisoners. In countries where public opinion is in favour of the death penalty, it is unpopular to allocate public funds to the defence of criminals. "Judges and legislators campaign on the repression of crimes to ensure they are re-elected. It is the same in the English-speaking Caribbean, where politicians very often impede the work of lawyers," explains Parvais Jabbar. The consequences are damning: the good lawyers will prefer to take on other cases rather than defend poor death row inmates, the fate of those sentenced to death ends up in the hands of inexperienced and untrained lawyers.

THE FATE OF DEATH ROW INMATES IN THE HANDS OF UNTRAINED AND INEXPERIENCED LAWYERS

In the United States, a number of public defenders or court-appointed lawyers are simply not trained in the specificities of defending people facing the death penalty. Not only do governments systematically fail to put in place real standards of qualification for defence counsels, they often show themselves to be incapable of preventing negligent lawyers from representing their clients. In the Caribbean, lawyers who represent death row prisoners are often beginners. "The problems of the defence in the Caribbean are linked to inadequacies in lawyers' training," explains Parvais Jabbar. In Uganda, while the Constitution guarantees the right to effective legal representation, the reality is very different. According to Caroline Muchuma, a legal adviser for the Right to Life project at the Foundation for Human Rights Initiative, "Lawyers lack motivation and commitment. Underpaid and undertrained, many do not invest themselves in death penalty cases as such cases do not give them enough in return."

SOLIDARITY IN ACTION: HOW CAN THE DEFENCE IN DEATH ROW CASES BE SUPPORTED? EXAMPLES OF GOOD PRACTICES

According to Richard Sédillot, it is essential to consider the defence of death row inmates in terms of solidarity, as the example of the International Observatory for Lawyers, created on the initiative of the national councils of French, Italian and Spanish bar associations, demonstrates. The aim of the Observatory is to identify lawyers encountering difficulties in exercising their profession and to offer them support. For the ECPM administrator, it is regrettable that so few bar associations are present in Geneva. Bar associations are essential to this solidarity.

IN THE UNITED STATES, PRO BONO LAWYERS DEVOTE TENS OF THOUSANDS OF HOURS AND SOMETIMES HUNDREDS OF THOUSANDS OF DOLLARS TO THE DEFENCE OF PRISONERS ON DEATH ROW

In addition to the publication of a series of guidelines aimed at lawyers involved in the defence of death row prisoners and governments, the ABA (American Bar Association) has trained hundreds of pro bono lawyers in charge of cases incurring the death penalty. To offset the injustices of the system, the ABA appeals for solidarity by calling on large law practices to support the defence of death row inmates free of charge. "These pro bono lawyers devote tens of thousands of hours and sometimes hundreds of thousands of dollars to the free defence of death penalty cases. It is not uncommon that the outcome of the trial changes when good lawyers have the necessary resources, when key witnesses are identified, crucial information gathered, evidence analysed and checked, competent experts recruited to testify." However, according to Robin Maher, pro bono lawyers are not the right solution. Judges and prosecutors do not work for free, so why should lawyers? It is up to the government to assume responsibility for the defence of death row prisoners.

IN INDIA, LAWYERS ARE ACTING IN FAVOUR OF PRISONERS' RIGHTS

In India, many prisoners on death row are confined in isolation cells often for years and desperately await clemency from the Indian President.

A law effectively allows prisoners who have exhausted all other avenues of recourse to call for the President's pardon. In practice, however, Indian presidents avoid using this power. The consequences are dramatic. Forty-eight of the 200 prisoners on death row have been waiting for their execution for an average of seven years. However, some lawyers are fighting for the recognition of and improvement in the rights of death row inmates. Such is the case of the lawyer Navkiran Singh, Secretary-General of Human Rights International, who has campaigned for the cause of many of these prisoners by petitioning the Supreme Court in order to obtain improved living conditions and the commutation of death sentences to life imprisonment. "My petition resulted in the transfer of 14 prisoners in the State of Punjab to ordinary prisoners' quarters, thereby enabling them to escape their situation of extreme isolation and benefit from the same conditions as other prisoners."

NGOS COMPENSATING FOR GOVERNMENTS' INADEQUACIES

From the Death Penalty Project to the Foundation for Human Rights Initiative (FHRI) in Uganda, numerous NGOs make up for Governments' inadequacies by providing support and legal representation to prisoners sentenced to death.

In the English-speaking Caribbean, as well as providing legal representation to death row prisoners during appeals, the Death Penalty Project gathers information, highlights judicial errors and informs itself on all aspects of the death penalty in order to restrict the scope of its application. The organisation's work focuses on the institutional flaws of the judicial system in some Commonwealth countries. Parvais Jabbar's organisation has for example ensured that the death penalty is not mandatory for certain crimes.

As for the FHRI, the organisation works, with the support of the Death Penalty Project, to ensure that defendants are adequately represented, that mitigating circumstances are taken into account and that death sentences are commuted after three years spent on death row. "The supreme judge in Uganda is personally against the death penalty but abolition will be difficult as politicians are generally in favour, as well as the courts, especially military courts," concludes Caroline Muchuma.

RECOMMENDATIONS

> **Call for the development of international, regional and local networks of lawyers to defend death row inmates. The networks would be able to provide assistance to lawyers in difficulty, to pool good practices through training sessions.**

> **Call for the creation of funds for the defence of death row inmates within bar associations, essential for the defence of prisoners sentenced to death, notably in Japan.**

Reform of the criminal procedure in Japan: victims on the prosecutor's side

Japanese lawyers encounter two main difficulties. Firstly, in 2008 Japan introduced a new system whereby victims participate in the criminal procedure, they are party to the proceedings. Victims are able to question the defendant and witnesses and call for the sentence they wish to see imposed, including the death penalty. Secondly, a system of lay judges was introduced in May 2009, whereby the decision to uphold or quash charges and sentences is taken by a panel made up of six lay judges and three professional judges. In cases punishable by the death sentence, the defendant must be judged by juries made up of lay judges (see FIDH report of October 2008). The stated aim of this law is to enable the Japanese population to have a better understanding of the judicial system and to increase public confidence in justice.

ACKNOWLEDGING AND PROVIDING REPARATION FOR THE LOSS SUFFERED BY VICTIMS: A QUESTION OF PRIORITY FOR ABOLITIONISTS

par ***Shirley Pouget***

ORGANISER
International Federation of Human Rights Leagues

CHAIRPERSON
Florence Bellivier, General Secretary, FIDH

INTERVENANTS
Sari Nusseibeh, President, Al-Quds University of Jerusalem
Renny Cushing, Executive Director, Murder Victims' Families for Human Rights, United States
Toshi Kasama, photo-journalist, Japan
Guissou Jahangiri, Armanshar Foundation, Afghanistan
Mariana Pena, permanent representative of the ICC, Netherlands

Responding to violence through violence has never been an appropriate penal response to the need to appease victims and society. On the contrary. For Florence Bellivier, the secretary general of the FIDH and the chairperson of the roundtable, considering the death penalty calls for a reflection on the phenomenon of violence. "While the death sentence can claim a legal premise, being as it is not prohibited by international law, it is nevertheless an abuse of the right to punish and in turn creates its own direct and indirect victims." It is not possible to debate universal abolition without tackling the issue of the victims of the system of the death penalty. This roundtable seeks to understand why it is necessary to consider the victims in the abolition debate and to explain the mechanisms by which the victims can obtain satisfaction, without resorting to the death penalty.

MANY VICTIMS SAY NO TO THE DEATH PENALTY, PUBLICLY OR PRIVATELY!

IN THE UNITED STATES THE VOICES OF THE FAMILIES OF MURDER VICTIMS CARRY CONSIDERABLE WEIGHT WITH THE DECISION MAKERS

"The district attorney assured me that the execution of the man responsible for my daughter's murder would help me heal, and for many years I believed him. But now I know that having someone murdered by the government will not give me what I need." says an American mother, a member of the organisation Murder Victims' Families for Human Rights (MVFHR). Contrary to what we may think, many families of murder victims oppose the death penalty. Personal, political or religious, the reasons are varied. Thanks to the work of MVFHR, the voice of the victims' families is heard by a diverse audience, including legislators, lawyers and students. For Renny Cushing, the organisation's Executive Director, their personal accounts make a real difference when the decision makers debate abolition. However, it is not uncommon for these families to

be subjected to discrimination. Some are denied access to information relating to the legal proceedings, other are refused their right to expression. Discrimination with regard to victims' families opposed to the death penalty has led Renny Cushing to plead for the equal treatment of murder victims, whatever their position on the death penalty.

IN JAPAN IT IS NOT SOCIALLY ACCEPTABLE TO PUBLICLY OPPOSE THE DEATH PENALTY

The American example is far from being an isolated case. In Japan, while 85% of the population remains in favour of the death penalty, some victims' families have tried to oppose it. In vain. According to Toshi Kazama, a photo journalist, it is very difficult to fight against the death penalty in a society such as the Japanese society, every member of which has to act according to what is collectively expected. Japanese society expects victims to hate the perpetrator of their crime, hate which is "necessary" for justifying the application of the death penalty. It is not socially acceptable to be opposed to the execution of those responsible for a crime and even less so to assert it publicly. The example of Masaharu Harada, the founder of Ocean – a member organisation of Murder Victims' Families for Human Rights – speaks for itself. He was stigmatised and rejected by his family and friends and his house was vandalised after he spoke out against an execution. Toshi Kazama has met many victims' families who are personally against the death penalty, but who will only express their beliefs in private.

THE VICTIMS WHO SAY YES TO THE DEATH PENALTY...

While some victims' families oppose the state crime of the death penalty, a context of war or impunity, religious or cultural reasons or the non-recognition of victims' needs lead many families to support the execution of their murderer. Such is the case in Palestine and in Afghanistan.

IN PALESTINE, EXECUTIONS ARE OFTEN THE RESULT OF PUBLIC PRESSURE

In Palestine, 14 executions out of 76 death sentences have taken place since 1993, the date of the creation of the Palestinian Authority (PA). According to the report on the death penalty published in 1999 by the Independent Palestinian Commission for Human Rights, executions are very often the result of public pressure. While religion and the Palestinian tribal culture are elements which explain support for the death penalty, security problems inherent to the Palestinian context widely contribute to its retention. The cases where the death penalty is used concern mainly paramilitary officers accused of crimes against the civil population. According to Sari Nusseibeh, president of Al-Quds University of Jerusalem and director of the Israeli-Palestinian Science Organisation, the Palestinian Authority uses the death penalty to appease the population and to prevent acts of revenge by the victims' families. In this context, human rights activists target the legal aspect, rather than campaigning for the right to life. For his part, Sari Nusseibeh denounces the ineffectiveness of the security argument. In a context of tribal culture, and with a small population, conflicts are traditionally resolved within a paralegal system - between families. The factors of social cohesion which underpin Palestinian society still result in the "socialisation" or the "generalisation" of an offence, and the establishment of compensation paid by the offender's community to the victim's community. Thereby the reaction of the Palestinian Authority which resorts to the death penalty imposed by the military courts makes it impossible to resolve this social dysfunction. On the contrary, other mechanisms would allow victims to obtain a certain level of satisfaction, from the repentance of the offender to a public pardon or reconciliation schemes between families, including moral and financial compensation.

IN AFGHANISTAN IMPUNITY IS A FACTOR IN THE SUPPORT OF THE DEATH PENALTY

Whether it is a question of common law murders or mass crimes, the fight against impunity is essential for the reconstruction of the victims. In the context of a country at war like Afghanistan, where impunity is rife, where many players use force and where all Afghans see themselves as victims, it seems futile and unrealistic to launch a campaign against the death penalty. However, the question of recognition and reparation for victims arises. The Action Plan for Peace, Reconciliation and Justice in Afghanistan, known under the name of "Action Plan for Transitional Justice" was launched in December 2005, mainly in order to acknowledge the suffering of the Afghan people and to establish the judicial mechanisms applicable to the perpetrators of war crimes. The reconciliation process resulted in a law granting amnesty to war criminals, which led to a feeling of impunity, revenge and collective punishment. For Guissoi Jahangri, a founder member of the Armanshar Foundation, talking of transitional justice in a context of total impunity is nonsensical. "In Afghanistan, more than 75% people questioned ask to be recognised as victims. A judicial process is necessary and it must not be

reduced to a symbolic gesture. In order to heal we need a collective memory. Without this investment, history runs the risk of repeating itself in the very near future." In this context it is unfortunately difficult to tackle the issue of the death penalty.

ABOLITION INVOLVES RECOGNITION AND REPARATION FOR THE VICTIMS

The victims are essential to the debate on abolition, says Renny Cushing, whose father was murdered. It is they who, by rising above the ignominy of the death penalty, can influence the decision makers and public opinion. It is therefore essential to work with and for the victims. According to Renny Cushing, "The abolition of the death penalty and meeting the needs of murder victims' families go hand in hand". He believes that working on the level of the victims involves taking into account two concepts of human rights - the fight against impunity and the right to reparation.

VICTIMS HAVE RIGHTS...

Renny Cushing cites the example of his mother after her husband's murder: "A few weeks after my father's murder, my mother received the bill from the funeral director. When she opened it, she said, 'I can't believe I have to pay for my husband's murder.' It was not a question of money, it was just the idea that someone could send a bill to a widow who had witnessed her husband's murder. I realised (…) that there was not enough awareness of the victims' needs or their experience following a murder and the impact that certain actions could have."

Victims' rights have significantly developed over recent decades, explains Mariana Pena, a permanent representative of the FIDH at the International Criminal Court (ICC). While so-called common law countries do not traditionally recognise any role for victims in the penal process, some countries of Romano-Germanic tradition, such as France and Spain, have supported the development of victims' rights in international law. The right to participate in the proceedings, the right to support and protection, the right to reparation and the right to legal representation are just some of the mechanisms allowed for by the Rome Statute of 1998 establishing the International Criminal Court and which can contribute to the psychological rehabilitation of victims and the healing process. For Maria Pena, participation and mechanisms such as reparation cannot remove the suffering and the loss felt by victims but can contribute to a certain level of satisfaction, and allow them some healing. "Despite the pain and the psychological difficulty of this process, it is a means of acknowledging the suffering and of taking part in the rehabilitation and healing," the FIDH representative explains. The participation of victims in proceedings is essential. It enables victims to exert their right to the truth and to see their suffering acknowledged. Involvement in a trial is however a painful process for victims which must be accompanied by psycho-social support, either in the framework of state-financed programmes or in that of projects organised by NGOs. In addition to the right to take part in proceedings, reparation constitutes another way of acknowledging the suffering of the victim and enabling him/her to obtain some satisfaction. According to Mariana Pena, it is essential to call for the death penalty to be replaced by legislation which is more favourable to the rights of victims, notably by consolidating or extending the right to participation.

RECOMMENDATIONS

> **Afghanistan: call for an immediate moratorium on executions**

> **Call for the abolition of bilateral immunity agreements, made notably with the United States**

> **Call to European countries not to sacrifice justice for strategic interests**

> **In Palestine, the community approach to the resolution of conflicts must be favoured, notably through reconciliation schemes between families, including moral and financial compensation.**

The death penalty in the Palestinian territories

FACTS AND FIGURES
> Since 1993, 76 death sentences, with 14 executions
> In 2008: 13 death sentences by military courts
> In 2009: 17 death sentences by military courts

TEXTS IN FORCE
The law in force is derived from pre-existing Jordanian and Egyptian legal systems.

THREE PENAL CODES ARE IN FORCE
Penal Code of Jordan (16/1960) which identifies 16 crimes punishable by the death penalty;
Mandatory penal code (74 /1936), complemented by Order 550 of the General Governor of Egypt;
Revolutionary penal code which identifies 42 crimes punishable by the death penalty.

The Palestinian Authority has voluntarily retained the application of the death penalty despite the Order by the Israeli Military Governor in 1967 to commute death sentences to life imprisonment.

ON THE ROAD TO ABOLITION...?
A new Penal code project is currently awaiting adoption. While not abolishing the death penalty, its application would, according to its supporters, be more difficult (judgement passed by consensus by a civil court made up of three people)

A HANDBOOK OF ABOLITION: EXCHANGE OF GOOD PRACTICES

As the very essence of the World Congresses Against the Death Penalty is to enable abolitionists around the whole world to gather together and exchange their experiences, the objective of this handbook is to provide civil society the tools required for its day-to-day fight. This was the objective of the nine workshops of the Geneva Congress. Participants' contributions were used to highlight good practices, arguments, strategies and tools, all of which was then put together to form an Abolition Handbook.

Convincing public opinion

Civil society: educate on abolition
by *Emmanuel Maistre,* secretary general, ECPM
Close-up: The weight of the image: putting faces to the names of death row inmates

Victims of the capital punishment system: tell your story
by *Shirley Pouget*

An insight into the religious argument: When religions advocate abolition... campaigning through forgiveness
by *Gwendoline Aboujaoudé*, doctoral student

Tool: use the power of the internet to increase mobilisation - the next 100 million abolitionists will join us by internet
by *Thomas Hubert*, journalist

Convincing your decision-makers to vote for abolition

Define your strategy and identify key people
by *Shirley Pouget*
Close-up on a strategy: moratorium following pressure from the Taiwan Alliance to End the Death Penalty

Form national coalitions and join regional networks and the World Coalition
by *Aurélie Plaçais*, campaigns manager, World Coalition Against the Death Penalty

Promoting abolition through research and academic collaboration
by *Gwendoline Abou-Jaoudé*, doctoral candidate

Work with target groups: judges and members of parliament
by *Shirley Pouget*,

Form a partnership with the european union and finance your projects through the EIDHR
by *Céline Bretel*, in charge of the Death row inmate space, ECPM

Convincing public opinion

From the United States to Japan, from the Arab world to China, public opinion remains the main argument used by retentionist governments to justify maintaining the application of the death penalty. In 2010, public opinion remains still largely in favour of its retention in many countries. However, by using abolitionist education, the personal testimonies of victims' families, and the stance of religious leaders, it is possible to convince public opinion of the ineffectiveness and the cruelty of the death penalty. Arguments, tools and experiences.

Art installation from Kristoff / Sandrine Ageorges Skinner and Renny Custing during the words of victims'evening

CIVIL SOCIETY: EDUCATE PUBLIC OPINION ON ABOLITION

by *Emmanuel Maistre*
secretary-general, ECPM[27]

Raising awareness and educating public opinion on the ineffectiveness and cruelty of the death penalty is a major strategic challenge for the whole abolitionist community across the world. Today, everyone agrees that exchanging educational strategies and sharing existing tools on a global scale is as important as constructing international mobilisation and lobbying strategies.

"If we don't win the battle of public opinion, if we don't manage to find ways of mobilising people's consciences, then very few things will be possible, despite the work of politicians and diplomats." According to Jean-Pierre Dubois, president of the Human Rights League – LDH – (France), we need to educate not only the younger generation but all citizens. In fact, educating on human rights goes far beyond the strict notion of education such as it may be understood in an academic context, for equally important is the pressing need to raise awareness among the whole population. "And to do this, associations, civil society and citizens all have a role to play," insists the LDH president.

TRAINING OURSELVES TO EFFECTIVELY CONVINCE ADVOCATES OF THE DEATH PENALTY

According to Action by Christians for the Abolition of Torture (ACAT), the duty to raise awareness is the very essence of the association which was created originally to educate Christians to campaign against torture. *"With regard to abolitionist education, we must hear (and not just listen to) partisans of the death penalty. For this we must become conscious of the worries, customs, the influence of traditions, of all those circumstances which lead people to demand the application of a punishment considered as barbaric and archaic,"* explains Bernadette Forhan, Death Penalty Manager for ACAT France. With this aim in mind, the association has put in place training sessions for adults on the theme of dialogue with supporters of the death penalty. *"These sessions always start with work on listening skills. Behind the words spoken by a person, what is really being expressed? What fear? What anxiety? What suffering? What lack of answers to a previous question?"* Once the problem is identified, we need to respond through information on the current situation, the reasons for death sentences. The cases of China or Iran are good examples. When young people (as well as older people) are questioned on the grounds for imposing the death sentence, they all reply "when someone kills someone else". In fact, in China murder is only the 1st of 68 grounds for the death penalty. Most people laugh when tax fraud is mentioned. There is therefore a lot of work to be done on informing people. "We must be capable of answering young people's questions, as well as those of older people, and for this we ourselves need to be informed and trained, with the right tools at our disposal," says the policy manager.

TO EDUCATE: STIRRING UP EMOTION BY REVEALING THE REALITY OF THE DEATH PENALTY DE LA PEINE CAPITALE

In practice, one of the main difficulties of abolition education lies in the ability of a supporter of the death penalty to hear a rational argument. The death penalty is a subject which very quickly becomes emotionally charged. Thereby, the use of the death penalty is often evoked as a punishment for particularly hateful crimes. Any abolitionist having debated in the street (or with friends) will have certainly heard someone say that they "are abolitionist except when it comes to paedophiles", for example. It is therefore essential we also know how to position ourselves on an emotional level. Using "emotion as an entry point" to the development of a rational discourse based on information and the demonstration of the absurdity of the ultimate punishment. "It is necessary to link it to the real world, turn it into a real experience. It is a question of organisation and method, the important thing being not to remain in a purely rational discourse, as partisans of the death penalty focus on the emotional, affective side, it is the reaction of Talion law," confirms Jean-Pierre Dubois.

In its programme developed within secondary schools in the Ile de France region, the association *Ensemble contre la peine de mort* (ECPM) strives thereby to get students to experience the reality of the application of the death penalty and the consequences of its application. "Firstly we like to raise awareness about human situations, to allow stories to speak for themselves, the living conditions for example. The aim is to get the students thinking. The basis of the development of all our educational tools is the idea that we do not want to impose a vision, but encourage reflection, the best means of convincing young people, and older people too," explains Charlotte Dargent, in charge of the ECPM project Educating on Abolition. The pro-

gramme thereby consists in presenting elements of general information showing the international reality of the application of the death penalty and to invite a speaker (a victim, former death row inmate, lawyer, etc.) who can testify first hand to the reality of the torture of the ultimate punishment. "These school visits are backed up by tools such as *Abolition Journals,* maps of the world comparing abolitionist countries in 1980 and 2010, documentary videos, audio accounts, etc. The speakers can thereby use the tools with the students and provoke discussion, debate or reflection," says the ECPM project leader.

"We must not hesitate either, with young people, to use American TV series which they like as references. In real life things are different. In "CSI: Crime Scene Investigation" there is never an innocent prisoner on death row," adds Bernadette Forhan, a former teacher, who has been visiting schools as part of the programme for years.

GENERALISING EDUCATION ON ABOLITION

While educational expertise resulting from the experience of various associations across the world on the subject is well-developed, it is now necessary, essential even, to find solutions on a local as well as on an international level to amplify abolition education. Thereby, going into classrooms or speaking at conference fringe events remains limited to the action capabilities of associations and their members.

It is more necessary than ever to find ways of integrating the issue of the death penalty into school programmes and involving teachers in this work. In France, abolition of the death penalty is the subject of an article of the constitution which means it can be studied in civic, legal and social education lessons. However, the theme can also be discussed in literature, foreign language, history or philosophy classes. ECPM is in fact developing modules for such use aimed at teachers.

It is necessary to make abolition education tools accessible to schools, to make them widely available to libraries, to raise awareness from school to school thanks notably to the action of volunteer liaison teachers. In France, on a more institutional level, it is essential, both to construct partnerships with the regional and departmental councils and education authorities as well as to work with school text book publishers to encourage them to cover the theme of the death penalty (history, philosophy, literature text books, etc.).

It is essential to unite educational forces across the world. A website offering access to the educational tools created by each association (pedagogical kit of the World Coalition, tools for the World Day organised by the World Coalition, ACAT newsletter, ECPM educational modules, newsletters) would thereby boost the strength of each player working on a local level.

Finally, one of the most efficient solutions of Educating on abolition would be (or will be) to mobilise young people in favour of abolition using the example of Kids Against the Death Penalty. Who can reach out to young people better than young people themselves? On which point the Thai abolitionist Wen-Yu Weng insists, "We must trust young people, not by pounding them with speeches, but by making them think, and by encouraging them to create associations of young people against the death penalty!"

PROPOSALS

- **To work on integrating the issue of the death penalty into official programmes;**
- **To mobilise school liaison officers.**
- **To create a website pooling abolition education tools.**
- **To encourage the creation of associations of young people against the death penalty.**

Tool: the impact of the image, humanising death row inmates

In the collective psyche, death row inmates are hateful, heartless and soulless criminals. They do not have parents, brothers or sisters; they don't feel pain. According to Piers Bannister from Amnesty International, it is the syndrome according to which we only kill monsters. "As soon as you humanise death row prisoners, it becomes a lot more difficult to kill." Images bear considerable weight in convincing public opinion.

Toshi Kazama, a photographer and delegate agrees. "In Japan, images really touch people and help to convey messages. I photographed 20 young prisoners on death row in the United States, execution chambers and the families of prisoners and victims. My pictures struck a chord with the Japanese."

For Hsin-yi Lin, the president of the Taiwan Alliance to End the Death Penalty, films on the death penalty are a tool which are not only useful but also highly effective.

VICTIMS OF THE DEATH PENALTY SYSTEM: TELL YOUR STORY[28]

by *Shirley Pouget*

Contrary to popular belief, many victims' families are opposed to the death penalty. While it is inacceptable to publicly declare one's opposition to the killing of a criminal in Japan, in the United States victims' families are essential to the abolition debate[29]. For according to Dave Lindorff, an investigative journalist, the United States remains a violent country, where justice does not exist for minorities. In a context where the American population believes in vengeance, where liberals or reformers are systematically excluded from juries, the death penalty is just an instrument of injustice in the hands of the authorities.

REACHING THE PUBLIC AND CONVINCING IT TO CHANGE ITS MIND

In 1985, Bill Pelke was vehemently opposed to the death penalty, despite the fact that his grandmother had been murdered by a group of teenagers then aged 16. Some years later, he undertook a fierce battle to save the group's ringleader Paula Cooper, who was sentenced to death. Her life was saved. Bill Pelke saved her life.

He then founded an organisation of murder victims' families opposed to the death penalty - The Journey of Hope...from Violence to Healing. Its aim was to convince the American public of the cruelty of the death penalty by allowing victims of the system - murder victims' families, families of those sentenced to death and former death row inmates - to tell their story.

"We organise conference tours in the United States and across the world to talk about how we moved from violence to reconciliation. We explain that the death penalty does not contribute at all to the healing of the loss of a loved one who has been murdered," explains Bill Pelke.

To convince public opinion of the ineffectiveness and the cruelty of this punishment, victims' families tell their own stories. "People listen to our stories. (...) Our members speak from the bottom of their hearts and move their audiences. When you touch the heart of a listener, you make him reconsider his position on the death penalty. It is a very effective means of changing public opinion," continues Bill Pelke.

He believes, as do his friends whose loved ones were murdered and who despite everything are opposed to the death penalty, Marietta Jaeger Lane, Jeanne Bishop, Bill Babbitt, Renny Cushing, that victims have the authority and the legitimacy to say that the murder of another human being offers nobody reparation.

TARGETING THE PUBLIC

The tours organised by Journey of Hope target various audiences. While there is no doubt that the testimonies have considerable impact on school pupils and university students, the organisation also aims to reach out to legislators and the media.

CHOOSING THE ARGUMENT

To optimise its impact, Journey of Hope focuses its argument on three essential aspects:

Victims' families explain that vengeance is not a solution, and ask that the government does not kill on their behalf.

The families of people sentenced to death describe exactly how the death penalty system is a cruel and inhumane treatment.

People who have spent time on death row before being proven innocent provide the proof that someone can be wrongly convicted and speak of the risk of judicial errors.

JUDICIAL ERROR IS A KEY ARGUMENT FOR CONVINCING PUBLIC OPINION - AS JOAQUIN JOSÉ MARTINEZ CAN TESTIFY.

Joaquin José Martinez, a Spanish American, was arrested in 1996 for the double murder of a drug dealer – the son of a police commissioner - and his girlfriend. Sentenced to death as a result of false testimonies and tampered evidence, he spent four terrifying years on death row, before being proven innocent under international pressure. Having escaped this nightmare, today he spends his time telling his story, that of an innocent man who was almost executed.

"Before my imprisonment and before being sent to death row, I was in favour of the death penalty. Unlike many people on death row, I had everything before going to prison - a good family, a good education and a good living environment," says Joaquin José Martinez, present in Geneva.

"In 1996, a terrible crime took place in Tampa Florida in the United States. The son of the Sheriff's investigation chief was murdered and

his girlfriend stabbed. The town of Tampa Florida was in a state of panic, the police were looking for a culprit. At that time, I was in the middle of a divorce and was fighting to keep my daughters.

One day, I called my wife to tell her that I had to stay at work and would not be able to look after my daughters for another two days. In fact I was going to celebrate my new girlfriend's birthday. My wife very quickly realised I had lied and called the police to accuse me of these two murders...all based on a complete misunderstanding. We had had a terrible car accident the year before, in which one person had died and another was paralysed for life. The same evening, my wife called me hoping to make me confess to the double murder. During the conversation I spoke of my feelings of guilt following the car accident. She was speaking to me about the murder, I was talking about the accident. The police - who were already with her - claimed to have recorded the telephone conversation, but the recording was never produced in court. My wife then informed the police that two 9 mm guns were hidden in my car, the type used for the murders. In the United States, it is very common to have guns. Mine were licensed. The next day, I was arrested in true Hollywood style (...) Sentenced to death, I was sent to death row in 1997." Joaquin José Martinez was innocent. International pressure saved his life.

MOBILISED PUBLIC OPINION CAN SAVE LIVES

Although public opinion may be largely in favour of maintaining capital punishment, it can also be a formidable force in opposing the death penalty. Dave Lindorff, an investigative journalist, a columnist for 'Counterpunch' recalls how Joaquin José Martinez was freed thanks to international pressure, in particular from European support groups.

After he was sentenced to death, his family launched a vast campaign in Spain and across the world. They obtained the support of organisations and figures such as Amnesty International, the Community of Sant'Egidio, the King of Spain, Pope John Paul II and the European Parliament and raised more than $1 million for his appeal. NGO associations, politicians, the whole of Europe was mobilised to save Joaquin. Raising funds to defend a prisoner on death row is, however, no easy task.

"Thanks to this mobilisation campaign, I was able to have a retrial. Everything was different. I was immediately informed that prosecutors would no longer be calling for the death penalty. My ex-wife did not testify. In the courtroom, senators were present, the media was waiting outside. That changed everything. (...) I was found not guilty," continues Joaquin Martinez.

The story of Joaquin Martinez resonates with many victims' families. According to Bill Pelke, a member of a murder victim's family, the battle to save the life of his grandmother's murderer could not have been won without the support of public opinion, and notably that of Italian abolitionists, members of the association Hands off Cain.

"I had just started my battle to get Paula Cooper's sentence commuted when I was interviewed by an Italian journalist, Anna Guita. (…) Following the publication of the interview in a number of Italian newspapers, I went to Italy and appeared on a popular television programme. One thing led to another and two priests invited me to talk in schools; I appeared in newspapers, on the radio and on television. With the help of Amnesty International, three million people in Europe signed the petition to save Paula Cooper's life. It went all the way to Pope John Paul II who called on the governor of the state of Indiana to pardon her. Indiana found itself in the spotlight and became very embarrassed when the media uncovered laws authorising the execution of children under the age of 10. A new law was adopted prohibiting the execution of juveniles below the age of 16. The Supreme Court decided that as Paula Cooper's case had led the state to modify its legislation her sentence would be commuted to life imprisonment." The age limit of executions has now been raised to 18 in the United States.

AN INSIGHT INTO THE RELIGIOUS ARGUMENT: WHEN RELIGIONS ADVOCATE ABOLITION..., CAMPAIGNING THROUGH FORGIVENESS[30]

by *Gwendoline Abou-Jaoudé*
doctoral candidate

Religions are in favour of the death penalty and they are sometimes the cause of its application. Or so an overly literal reading of the Torah, the memory of the ecclesiastical courts of the Middle Ages or the sight of the rigorous application of the Sharia would suggest. However, at the root of all religions, the principles of respect and defence of life are fundamentally opposed to the idea of taking life. Such was the unanimous message of the representatives of Buddhism, Christianity, Islam and Judaism who gathered in Geneva to present their points of view on the relations of their religion with the death penalty.

RESPECT OF LIFE AND THE VALUE OF FORGIVENESS, SHARED PRINCIPLES WHICH CONDEMN THE DEATH PENALTY

At the source of Buddhism, Judaism, Islam and Christianity, the sacred nature of creation requires the believer to respect life and above all human life. "One of the five basic principles of the Buddhist religion is "I undertake to refrain from taking life": the death penalty is clearly prohibited," insisted Danthong Breen who campaigns for civil liberties in Thailand (UCL: Union for Liberties). "Life is sacred and we cannot teach that it is wrong to kill if we kill ourselves," explained the Swedish bishop Jonas Jonson while the theologian Siti Musdah Mulia pointed out, "Islam teaches that of all God's creations, the human being is the most perfect creation: Man must be respected as God's image." The participants were unanimous: destroying a life means going against creation, therefore the very message of all religions.

Religions of mercy and redemption, they also attach immense value to love, compassion and forgiveness which are inseparable from the respect of life and creation. Is it not true that the most important Christian prayer, the Lord's Prayer, implores God to "Forgive our trespasses as we forgive those who trespass against us"? The story of the ruthless murderer Angulimala, converted to the path of righteousness by the clemency of the Buddha who he wanted to kill, provides a positive example. In Islam, the principles of equality, solidarity and clemency led a great thinker to declare that "the punishment of a crime must be God's compassion alone." Finally as Rabbi Guedj explained, "Jewish thinking has always aimed to bring justice and love into harmony. This may seem complex, but such must be our approach: creating unity from contradictory values. The contribution of Judaism to the debate is to reconcile seemingly opposing imperatives."

Major religions make respect for life, forgiveness and love their supreme values. On what basis therefore can we accuse them of being, or having been, in favour of the death penalty?

AN INFORMED INTERPRETATION AS OPPOSED TO A LITERAL READING OF TEXTS

Broken down, the interpretation of religious literature and certain speeches appear to legitimise the death penalty. Thereby, the Lutheran bishop acknowledged that "we can find in Christianity teachings on the idea of punishment or subordination to the government (...) Fundamentalist movements still defend the death penalty and governments continue to believe that they are carrying out divine justice by applying the death penalty."

Having questioned around one hundred monks, the Thai activist explained that many Buddhists evoke the fatality of karma and consider a person's destiny as the just consequence of his or her past acts, even if that means he or she is executed: "the world built by monks in temples is a calm world of peace and harmony, but it is not a world without the death penalty." In Islam, the Sharia, the law derived from irrefutable divine texts, allows for the death penalty. Finally, Rabbi Raphaël Guedj conceded that the Bible and the Talmud also allow it in a number of cases. However, the Rabbi qualified this by saying that we have too often given the expression "an eye for an eye" the brutality that its apparent simplicity affords it. "It is much more complex, and what is complex is difficult to understand." In reality the law of Talion does not prescribe equal mutilation, but a compensation equivalent to the loss suffered. All Talmudic instructions must therefore be subjected to a concerted effort of profound interpretation.

Effectively, rather than the negative consequences of an over-simplistic reading, a fair and enlightened interpretation of texts could lead communities of believers to no longer consider the death penalty as being legitimate on a religious level. "It is

the work of interpretation which must pacify the biblical text," the Rabbi explained.

Thereby, in Judea, the Sanhedrin (the supreme court of the Jewish people) abolished the death penalty, more than 2000 years ago. It was too difficult to fulfil the conditions for sentencing people to death in accordance with the rules.

The representative of the Christian community pointed out that, "In the past, most churches accepted executions as the application of divine justice. Fortunately this vision has changed today and the vast majority of churches condemn the death penalty. (…) Most Christians today do not grant any value to the medieval doctrine of redemption." This illustrates the ability of religious authorities to question secular practices founded on outdated interpretations.

An overly-literal reading of certain texts can thereby lead to an application which goes against the deeper meaning of the religious message. All agree that it is necessary to interpret teachings in the light of the message of life and forgiveness which is the essence of faith. "Preserving life and freedom are part of the major objectives of Islam. When teaching and law contradict these principles, they must be revised in order to make them correspond," Siti Musdah Mulia explained.

NECESSITY OF EDUCATING RELIGIOUS LEADERS AND BELIEVERS AGAINST POLITICAL HIJACKING

The instrumentalisation of the religious message by certain leaders to legitimise hard-to-accept practices is the other major cause of the deviation of religious messages. "Politicians need effective slogans to assert their authority," explains Rabbi Raphaël Guedj. The religious reference provides them with unassailable arguments to reinforce their power, neutralise opponents and discredit dissenters. The meaning of religious messages becomes forever falsified and faith indirectly becomes an instrument of terror and of political and civil violence. Therefore, in certain countries where Islam is a state religion, "the death penalty has been used in many cases as a tool of political revenge, a means of concealing evidence and to eliminate critics," testified the Islamic scholar Siti Musdah Mulia.

The argument for the indispensable separation between the spiritual and worldly spheres appears to be the answer to the instrumentalisation of the religious aspect by politicians, and it is noted that the Sanhedrin as well as Christian churches evolved in favour of abolition once their direct political influence waned. However, Danthong Breen spoke of the perverse effect of an overly strict separation between faith and power: most Thai monks consider that justice on earth is a matter for the authorities and that such a question does not concern them at all. How then can they raise awareness among civil society of the abolitionist cause? "Monks are simply men in yellow robes," the Thai activist reminded us, suggesting that such clothes do not necessarily make a man wise.

Indeed, all agreed that it is above all ignorance which provides a breeding ground for depraved doctrines and constitutes the structural obstacle which prevents civil society from reaching its objective of abolition. Faced with this observation, the participants recommended the separation of the worldly and the spiritual, whilst acknowledging religion's essential role in civil society, in order to provide a positive education and move forward towards the triumph of human rights. Effectively, the march towards abolition inevitably involves educating believers as well as preachers, in the religious arena and elsewhere. "We must improve the quality of people's education, especially that of poor people as well as improve the quality of legal systems and instil values of justice in the population," insisted Siti Musdah Mulia. Rabbi Guedj concluded, "Only nonviolence education will prevent suffering."

TOOL: USE THE POWER OF THE INTERNET TO INCREASE MOBILISATION - THE NEXT 100 MILLION ABOLITIONISTS WILL JOIN US BY INTERNET

by *Thomas Hubert*
journalist

Using the power of the internet to increase mobilisation against the death penalty - in 2010, this objective is a natural part of the strategy of all abolitionist organisations. We just need to know how to do it. Yang Hengjun, a Chinese writer and blogger, and Simon Shepherd, founder of the NGO Death Watch International and the Death Penalty Action Network website, explored new forms of online activism with the public, during the "Online communication strategies" workshop.

The use of the internet enables a hitherto unexploited activist potential to be developed. The example of the five million signatures in favour of a moratorium on the death penalty collected across the world in 2007 by an NGO group led by the Community of Sant'Egidio is a perfect example. According to Simon Shepherd, the number of signatures obtained through a single action such as this is proof of the even larger number of individuals who could be mobilised online which he estimates to be at least 100 million. "These five million people signed a petition and that is the only action they did. Imagine what we can do if we manage to mobilise 100 million people and get them actively involved in the campaign!" he says.

To achieve this objective, Simon Shepherd advises abolitionists to adopt the participative approach made popular by social networking sites such as Facebook or Twitter. His website, Death Penalty Action Network, thereby enables organisations and individuals to come forward to publicise their action and invite other visitors to make contact. "If you are in Dakar and you are against the death penalty, how can you contact people who share your belief?" he asks. By creating links with the major general-interest social sites, notably by sharing feeds communicating the latest campaign news or alerts. Websites such as Death Penalty Action Network and the websites of every organisation can effectively spread their message across the vast groups of connected individuals which form the most intricate network on the internet of our present day.

"2000 INTERNET USERS ASKED ME FOR INFORMATION ON THE CONGRESS"

The interest of such an approach is all the more obvious when we see it from the Chinese perspective. Hengjun Yang explains that information on the death penalty is virtually non-existent in his country. Traditional media, all under government control, do not talk about it. It is therefore down to bloggers like him to inform Chinese internet users on the issue. Whenever Hengjun Yang writes about the death penalty, his blog is inundated with readers. "In just a few days, almost 200,000 people left a message and 2000 asked me to bring information on the Congress back to China," he says. He adds that a quick survey of his readers showed that most of them did not know, for example, that China carries out the overwhelming majority of executions in the world.

While the discussion continues, Hengjun Yang posts some messages on Twitter using his laptop computer. According to him, the internet is particularly useful for mobilising citizens around individual cases which highlight the injustice of the death penalty. He gives the example of a woman sentenced to death for having killed a man who was trying to rape her. "Her case was picked up by the internet and attracted the attention of public opinion for one month. My article was read by two million people and she was freed."

PROXIES AND SKILFUL WRITING TO ESCAPE CENSORSHIP

The arguments of Hengjun Yang raise the question of freedom of expression and the internet when the debate on the death penalty is muzzled by censorship. While it is increasingly difficult for authoritarian governments to control information circulating on the net, a delegate points out that in Tunisia, the police is constantly monitoring the internet and does not let anything get through. Yang replies, "When I write on my blog, it is a sort of art, a game with the authorities, you have to choose the right words. I don't want my blog to be closed down." He also explains that IT tools such as proxies or virtual private networks make it possible to access prohibited websites. When censorship is too strong, international abolitionist solidarity can provide platforms for expression hosted in democratic countries and

open to contributors living in repressive states. This is one of the objectives of Death Penalty Action Network. Based in Europe, it can receive messages from Chinese or Iranian internet users who could not express themselves on servers in their own countries. “Take the example of Iran which was unable to prevent images and other information on the demonstrations appearing online on Twitter. It is very difficult to block them completely. It is a great challenge for us,” he states.

An execution, indignation... and a network is created

Kathy Brown, a British IT worker taking part in the "Online Communication Strategies" workshop is not your typical abolition activist. She is neither a lawyer working for an NGO, nor a student of political sciences. However, through the internet, she has become an active member of the abolitionist community.

She recently launched the website TheOptimismClub.com. “The Optimism Club was born on December 29th 2009, in the early hours of the morning, as a group of loosely-connected people across Twitter and Facebook did what they could to raise awareness of the plight and impending execution of Akmal Shaikh, a Briton suspected of being mentally ill who was duped into trafficking drugs into China,” she writes on the website, which is open to written contributions from the public.

Brown’s initiative illustrates the potential that online communication tools can unleash to assemble people opposed to the death penalty. She sums up her approach in a few words, "I had a blog and I said to myself, ‘Something has to be done.’"

Convincing your decision-makers to vote for abolition

Opening of the 4th world congress in the "Palais des Nations"

DEFINE YOUR STRATEGY AND IDENTIFY THE KEY PEOPLE[31]

by *Shirley Pouget*

Reduction in the scope of application of the death penalty, moratorium on executions and/or sentences, ratification of international instruments or abolition in national law... which strategies should be chosen to convince decision-makers to move towards abolition? What factors should be considered to put in place such strategies?

DEFINING THE ABOLITIONIST OBJECTIVE AND STRATEGIES ACCORDING TO THE LOCAL CONTEXT

According to Piers Bannister, Death Penalty Coordinator for Amnesty International, the choice of a strategy for abolition depends on the local context. Although abolition in law is the ultimate goal, certain contexts simply do not allow for it. For example, in China, the world leader in executions, "introducing the concept of abolition would already be a huge success." He continues, "The simple fact that Chinese officials use the term abolition in United Nations forums is already something." Thereby, rather than abolition in law, other step-by-step strategies can be considered - from the reduction of the scope of application of the death penalty to the adoption of a moratorium on executions.

The move towards abolition very often depends on political actors. In retentionist countries, many of them maintain that public opinion is not in favour of abolition. "Let us work on public opinion first, we will think about abolition later," they say, which is just a pretext. In abolitionist history, only Ireland abolished the death penalty in law after a popular referendum. While public opinion is a factor to take into account in the choice of strategy, it must not be its be all and end all. In other words, convincing public opinion is not necessarily a prerequisite to abolition. The French example provides a convincing argument. In 1981, the year when the death penalty was abolished, more than 60% of French people were favourable to its retention. In 2010, it would seem unimaginable to a majority of French people to reintroduce it. The law also plays an educational role which should not be underestimated.

Choosing a strategy combining the political lever and the legal lever can prove to be very effective, as with the prohibition of the execution of people suffering from mental disabilities in the United States[32]. The American Supreme Court declared these practices to be contrary to the Constitution when enough federal states modified their legislation to create a national consensus on the issue. Abolitionists had to therefore focus on the political lever, inciting legislators to modify their laws to win the legal battle. According to Piers Bannister, both strategies - political and legal - go hand-in-hand and are very effective.

IDENTIFYING KEY PEOPLE

Among other factors to take into account, it is essential to identify the key people able to create an area of debate and to support the abolitionist process. Piers Bannister believes that the first thing to do is to find a "champion" in the political process who can use his or her influence to raise awareness within the legislative body of the country in question. According to a leader of the abolitionist campaign in Ghana, a Congress delegate, it is also essential to seize political opportunities and issues on the agenda of governments and members of parliament. In Ghana, constitutional reform was an opportunity to reignite the debate on the abolition of the death penalty.

Next, in addition to politicians, abolitionists should target groups who have influence over public opinion - the legal and judicial community, and in particular lawyers, syndicates and religious leaders, and even prison officers. As paradoxical as it may seem, prison officers can become allies. "When I was working in Trinidad and Tobago, nine people were hung in three days, it was a very traumatic experience. The officers who carried out the hangings suffered from post-traumatic shock to such an extent that they resigned. They had all lived for years with the executed prisoners. The successive resignations led the media to take an interest in the case. Prison officers can in fact become allies and form a good line of attack against the death penalty," explains Piers Bannister.

INITIATING A DEBATE ON THE DEATH PENALTY AND IDENTIFYING THE RIGHT PEOPLE TO CONVEY KEY MESSAGES

According to Piers Bannister, it is important to choose the right people, those who can be heard by different audiences, to instigate and hold a debate on the death penalty. In his personal case, as a British citizen and

therefore from the former colonial power, he did not feel that he was the right person to lead the abolitionist cause in Jamaica or Trinidad and Tobago.

In the United States, the American people do not want to listen if you are not yourself a victim. “You wouldn’t think like that if it had been your child.” This is the reason why organisations such as Murder Victims’ Families for Human Rights have appeared. The families of murder victims are perceived by the American people as having the legitimacy to assert their opposition to the death penalty. Their testimonies are listened to and have an impact on public opinion as well as decision-makers.

Close-up on the adoption of a moratorium on executions in Taiwan following pressure from the Taiwan Alliance to End the Death Penalty

In Taiwan, a moratorium on executions was adopted following pressure from NGOs, lawyers, professors, students and activities grouped within the Taiwan Alliance to End the Death Penalty. According to Hsin-Yi Lin, executive director of the alliance, abolitionist civil society mobilised itself after the announcement in 2000 by the justice minister that measures in favour of abolition would be taken within three years. It was imperative to spring into action... three task forces were set up - "Education and Communication", "Advocacy and Strategy" and "Research". Numerous conferences were organised, at which all religious leaders were represented. The challenge of the AEDP remains to convince public opinion which is mainly in favour of retaining the death penalty in Taiwan, a country which is not a member of the United Nations. However, many Taiwanese are of the opinion that Taiwan should follow international standards with regard to human rights. Since 2006, no death sentence has been imposed, a moratorium has been adopted. A task force on the death penalty has been created by the justice ministry, including civil society representatives. Will Taiwan be abolitionist in law in time for the next World Congress?

FORM NATIONAL COALITIONS AND JOIN REGIONAL NETWORKS AND THE WORLD COALITION[33]

by *Aurélie Plaçais*
campaigns manager, World Coalition Against the Death Penalty

"United we stand" is the very principle of coalitions or alliances created by abolitionists in all four corners of the world. In retentionist countries, activists unite to fight together against the death penalty, often in hostile contexts, and to overcome the feeling of isolation. According to Amina Bouayach, President of the Moroccan Organisation for Human Rights (OMDH), the fight against the death penalty "requires cooperation, coalition and alliances for life." Such coalitions exist in abolitionist countries on a regional and international scale. Despite their diversity, they all have one point in common: a huge potential more or less exploited.

CREATION AND DEVELOPMENT OF COALITIONS

WHY CREATE A COALITION?

A coalition enables the efforts of abolitionists on a national, regional or international level to be combined. It also enables information, skills, expertise and action tools to be shared in order to increase mobilisation and the effectiveness of the fight against the death penalty. The interest of a coalition lies in the networking of different groups, NGOs, individuals, all working for the abolition of the death penalty. “Creating networks enables us to provide a collective response from different groups, NGOs, individuals, involved in the fight for the abolition of the death penalty,” states Amina Bouayach.

HOW TO CREATE A COALITION

While coalitions are generally created on the initiative of human rights NGOs, it is essential that all players working on the issue of the death penalty are involved in the creation process, otherwise the new coalition can lose credibility and legitimacy. At the same time, it is important that the new coalition extends its base of supporters and does not limit its members to the founding NGOs. “We can clearly see the need for a multidisciplinary structure which ensures that different political and ideological trends are fully represented,” continues Amina Bouayach.

SOME AVENUES FOR DEVELOPING A COALITION

Developing a common strategy with an action plan

To increase effectiveness, the coalition must unite its members around common actions. In order for these actions to be effective, a long-term strategy and action plan which can be easily implemented and assessed must be developed in consultation with all the partners.

Making contact with other civil society partners

The strength of a coalition often depends on its ability to create an area of dialogue with all actors who are connected more or less closely to the death penalty - victims’ families, the families of death row inmates, former death row prisoners, judges, lawyers, police officers, academics working on the subject and religious leaders opposed to the death penalty.

Finding funds

The action plan must be realistic and correspond to the available or potential funds. In particular, if the coalition is leaning towards structural development, the question of financing becomes crucial.

THE MAIN DIFFICULTIES AND HOW TO OVERCOME THEM

The art of compromise and negotiation

Grouping together organisations and individuals from different backgrounds with sometimes diverging objectives and different hierarchical structures is not easy. Carmelo Campo Cruz from the Puerto Rican Coalition Against the Death Penalty says, “It is important to respect the diversity and culture of each organisation, and to not forget that each one has its own agenda.” While it is often difficult to reach a compromise on all issues, the wealth of support and debates compensates for this problem. In fact, conflicts are not uncommon within coalitions and to function without too much faltering requires coordination and negotiations through constant dialogue with all members.

Regional coalitions, essential but not always viable

Experience shows that the viability of regional coalitions is very of-

ten problematic. Bringing together an even more diverse range of actors than national coalitions, they come up against different problems depending on the countries, but, above all, they are often desperately short of resources and subject to the unpredictability of political changes in the regions in question. However, regional coalitions are essential in the fight against the death penalty. Often, even if each country has its own particularities, the main issues around the death penalty are the same within a region. For example, Abdellah Mouseddad from the Moroccan Prisons Observatory (OMP), a member of the National Coalition for the Abolition of the Death Penalty in Morocco, testifies to the importance of religious arguments across the Maghreb and the Middle East which are used by the ruling powers to justify the retention of the death penalty. This issue faces all members of the Arab Coalition Against the Death Penalty and it is therefore essential to share arguments and information.

WHICH TOOLS FOR WHICH COALITIONS?

TOOLS FOR SHARING YOUR INFORMATION

Develop a website[34]
e.g.: At the end of 2009, the Coalition of African Great Lakes Against the Death Penalty created a website in order to be able to exchange information and share mobilisation activities:
www.africabolition.org

Produce a newsletter
A monthly or weekly newsletter which can be in electronic form, for those with a website, or a printed version.

Write joint press releases
e.g.: the Arab Coalition Against the Death Penalty published a press release for the 2008 World Day to call on Arab countries to remove the death penalty from their criminal codes and to draw up a new Arab Charter. At the same time, a website was also launched: "the Arab observatory on the death penalty" which provides information only in Arabic: http://dp.achrs.org

Write press articles, suggest ideas for reports
Relations with the media are essential for raising the public's awareness. Coalitions can therefore create their own articles made available on their website or via their newsletter.

Write regional reports for regional coalitions…
… or **national investigations** for national coalitions.
e.g.: the Taiwanese Alliance (TAEDP) published at the end of 2009 a report entitled "Staying out of reach of the executioner: Taiwan's unofficial moratorium". It examines in particular the judicial procedure and the constitutionality of the death penalty in Taiwan.

TOOLS FOR INCREASED MOBILISATION ON A NATIONAL LEVEL

Support prisoners and victims' families:
through judicial aid and the mobilisation of defence lawyers.
by talking with victims' families, informing them of their rights and developing exchanges with other abolitionist victims' families.
by writing letters of support to death row inmates.
by mobilising activists around emblematic cases.

Mobilise abolitionists …
… around unifying events such as the World Day Against the Death Penalty which takes place every year on 10th October.

Carry out activities to raise the awareness of the general public:
with talks on the abolition of the death penalty including presentations of the personal accounts of former death row inmates or victims' families opposing the death penalty;
by writing about the cases of death row inmates, reports on the violations of human rights in relation to the death penalty;
through letters to national media in reaction to current events.

Act for the implementation of alternatives to the death penalty…
… just after abolition for national coalitions in abolitionist countries.

TOOLS FOR EFFECTIVE LOBBYING

On a regional level, focus on intergovernmental organisations and exchange your good practices:
work with governments and NGOs in the region's abolitionist countries;
work with intergovernmental organisations (for example the African Commission on Human and People's Rights, the Inter-American Commission on Human Rights, the Council of Europe, etc.);
relay the decisions and case law of the justice courts of neighbouring countries. These decisions can add decisive weight to your arguments.
e.g.: In August 2010, the Kenyan Court of Appeal declared unconstitutional the application of automatic death sentences referring to the case law of Uganda and Malawi.

On a national level, focus on political decision-makers who may propose legislative reforms and new public policies:
target political or religious groups in favour of the death penalty.
open discussions and invite them to abolitionist activities.
work with them for more effective lobbying which will target national, regional and local elected representatives and governmental authorities.

For abolitionists, lobbying national authorities to put pressure on other countries is crucial
e.g.: in Australia, the Victorian Criminal Justice Coalition concentrates uniquely on lobbying authorities in private because by working publicly, they would risk reigniting the debate in favour of the death penalty with the public.

Close-up on the development of the World Coalition Against the Death Penalty

2002: creation in Rome following a recommendation of the 1st World Congress Against the Death Penalty, Strasbourg 2001, on the initiative of the association Ensemble Contre la Peine de Mort.

10th October 2003: launch of the first World Day Against the Death Penalty.

2006: definition of the first long-term action plan in combination with a request for financing from the European Commission.

2007-2008: first European grant and implementation of the action plan.

10th October 2007: the 5th World Day brings together more than 400 actions in 60 countries and more than 160 000 signatures on the petition. It is officially recognised as a European Day Against the Death Penalty by the European Union and the Council of Europe.

2008: The Coalition has two full-time employees and more than 60 members, it has its own legal entity. A new plan of action is defined corresponding to new financing from the European Commission.

2009-2011: implementation of the 2nd plan of action with the 2nd European grant.

2010: the World Coalition reaches 117 members, three full-time employees and three international campaigns (the World Day Against the Death Penalty, the campaign to ratify the United Nations 2nd Protocol on the abolition of the death penalty and the campaign for a universal moratorium on executions).

PROMOTING ABOLITION THROUGH RESEARCH AND ACADEMIC COLLABORATION[35]

par *Gwendoline Abou-Jaoudé*
doctoral candidate

While politicians and civil society must form alliances to fight for the abolition of the death penalty, academics also have an essential role to play. As things stand scientific research on the lack of deterrent effect of the death penalty or the discriminating and discriminatory aspect of the death penalty system are not sufficiently "exploited", Alvaro Corcuera, a journalist and the moderator of this workshop, explains. Inter-university collaboration is necessary to share research work on the application and the abolition process of the death penalty. In addition, the creation of a new academic network would stimulate co-operation between different players - activists, lawyers, political decision-makers, researchers. How then can the resources and abolitionist potentialities of universities be brought together to form an effective network? What instruments can such a network use, and what type of concrete action could it take to contribute to the adoption of a moratorium, or even universal abolition?

STRUCTURING A WORLD NETWORK

UNITING DISPERSED INITIATIVES

Gaining effectiveness by pulling together researchers working on issues relating to the death penalty would be the objective of an inter-university network bringing together resources and potentialities dispersed around the scientific community. From the International Society of Social Defence in Spain to the large-scale projects of the Northwestern University Law School in the United States, a host of local initiatives communicating information on the theme of the death penalty are available. However they remain too dispersed and their actions would benefit from being more coordinated in order to guarantee a wider and more balanced access to information and studies relating to the death penalty. The aim of such an initiative, explains the researcher Luis Zapatero, "is to organise existing knowledge, enabling it to be shared and made available" to resistant governments and actors involved in abolition.

WHICH ACTORS AND WHICH TARGETS?

The network players: academics and NGOs

Capitalising on academic research through the creation of an interactive system to share information can help to bring down the wall of ignorance, the first obstacle to the abolition of the death penalty. According to researchers, such as Luis Arroyo Zapatero and Sandra Babcock, this system could take the form of an international academic network.

"NGOs' websites are very well done," remarks Luis Arroyo Zapatero, giving the example of those of ECPM, the World Coalition, Sant-Egidio, as well as that of Amnesty International. However, he says, "these sites have no academic content and that is why we want to share our knowledge."

Sandra Babcock provides more details. "Of course, we are all opposed to the death penalty but there are still some notions on which lawyers disagree with activists who disagree with academics who disagree with legislators and on which abolitionists from North Africa disagree with those from sub-Saharan Africa or Asia. We must find solutions to overcome these divisions and bring people together." In order to do this, "We need to find ways of collaborating on a practical level which goes beyond speeches and intentions. The academic network described by Luis is a step forward towards this type of collaboration," continues the researcher.

The targets: the governing classes, international organisations and legal experts (lawyers and students)

This pooling of codifiable and exchangeable information by the scientific community aims to influence the universal abolitionist process on two levels: from the top, by offering a new form of knowledge and learning upstream of the governing classes and international organisations and from below by providing technical assistance to the legal community.

From the top: influencing the governing classes and international organisations

With regard to the governing classes in retentionist countries, the creation of a network would provide easier ac-

cess to studies and reflections by criminal law specialists. At the same time, governments in abolitionist countries would benefit from the help of researchers and criminal law specialists in order to change their legislation.

"Currently in Spain there is a debate on the maximum sentence for murders involving more than one victim," explains Luis Arroyo Zapatero. "We want all these crimes to be punished by at least 40 years imprisonment. Social reaction to any increase in sentences is always rather vehement. We want to help political leaders to take rational decisions." He goes on to say, "When a government plays its role of repressive power, it must give a lesson in civilisation by using neither violence nor cruelty. It is certainly the most intelligent path to take to reduce crimes."

In parallel, the creation of such a network would enable closer co-operation between researchers and international organisations. The proposals put forward by researchers and NGOs on legal questions and the conclusions which ensue can constitute the scientific basis of resolutions adopted by international organisations. The work achieved by the International Society of Social Defence during its 15th World Congress in favour of a universal moratorium on the death penalty is a good example. "Two months after the Congress published its conclusions the United Nations adopted by a majority vote a resolution in favour of this moratorium."

Combining the work of governments and that of NGOs is essential. "Wasn't the creation of the International Criminal Court the result of cooperation between a group of governments and well-known NGOs? The road to the abolition of the death penalty is the same, combining the work of governments and NGOs who themselves are extremely well-organised with the ECPM and the World Coalition."

From the bottom: Supporting the legal community

The coordinated action of universities and researchers aims at providing real technical assistance to judges and lawyers in countries where the legal community lacks resources, capabilities and training. It involves sharing experiences on a global scale and providing abolitionist players in southern countries solutions to the systematic challenges arising from the application of the death penalty. "Crucially, academic collaboration must involve the young generations of lawyers in southern countries," states Sandra Babckok. "We must develop legal clinics within African universities, in particular in law faculties. Cooperation for research can take a variety of forms: teaching exchanges, American and European academics visiting Africa, guest African lecturers."

THE VARIOUS MEANS OF ACTION

Preparing the ground for real academic collaboration extending beyond speeches and intentions.

COMMUNICATION: NICT-DATABASES-PORTALS-VIRTUAL LIBRARY

The creation of a unique internet portal on the abolition of the death penalty available in as many languages as there are targeted regions, and comprising a database or virtual library, remains the most effective way of reaching diverse and dispersed populations.

ARCHIVAL STORAGE AND CREATION OF THE CONTENT

In order to do this, it is necessary to gather, create and archive material for reflection. The central element of this activity, the archiving, consists in gathering together the studies of specialists and reports from NGOs such as Amnesty, ECPM, Hands Off Cain, FIDH, ACAT, etc., and to regularly update them. A selection of scientific articles and official documents from the UN, the Council of Europe and the International Criminal Court could form a very useful database for law students and anybody working on the issue of the death penalty, anywhere in the world. The gathering of information should also encourage comparative studies of public and political opinion to be carried out, on the deterrent effect of the death penalty for example.

The creation and putting online of visual material (documentaries, interviews with specialists and academics, lectures, etc.) would arouse interest and draw the attention of targeted populations and institutions.

TRANSLATION OF WORKS ON THE DEATH PENALTY

It is essential that works relating to the death penalty are identified and translated into several languages. **The lack of work in some languages can effectively penalise whole continents. In Latin America for example, books on the subject are hard to find,** as Spanish and Portuguese speaking countries do not use the death penalty, except for Guatemala and Cuba, abolitionist in practice but not in law. Efforts in this direction - already undertaken by **the International Society for Social Defence** - should be continued.

EXAMPLES OF PROJECTS AND ACTIONS CARRIED OUT BY NORTHWESTERN UNIVERSITY AND BY THE INTERNATIONAL SOCIETY OF SOCIAL DEFENCE

THE ACADEMIC NETWORK HEADED BY PROFESSOR WILLIAM SCHABAS

The inter-university network headed by William Schabas was created in Madrid with the support of the Spanish government and brings together some 25 universities and research institutes "committed to the organisation of knowledge." According to Zapatero the aim of such a network is "to pool knowledge, to share it and above all to gather together new information

and data" which has so far been difficult to access. The centralisation of information should enable researchers and academics to carry out "comparative studies of public opinion on the conditions of the application of the death penalty or its deterrent effect."

THE DEATH PENALTY PORTAL OF NORTHWESTERN UNIVERSITY

Northwestern University's portal devoted to the death penalty comprises a database on the application of the death penalty in retentionist and de facto abolitionist countries. This database stems from the 1989 report by Amnesty International (AI), "When the State Kills", the first initiative to publish systematic and regular information gathered by AI researchers. They described the application of the death penalty in law and in practice in several countries across the world. Eventually, the Northwestern project will take the form of a free research engine on the University website like that of the World Coalition's site (during the first six months of 2011). To this effect, the University is looking for reports prepared by AI, Hands Off Cain and any other NGOs working on any aspect of abolition.

CREATION OF A GOOD PRACTICE HANDBOOK FOR LAWYERS

A second, very ambitious project is currently being prepared by researchers at Northwestern University. As Sandra Babcock explains, it involves the creation of a good practice handbook for criminal lawyers. "They can lack resources, ability and training, particularly in countries such as Malawi, Nigeria or India," the researcher says. "In Malawi, lawyers don't have a car to go and meet their clients who they often only see five minutes before the beginning of the trial." She continues, "Indian lawyers told me that the testimony of experts is a little-known practice." The initiative consists in transposing experiences into a handbook which could be universally applied and used by lawyers lacking training. It also involves defining creative strategies not only for the defence but also to overcome the challenges which systematically arise with the application of the death penalty.

DRAWING UP OF A SERIES OF PRINCIPLES IN LINE WITH CONTEMPORARY CASE LAW

Northwestern University is also leading a project to draw up a series of principles relating to the application of the death penalty. This initiative was launched by the American Bar Association's "Moratorium Project" and results from the 2005 Tokyo conference which brought together practitioners and academics to discuss the application of international law on the issue of the death penalty. In fact, "a large number of international instruments are deliberately vague and the safeguard clauses of the United Nations concerning the application of the death penalty do not reflect current case law," explains Sandra Babcock. "This project aims to up-date these principles through the definition of a series of standards reflecting contemporary and progressive case law on the application of the death penalty, based on international courts and national courts."

These principles have been translated into French and the University is asking for observations and comments from experts from across the world in order to select those which could be useful in restricting the death penalty in retentionist countries. The American Bar Association should soon be organising a conference which will gather together bar associations and academics from across the world to formerly adopt these principles. This conference will be an important step towards raising the awareness of legislators and politicians as well as United Nations bodies and those of other international organisations so that these principles are adopted on an intergovernmental level.

WORK WITH TARGET GROUPS: JUDGES AND MEMBERS OF PARLIAMENT

by *Shirley Pouget*

While it is essential to convince public opinion of the iniquity and ineffectiveness of the death penalty, waiting for public opinion to change before acting is certainly not the right way to achieve abolition. On the contrary, it is very often necessary to go against public opinion in order to change mentalities. Consequently, the mobilisation of certain groups is crucial to the abolition cause. Members of parliament, the creators of law must demonstrate political courage to enact abolition in the face of a traditionally hostile public opinion. At the same time, judges apply the law and thereby form the final rampart against the application of the death penalty, representing a lever for abolition. The aim of this workshop was to understand the difficulties which some members of parliament and judges come up against in their struggle for the right to life[36], to understand the context in which they operate and to support their mobilisation.

According to Professor Raphael Nyabirungu, a member of the Congolese parliamentary assembly, the situation of the death penalty in the Democratic Republic of Congo could not be more ambiguous. While the right to life has been entrenched and the reference to the death penalty removed from the 2006 constitution, several laws still allow for the death penalty. Unconstitutional for many Congolese abolitionists, judges find themselves at an impasse, unable to be certain of the constitutionality of the laws. Consequently, laws are needed which expressly abolish the death penalty both in the ordinary criminal code as well as in the military criminal code. In the Democratic Republic of Congo laws are initiated by the two chambers of the national assembly or the government. While the government has never proposed any laws to abolish the death penalty, the assembly has drafted two abolitionist bills. However, although they are on the agenda of the parliamentary calendar, the bills have never been discussed in parliament, the reason being that a lot of retentionists continue to believe that the abolition of the death penalty is tantamount to impunity. According to Raphael Nyabirungu, there is nevertheless an abolitionist tendency within the National Assembly as can be seen with the removal of the death penalty in some areas of legislation, including the law relating to sexual violence and the law concerning the protection of people suffering from HIV/AIDS. Since 2003, Parliament has never voted through a law which includes the death penalty as a sentence. According to Professor Akele, the death penalty is far from being the only issue endangering the lives of the Congolese people. A prisoner dies from malnutrition every day in Congo. For the professor, prison is itself a form of execution. For many delegates, the question of abolition goes hand-in-hand with a reform of the penitentiary system and its administration. Professor Nyabirungu believes that political leaders must demonstrate political courage to go against public opinion. The judge remains confident that an abolitionist majority could emerge in the National Assembly in the near future, despite the majority of public opinion being retentionist, and rule that the death penalty is abolished.

In Burundi, the fight for the abolition of the death penalty has been led by a handful of judges, explains Merius Rusumo, a judge at the Constitutional Court. However, judges have for a long time been under the command of the government, in this country with a history of conflicts. According to Mr Rusumo, the judiciary "was used as a tool to exclude and eliminate people belonging to other ethnic groups in the country." After the war, high-ranking members of the government were condemned to death in absentia - opening the way for abolition. Some judges lobbied for abolition using in particular case reports to justify the iniquity of the death penalty. The action of the judges and members of parliament even led to the adoption of law N1/05 of 22nd April 2009 revising the criminal code which, without explicitly referring to abolition, no longer includes the death penalty among its applicable criminal sanctions. However, many challenges remain. The simple fact that abolition is not expressly entrenched leaves the door open for a potential restoration of the death penalty. In addition, the question of a replacement punishment is far from being decided. According to Merius Rusumo, Burundi judges remain sceptical that abolition will last. According to him, it is essential that law professionals

overcome the legal obstacles and expressly entrench abolition in law.

Many participants in the discussion believe that it is essential to train judges, who often have gaps in their knowledge in the area of human rights.

• The fight is not limited to abolition but encompasses global reform of the criminal justice and penitentiary systems.
• The universality of the cause must be in line with individual cases. The debate must be in line with the political and economic contexts specific to each case.

• The independence of judges remains a major problem on which abolitionists must focus their efforts.
• Raising awareness and educating on human rights and abolition remain crucial.

FORM A PARTNERSHIP WITH THE EUROPEAN UNION AND FINANCE YOUR PROJECTS THROUGH THE EIDHR[37]

par *Céline Bretel*
in charge of the Death row inmate space, ECPM

The European Instrument for Democracy and Human Rights (EIDHR) - behind this term, unheard of by the general public, hides a major political and financial partner for organisations working for the abolition of the death penalty. The organisation of campaigns to raise the general public's awareness and to lobby governments, the setting up of studies on legal systems or training for lawyers - grants given by the European commission in the framework of the EIDHR enable NGOs to carry out a wide range of projects which meet many different objectives. An exchange of good practices around this progressive instrument thanks to which the European Union has become the main institutional support for campaigners for universal abolition.

A POLITICAL AND FINANCIAL INSTRUMENT AT THE DISPOSAL OF NGOS[38]

According to Guillaume Parent, a former coordinator of the World Coalition Against the Death Penalty, "The European Union has become the main institutional support for campaigners for universal abolition." Effectively, opposed to the death penalty since 1994, the European Union has already financed around 30 projects aimed at promoting the abolition of the death penalty across the world, through the European Instrument for Democracy and Human Rights. The EIDHR's work is based on a strategic document adopted by the European Commission, covering five objectives, including the abolition of the death penalty. The legal basis of this strategic document is redefined every seven years[39].

As Angela Raffaella Della Porta, programme director with EuropeAid, explains, NGOs are invited to respond to calls for project proposals from the European Commission; selected bids receive a grant which cannot exceed 80% of the total budget of the action, the rest must be co-financed by governments, foundations or other NGOs. The call for project proposals, centralised in Brussels, complements the local calls for proposals by EU delegations[40] in the countries.

EXAMPLES OF PROJECTS FUNDED BY THE EIDHR

Sixteen projects are currently in progress, involving NGOs as diverse as Penal Reform International, Murder Victims' Families for Human Rights, Hands Off Cain or the American Bar Association, in wide geographical areas ranging from Arab countries to Latin America and from Asia to the United States. It is in fact essential to "combine the different strategies and approaches for the best results," explains Angela Raffaella Della Porta.

Some projects financed by the EIDHR can pride themselves on having directly contributed to the abolition of the death penalty in some countries. The Philippines, which officially abolished the death penalty on 24th June 2006 is a good example. This success can be attributed at least partly to the aid given by the European Commission to three projects: the Free Legal Assistance Group (FLAG) focusing on legal aid; PhilRights Ltd and the Mamamayang Tutol sa Bitay – Movement for Restorative Justice (MTB-MRJ), which launched a national network leading an intense campaign to raise the awareness of the Philippine public, and finally the University of the Philippines which worked on developing the use of DNA tests in medical legal proceedings. According to Angela Raffaella della Porta, the Philippines are "an example of best practices with a large number of components in the project, raising the awareness of politicians, all of which made these actions a real success."

In the United States, many death row inmates are not American nationals. Foreign nationality can form an argument to overturn a death sentence or an execution. Effectively, in accordance with article 36 of the Vienna Convention on consular relations, foreign nationals must benefit from consular assistance. Diplomatic representation, a request for clemency or assistance for defence lawyers in the search for mitigating circumstances are some of the tools which foreign countries use to assist their citizens sentenced to death.

The association Reprieve launched a three-year project financed by the European Commission aimed at identifying and providing legal representation to European citizens facing the death penalty in the

United States. David Sellwood, a project manager with this organisation, takes the example of the case of Linda Carty, sentenced to death in Texas. “At no time, was Linda aware of her rights to consular assistance. She did not have the right to a fair trial.” A British national, the British government worked alongside NGOs to defend her case. Her appeal has been rejected by the American Supreme Court, only the Board of Pardons and Paroles and the Governor of Texas have the power to overturn her death sentence.

Such a project could be even more effective in the long-term if an alert system was put in place to warn European countries when one of their citizens has been sentenced to death. This system would trigger diplomatic procedures leading to the intervention of the European Union and ambassadors. Mexico regularly helps its nationals in this way through the “Mexican Capital Legal Assistance Program” project, which has proved to be extremely effective and which must serve as an example. “This programme provides resources for lawyers representing Mexican nationals facing the death penalty in the United States. It has helped to save many lives. The EU can learn a lot from the action of Mexico and El Salvador. There are a lot of opportunities to exchange good practices with countries outside the EU.”

THE EUROPEAN COMMISSION HEEDFUL OF THE NGOS

Heedful of the NGOs, with which it works closely, the European Commission has gradually extended the framework of its calls for proposals. Initially focused purely on abolition, bids are now welcome for projects aiming to improve the prison conditions for death row inmates. European Court of Human Rights case law provides interesting references which can serve as an example.

While the number of countries covered has gradually increased – recent bids have included Japan, Nigeria and the Great Lakes region -, at the same time, a more regional dimension has developed, to complement work which until now has been carried out either on a global scale, or centred on a national level.

Nevertheless, small local organisations sometimes feel overwhelmed by the rigorous bid process, as one member of the office of the Moroccan Prison Observatory points out. While the possibility of joining forces with more experienced NGOs to submit a proposal could be envisaged, EU delegations could also offer training in this area. An even more attractive proposition would be to use an umbrella organisation, like the example of the IRCT (International Rehabilitation Council for Torture Victims), which heads up other NGOs with their proposals in the area of torture. Guillaume Parent, a former coordinator with the World Coalition Against the Death Penalty, suggests that the latter is considering taking on a similar role in the area of capital punishment.

Finally, Angela Della Porta points out that illegal organisations or non-legal entities are also eligible for funding from the European Instrument for Democracy and Human Rights, through a confidential procedure. “There is no deadline for this call for projects, the process is open all year round.” Organisations concerned are invited to visit the European Commission’s website[41].

ALSO IN GENEVA...

Art exhibition during the 4th World Congress

A FEW WORDS ON THE CULTURAL PROGRAMME

by *Arnaud Gaillard*
Congress coordinator, ECPM

Since the defence of great ideas cannot rely solely on political, legal or even militant debates; since the issues raised by the death penalty go beyond law, criminology, the supposed pragmatism of the punishment, to reach philosophical dimensions, it was necessary, on the occasion of the 4th World Congress Against the Death Penalty, to convey elements of reflection on abolition, by appealing to everybody's senses. That is why, alongside the daytime conferences, a cultural programme was designed, which conveyed the issues of the death penalty from an artistic, sensitive angle, expressing realities audible by the living beings that we are.
A theatre play, photo exhibitions, film screenings, the testimonies of death row victims; this cultural programme was designed to punctuate the Congress debates, while lending visibility to the issues of universal abolition and thereby raising the awareness of the general public at the very heart of the city of Geneva. With the aim of mobilising the consciousness of people of all ages on the urgency of abolition, as well as on the pressing need to keep alive the debate on a cause of which the final combat is never achieved, we wanted to appeal to the many facets which make up the human being. Laughter, sadness, relief, all the emotions which lead us to regard criminal law as a tool at the service of justice against all forms of vengeance and political domination, were expressed through an eclectic programme aiming to raise the awareness of as many people as possible.
No one will forget the uneasiness provoked by the artistic installation by Kristof, consisting of an electric chair equipped with a lethal injection device, with background sound by Olivier Raoul, alternating between anguish, and enchantment, reflecting the contrast between the well-being of life and the terror of a scheduled death. The "Words of Victims" evening, where the emotion of victims' families and former death row inmates was accompanied by the languorous voice of the Franco-British singer Emily Loizeau, was also the opportunity for the large audience to get close to the modern-day reality of death row in the United States through a live discussion with the lawyer of Hank Skinner and Mumia Abu Jamal. The exhibition of press cartoons has continued, since the Congress, to permeate consciences wherever it is put on display. The theatre play based on Victor Hugo's "Last Day of a Condemned Man", which premiered on the opening evening of the Congress, has since continued to perform to an increasingly profane audience, running for four weeks at the Avignon Festival in July 2010.
These examples testify to life after the World Congress, of the vigour of the abolitionist combat at the beginning of the 21st century. As the death penalty is an issue of civilisation in the same way as slavery or colonisation was, the scope of the task facing us means we must be equipped with a full set of tools suited to every aspect of the fight lying ahead. We must undermine the credibility of the fantasy of the death penalty as a deterrent in order to fight against the all-too-frequent populist temptations expressed by politicians to justify the ultimate punishment by the need for normative order. Emotions serve to contradict the split of the mass of humanity between the goodies and the baddies, making some the definitive and absolute enemies of others. This is the price to pay to build appeased societies. In all its forms, the abolitionist fight cannot do without these sensory dimensions alongside intellectualised strategies.

ABOLISHING THE DEATH PENALTY WITH ONE STROKE OF THE PENCIL

by *Cécile Thimoreau*
ECPM

Even before its inauguration, the exhibition by the association of press cartoonists, Cartooning for Peace, had unsettled the traditional Swiss neutrality. A caricature of stoning, making reference to the death penalty carried out in some Muslim countries, had sufficiently unnerved the leaders of the University of Geneva for them to attempt to withdraw the exhibition planned for their main building, then subsequently to cover up the "embarrassing" cartoons. They did not count on the determination of the association, created in 2006 on the initiative of the famous French cartoonist Plantu, and the symbolic influence of its patron, the United Nations Secretary-General at that time, Kofi Annan. In fact, this controversial exhibition was organised as part of the 4th World Congress Against the Death Penalty, a Congress which had the strong backing of the Swiss government.

With such strong political support, the exhibition was maintained and inaugurated on 4th February 2010 in the presence of Plantu, Patrick Chappatte (a renowned cartoonist from the Swiss daily newspaper *Le Temps*), Kofi Annan and the Mayor of Geneva, Rémy Pagani.

The controversy gave unexpected publicity to an exhibition consisting of a fairly modest total of 48 press cartoons denouncing the application of the death penalty in around twenty countries. Consequently, when Patrick Chappatte spoke at the 4th Congress, the audience in the amphitheatre of Geneva's international congress centre was particularly attentive. They were expecting impertinence and humour and Patrick Chappatte did not disappoint with his presentation of the Cartooning for Peace association of which he is also a member. "*It is a sort of United Nations organisation for cartoons...but much more effective.*" The tone was set, the workshop could begin.

PRESS CARTOONS: A UNIQUE FORM OF JOURNALISTIC EXPRESSION

"The death penalty is a very popular theme. We cartoonists rather like going against public opinion," Chappatte added incisively. The Swiss man clearly likes cartoons which stir up the critical senses of the readers.

For Damien Glez, a cartoonist for the Burkina Faso press, the role of the cartoonist is no different than that of the journalist. However, he recognises that the cartoon goes much further, it can take the direction of bad faith, doublespeak, leaving the reader free to interpret. Thanks to a cartoon, it is possible to treat serious subjects with humour. While the humorous tone can sometimes shock, it leads to reflection as effectively as a "head-on" or "militant" drawing.

Above all, for this Frenchman living in Africa, cartoons give everyone access to the news. It is important in a country like Burkina Faso where the majority of inhabitants are illiterate.

THE DEATH PENALTY: A SUBJECT NOT OFTEN COVERED BY THE PRESS

Out of the 48 cartoons on display during the World Congress, the majority had not appeared in the press, they were especially produced for the Congress or other abolitionist events. Damien Glez explains, "The death penalty is not a subject for debate in public opinion, Africans live in a violent political, usually military, context. Discussing the place of the death penalty in the criminal code appears abstract, faintly ridiculous. Public opinion sees it as an intellectual debate (...) As we say, a hungry belly has no ears..."

The American cartoonist Jeff Danzinger paints the same picture. He also rarely uses the theme of the death penalty in his country. "In the United States the media is more concerned about abortion which is a theme which will run for at least another five years and, especially, as in Europe, unemployment." He points out that the United States are made up of 50 states, and that in 15 of them the death penalty is abolished, including in his own state of Vermont.

The Japanese cartoonist Norio Yamanoi agrees, "The death penalty is not a topic of debate in Japan (…) 80% of Japanese people are in favour of it."

Moreover, in Japan, there is a whole series of taboos which must not be violated. For example, you must not make fun of another person's tragedy, you cannot draw the Emperor or his family, people who are discriminated against, disabled people... "It is difficult to be a good Japanese citizen as well as a good cartoonist," he adds with a smile.

Speaking with the impertinence and freedom expected of a press cartoonist, he continues, provocatively, before an assembly of national political leaders, activists and representatives of international organisations in favour of the abolition of the death penalty, "Personally I am for the death penalty but when I am asked to draw against it, I do."

Clearly, Norio Yamanoi does not see himself as an activist. For him, drawing is a job in which you fulfil a customer's request. When he presents his cartoon - a hung guillotine, executed - the extent of his talent and his contradictions are apparent. In a few strokes of the pencil, Norio Yamanoi has symbolically killed the death penalty as well as his own convictions, to fulfil a request from his friend Chappatte.

SENTENCED TO LIVE

by *Désislava Raoul*
Congress communications officer, ECPM

Paris, 5th February 2010. 19 days to go before the opening of the 4th World Congress Against the Death Penalty. Its presentation before the French press may be decisive for the media campaign. Around 30 French journalists take their seats in a room of the Luxembourg Palace, home to the French Senate. Some have already read the article published the day before in the weekly magazine *L'Express.* Others have just heard about a French woman, a certain Sandrine Ageorges-Skinner, married to a prisoner on death row in the United States, Hank Skinner[42]. He is due to be executed in 19 days time.

Joaquín José Martínez is used to talking about his extraordinary life in front of the press. For nine years, this former inmate of death row in the United States has been actively involved in the abolitionist movement across the world. Accused of murder in 1996 on the basis of false testimonies and tampered evidence, he spent three years on death row in Florida. This is the first time that Sandrine will speak in front of the press. They both sit facing the journalists. Joaquín speaks of his arrest, betrayal, incomprehension, the absurdity of life on death row, the wait, the hope, the fear, the survival. He tells the life of a prisoner on death row. He takes the hand of Sandrine who he met just a few hours before. A smile. It is Sandrine's turn to speak.

Within a few days, the "Hank Skinner case" has found its way onto the television news, several radio programmes and into the pages of the French press. It remains there for several months. Foreign correspondents in France call us to ask for interviews with Sandrine. Their media back home also want to show the face that French people are already beginning to recognise in the street. I'm worried for Sandrine. Beyond the fact that her face has become familiar to thousands of people in just a few days, there is a race against the clock, the battle for the life of her husband. What if Hank was executed? How would this lifelong abolitionist live after the execution of her husband?

"Sentenced to live". I read this headline in a French newspaper and I know that Sandrine will survive. Ex-death row inmates and the families of those sentenced to death have a different approach to death. And to life as well.

Geneva, 24th February 2010. The 4th World Congress Against the Death Penalty opens at the UN Palace of Nations. Hank has not been executed. The date has been pushed back to 24th March 2010 by the Texas state district court due to a legal technicality.

Two hundred and eighty accredited journalists await Sandrine in Geneva. She will never be alone. One of her guardian angels will always be at her side. Curtis Edward McCarty spent twenty-one years on death row in Oklahoma before being acquitted. He is arriving in Geneva to speak at the press conference to launch the Congress and will stay here for one week with our team as a volunteer. Cameras and microphones follow Sandrine and Curtis everywhere. We have counted 1200 reports, interviews and articles. The story of the wife of a death row prisoner; the story of an ex-death row prisoner. And the story of Hank Skinner told by Sandrine and Curtis. The media want to cover the issue of the death penalty in the world through the words of those most concerned: the direct and indirect victims (murder victims' families, death row inmates and their families). Their personal history and powerful testimonies, relayed by the international press, give a high level of media coverage to the issues of the abolitionist movement. Sandrine Ageorges-Skinner, the wife of Hank Skinner, becomes "the face" of this event, and the "Hank Skinner" case becomes the emblem of this Geneva congress.

Paris, 24th March 2010, the day of Hank's planned execution[43]. Place de la Concorde. The association *Ensemble contre la peine de mort* (ECPM) has organised a gathering: "Justice for Hank", covered by the main French media channels and the foreign correspondents of American, Swiss, Norwegian,

Spanish, Canadian, Belgian and Russian media. *TSR* and *France 2* whose correspondents in the United States were granted permission to enter the prison in Livingston, broadcast special reports including an interview with Hank Skinner. We are waiting for Sandrine's phone call. She has been allowed to see Hank for the first time in twenty months. The right to last visits is a bad sign. Sandrine calls. She is determined to speak, even by telephone, in front of this crowd gathered in support on the Place de la Concorde. It is 7:15 pm in France. In Texas it is 12:15 pm.

Hank could be executed in eight hours. Sandrine speaks. Once again this person sentenced to life is incredibly strong. She is confident. "Hank, you're going to live," she told her husband.

The famous journalist Larry King invites Sandrine Ageorges-Skinner to appear on his *talk* show *Larry King Live,* that same day and CNN broadcasts a report on the mobilisation in France. Sandrine is not alone. Curtis, her guardian angel and ex-death row inmate, is also interviewed by Larry King. Several European political leaders have sent letters to their American counterparts, including the French government. On 24th March 2010 Frank Skinner is granted a stay of execution by the United States Supreme Court 35 minutes before it was scheduled to take place.

On 24th May 2010 the American Supreme Court agrees to hear Hank Skinner's appeal. If the court rules in his favour, he will have the right to continue his civil case against prosecutors who refused to order DNA tests or to hand over evidence to the defence in order that private tests could be carried out. A hearing will take place at the Supreme Court in Washington on 13th October with the judges due to announce their ruling in spring 2011.

I do not yet know the other dates on the calendar of the "Justice for Hank" campaign. But I know that there will be several. Because this campaign initiated and launched by the association *Ensemble contre la peine de mort* (ECPM) on the eve of the 4th World Congress Against the Death Penalty, has guardian angels - Sandrine, Joaquín, Curtis and all the other prisoners on death row.

CONCLUSION

Final march against the death penalty
at the United Nations square

GENERAL CONCLUSION

par *Arnaud Gaillard*
Congress coordinator, ECPM

It was essential for this abolitionist gathering to be effervescent and resounding in order to underline the urgency of a cause on which our visions of the world, our projects for societies on the path to appeasement, respect and justice, depend. The aim of this international gathering of exponential scope compared to previous events, constituted a major challenge to make this three-yearly initiative develop in the direction of unequivocal determination. After the 4th World Congress Against the Death Penalty, the international abolitionist movement is exuding an impression of maturity which we must grasp as a unique opportunity to take up new challenges.

It took a lot of pride to design a murderous justice, to allow some people supreme and irreversible power over the life of others, on the pretext of correction or reparation. Today we require humility and observation to recognise the excesses of human violence, to confess our common fallibility. Gathering together regularly with the aim of consciously building on the soon-to-be remains of an all-too-frequent barbarity is an obligation for our generations to create a form of justice to protect the integrity of people, property and institutions. It also required a certain amount of madness to imagine suppressing the violent behaviour of some by approving the cruelty of others. Today we need a lot of exchanges, sharing of ideas, thoughts, arguments, experiences, expertise, to build together a world without the death penalty.

Year after year, along the road of an increasingly structured fight, the main areas are defined, around which energies are focused, strategies are established and optimism is fuelled. Working on several levels, between micro concerns and macro points of view, between specific themes or the choice of geographical insights, in the continuity of previous gatherings, this 4th Congress has helped to bring to the surface more acutely, the denominators always common to murderous justice, despite apparent specificities. Gathering together beyond borders, cultures, languages, past histories, contemporary challenges, to reinforce a conclusion which everybody can translate, is one of the major benefits of this congress. It is when we share so much of what is obvious, based on an empirical view and a humanist philosophy, that we attain and enable the human species to attain the undeniable certitude that abolition is moving in the direction of progress. Progress which is not discussed but which on the contrary is imposed. Yes, the death penalty is barbaric. Yes, the death penalty is futile and dangerous violence. Yes, the death penalty is discriminatory. Yes, the death penalty is a weapon of the powerful. No, the death penalty is not a deterrent. No, the death penalty is not justice. No, the death penalty is not inevitable. The proof is that we are all contributing to its gradual disappearance from criminal systems. In February 2010, in Geneva, we all demonstrated that only life is able to make promises. We demonstrated to the retentionist world, our strong will and the power of our collaboration, beyond borders, cultures and religions. Through its form and content, this Congress showed the determination of abolitionist players, our capacity to unite on all levels of society, our ability to grasp hold of all the issues to achieve a common vision with regard to the definition of the winning strategies to develop.

We have to admit there is something comradely in our desire to unite to found a common discourse, which everyone can appropriate. It is from this sharing of rationalities, experiences, as well as emotions, which the energy required to deploy abolition develops as we make ideas triumph. A Congress illustrates above all the necessity to gather together all the players involved, or who could be involved in this fight for universal abolition. That is why, like on previous occasions, this 4th Congress was designed to give the battle orders to an army of specialists ready and motivated to advance a cause, like a resolute army certain of victory. It means fighting against presuppositions, against judicial systems, against the will of populations who are ignorant of the reality of the death penalty, against the political instrumentalisation of death in the name of justice, against cultural and historical experiences which nations are still mourning. We know that we need to bring about a revolution in the way we look at justice, but even more radical than that, in the channelling of the pre-

rogatives that we grant to some members of our species, with regard to the fundamental right to life of which we can no longer deprive others.

We all agree on one point - to win, we need to recognise our enemies, whether they are physical or ideological. To win we must also be aware of our weapons, the ins and outs of the combat, the geographical and contextual areas in which the war against murderous justice is being fought. In this respect, the programme of the 4th Congress revealed in greater detail, the very latest national and international contexts in which our common energies must increase tenfold in the years to come.

We all know also, that it is not simply a question of relaxing sentencing policies. It is above all a question of enabling civilisation to move forward, universalising the right to life in all its aspects, behind all its faces, to go beyond the very notion of justice to abolish irremediably the murderous practices, which paradoxically make victims of the worst criminals executed.

And our rejoicing in the tone of this movement which brought us together in Geneva in February 2010, our planning of future congresses, are signs of the strengthening of a certitude which is all too often barely felt by populations, that each day we are establishing a little more strongly, the abolition of the death penalty on the level of a fight for civilisation. We must therefore use qualification, discourse and never hesitate to use words, reasoning and emotions, in order to articulate with honesty and rigour, a fundamental idea, that execution is murder. Abolition is not a secondary approach of fundamental rights. On the contrary, it is a chapter in its own right, in the same way as the end of colonisation, the abolition of slavery, the delegitimisation of torture, and of all which irreversibly brings into question the psychological and physical integrity of men and women. It is what the whole world must integrate. It is on this idea that the urgency and the indisputable character of abolition are founded, as well as the definitive and irrevocable destination of this project. The next Congresses will provide opportunities to highlight progress and victories. Tirelessly, we will come together, we will define another way to judge and to punish. We are aware of the efforts undertaken by some continents, such as Africa. We are aware of the fragility of the status of abolition in those countries where political and social unrest is calling into question the fundamental gains, odiously reviving the fantasies which are all too frequently linked to the usefulness of executions, as in Peru recently. We are aware that religions and the death penalty continue with their perverse relationship in particular in countries governed by radical Islam which mix divine order and a constitutional state. We cannot ignore the fact that Asia seems to be a region which has been largely forgotten by the abolition process, despite some developments in China and the discreet optimism felt with the jerky beginnings of debate in Japan. The United States must remain an emblematic concern, illustrating in particular the discrimination always associated with the death penalty, present there as it is everywhere else. For all these reasons, and because our battle is defined more and more accurately as an international movement, none of these world regions must be forgotten in our fight to strengthen abolition in some cases, encourage moratoriums in others, and above all to open and maintain the fundamental debate on the wrongdoing of a violence the abandoning of which is unfortunately not a matter of course. There remain therefore many discussions to explore more deeply, emotions and practices to share, to further pragmatically as well as ideologically, an idea which is moving forward. Abolitionists, strengthened by their variety, NGOs, legal experts, IGOs, politicians and religious leaders, must become formidable for all those who defend death as a cultural legacy in defiance of any morality or rationality. Each congress serves to reinforce us, to make us stronger in the face of our adversaries. Eventually, abolition must impose itself without any protest, in order that murder is not legitimised. Abolition has to become inevitable and will undoubtedly be so in the near future, which must make us all the more impatient to gather again in 2013, for the 5th international gathering of abolitionists. A confident, resolute and optimistic impatience.

CONGRESS DOCUMENTS

Congress visuals

THE WORDS FOR ABOLITION

speech made by *José Luis Rodriguez Zapatero*

President of the spanish government and of the European council

Mr Diouf, General Secretary of the Organisation Internationale de la Francophonie (International Organisation of French-speaking communities), Mr Robert Badinter, authorities, Mr Roseben, a Swiss journalist who is present here today, ladies and gentlemen,

Just over a year ago we inaugurated the Human Rights and Alliance of Civilisations Room that we are sitting in today, under its beautiful and symbolic domed ceiling, with which Spain hoped to contribute to the commemoration of the sixtieth anniversary of the Universal Declaration of Human Rights. And today I would like to start my speech by thanking you for inviting me to attend the opening session of this fourth World Congress, organised by "Ensemble contre la peine de mort" in collaboration with the World Coalition.

Since 2001, three editions of this Congress have preceded the one that starts this morning: in Strasbourg, Montreal and Paris. They all gave us an opportunity to come together and reaffirm the same noble movement that brings us here to Geneva today, a movement which has grown in strength and determination, a militant movement, one of values.

Participation in this new event will be exceptional. Over three days, more than a thousand representatives from civil society, international organisations and governments will share their experiences and points of view in order to define and reinforce the strategies that drive the abolition of the death penalty as a preliminary step towards a universal moratorium on executions all over the world.

Spain was one of the driving forces behind this fourth congress. We instigated it because we believe that this is the ideal forum for uniting efforts; to create a loud and clear voice in favour of the abolition of the death penalty, a voice which must make itself heard in all corners of the world. In order to achieve this, Spain would be honoured to host the next edition of this congress and, from my place on this rostrum, I hereby make this an official invitation.

Ladies and gentlemen, over the last few decades we have consolidated the world movement for the extension of human rights, whose original and most important reason for being is the unconditional right to life and dignity for all people. The progress made has been significant, especially in the last twenty years, and today more than two thirds of UN member countries have abolished the death penalty in their legislation or in practice. But, although it is good to remember the progress made, no doubt thanks to the work that numerous people and organisations, like those present here today, carry out every day, we cannot let ourselves be satisfied with this. Unfortunately, the death penalty is still applied in many places. This is why we must increase our efforts, carry on working, do anything we can to make sure that it is universally abolished. To do this, we rely on the campaigns that the World Coalition has set up in favour of the approval of the Second Optional Protocol of the International Covenant on Civil and Political Rights, which is the only universal and binding legal tool that can give rise to abolition.

Today, Spain is a totally abolitionist country, a fact that is ratified by its national legislation and its approval of all of the international treaties regarding respect. Furthermore, the abolition of the death penalty is one of our foreign policy's priorities, as stated in the Human Rights Plan that our government approved in December 2008.

Our intention is clear: for as long as there is reason to do so, we will continue to include the issue of the abolition of capital punishment in all of our bilateral contacts and diplomatic actions, from the respect of the principle of non-interference, but also from the respect of human rights, universal rights for all citizens.

In the first half of 2010, during which it is our turn to hold the presidency of the Council of the European Union, we will continue to drive the European Union's directives and to work towards establishing an immediate moratorium in those countries that still apply the death penalty, as a first step towards abolition. We will also continue to carry out direct negotiations in the places that still apply individual death penalty sentences that violate the minimum international rights criteria, in particular when they affect the most vulnerable groups: minors, pregnant women or people with mental health problems. And, within the framework of the United Nations, we will

propel the approval of a new General Assembly resolution at the end of the year regarding the restoration of a moratorium on the use of the death penalty. In order to do this, the European Union coordinates the activities of its member states with other countries from all regions of the world.

Ladies and gentlemen; Spain and all Spanish people are fully committed to the fight against capital punishment, fully committed to the respect of human life, and today I announce a further step towards this commitment: the Human Rights Plan, which has been approved by our government and which I have just mentioned, established the creation of an International Commission Against the Death Penalty as part of our country's desire to reinforce the current international trend in favour of universal abolition. The Commission will be operative in the second half of this year and will fulfil an important mission that will complement the actions that the civil society representatives, international organisations and governments are carrying out. It will also work in close collaboration with the aforementioned organisations. The Commission will include people of high moral standing an international prestige.. The weight of its members, its freedom to make independent decisions and its wide geographical scope will allow it great visibility on an international scale. In order to carry out its actions, the Commission will rely on the support of a group of government representatives, with whom contact has already been made in order to advance its creation. I am sure that the work done by the Commission and its support group will be of great assistance in achieving the universal application of a moratorium, which should come into effect in 2015, as a preliminary step towards the total abolition of capital punishment.

The choice of 2015 is not coincidental. It is in keeping with the belief that the defence of human dignity is indivisible, that it is necessary to make progress on all fronts and to fight violence, hunger, poverty and illness with equal determination. If we chose this year as the one in which we would review the leve of achievement of our millennium development goals it makes sense to choose 2015 to attain the universal moratorium that we are seeking.

Ladies and gentlemen, by driving these initiatives, Spain hopes to contribute to the promotion and support within the international community of any actions that work towards achieving the full universal extension and acknowledgement of human rights and to condemn those places in which these rights are not respected, because like Salvador de Madariaga we do not want history to simply be a mere series of events, we want history to be a chain of actions that have been at the forefront of people's minds. Friends, militants in favour of the abolition of capital punishment, we have five years ahead of us in which to achieve one great objective: to stop executions all over the world. This goal is within our reach, providing we work hard and work together, because although the work done by the states and governments is important, even more important are the actions carried out by the international civil societies that you represent as part of the World Coalition Against the Death Penalty, civil society, in this World Coalition I would like to acknowledge you for your hard work, for your efforts in favour of such an admirable and dignified cause as the abolition of the death penalty.

All that is left for me to do now is to wish you all the best for this fourth World Congress; its success, our success, will mean success for human rights, success for dignity for all people, success for the protection of lives, and success for those states that fully respect all human life until the very end. Nobody has the right to shorten the life of another human being, absolutely nobody. We are fighting for this cause, and I am here to help. Thank you.

THE WORDS FOR ABOLITION

speech made by *SE M. Abdou Diouf*

general Secretary of “la Francophonie”

I would personally like to express my sincere thanks to the hosts and organisers of this Fourth World Congress against the Death Penalty, and pay homage to the eminent personalities who have accepted to take part and thereby demonstrate their support for this noble cause and this courageous fight. I accepted your invitation because I have always held a strong conviction of the need to abolish the death penalty, a conviction which, in my conscience as a man, and as a man of faith, has never wavered.
My long years in power in my country brought me into confrontation, sometimes strong confrontation, with public opinion, national interest, social pressure, and even politicians’ demagogy. In Senegal, the last execution took place in 1967. Since that date, the death penalty has never been applied in my country. I am proud - after all these years during which we have demonstrated the values of humanism and the respect of human dignity which Léopold Sédar Senghor bequeathed to us - that my successor Abdoulaye Wade formally abolished the death penalty in Senegal in 2004.
I followed with great interest your first three Congresses in Strasbourg in 2001, Montreal in 2004 and Paris in 2007. It is not only the choice of French-speaking cities to host the Congress which incited La Francophonie to support your movement. It is the legitimate fight for abolition which unites us all today. I applaud, in this respect, the perseverance and constant commitment of the association “Ensemble Contre le Peine de Mort” as well as the World Coalition which was created to fight this cause.
This year it is the Geneva’s turn to welcome us, and I congratulate our hosts on this generous invitation. Switzerland is demonstrating once again the priority which it affords to human rights, and its international commitments in this area, in particular with regard to the abolition of the death penalty.
Your fight, our fight, the fight of all humanists, is not in vain. Recent progress in terms of abolition is more than encouraging. More than 140 countries have abolished the death penalty and no longer apply it. Of the sixty or so countries which retain this sentence in their legislation, only 25 carried out executions in 2009. Almost 95% of these executions took place in only six countries.
I would like to express my admiration for Europe, an exemplary democratic region, a forerunner in the abolitionist fight.
As an African, I would also like to express the pride and optimism I feel when I see the ongoing progress. A number of countries have opted for abolition. Many others who have implemented a moratorium or no longer apply the death penalty will follow suit. I urge them, here in Geneva, in this world capital of human rights, to undertake the necessary commitments without delay. Africa has already suffered too much as the martyr of slavery then colonisation, poverty and political violence, massacres and genocides, to continue to apply the death penalty.

As a member of the French-speaking world, I can see a general trend which must be supported and encouraged. Out of the 70 member states and governments of the International Organisation of La Francophonie represented on all five continents, 45 have abolished the death penalty in law. Around a dozen member states have no longer practised it for over 10 years.
La Francophonie is resolutely and unconditionally committed to democracy, the constitutional state and the protection and promotion of human rights. Our reference normative framework, the Declaration of Bamako of November 2000, clearly states in article 2 that, "Democracy, a system of universal values, is founded on the recognition of the inalienable character of the dignity of all humans."

Ladies and gentlemen, in 1862, Pastor Jean Augustin Bost appealed to the flamboyant and powerful pen of Victor Hugo to win over Genevan public opinion, due to vote on maintaining the death penalty in the Republic of Geneva.
These are the words which the abolitionist poet used to convince Geneva's inhabitants:
"A constitution which, in the nineteenth century, contains any amount of capital punishment, is not worthy of a republic. (...) A capital execution, is the hand

of society holding a man above the abyss, opening its hand and letting him go. (...) As long as the death penalty exists, we will feel cold and it will be dark whenever we enter a court of law."
The road is long, far too long, when we consider the legal, criminological, philosophical, religious and moral arguments generally given. The law must once and for all forbid man-made justice from taking the life of another person, even if that person is guilty, something which cannot always be established with absolute certainty.
The execution of a prisoner should collide forcefully with human sensitivity and make us look beyond any feelings of vengeance and fear to envisage humanity stripped of everything but its dignity. It must be said, death row is a place of shame. Robert Badinter rightfully states, "The real political significance of the death penalty is that it originates in the belief that the state has the right to dispose of a citizen going so far as to take his or her life. This is how the death penalty becomes part of totalitarian systems."
Ladies and Gentlemen, none of the values which lie at the heart of the Francophone project will ever be able to justify the relativisation of the value of human life to such a point as to accept that it can be legally extinguished.
On the threshold of the second decade of this 21st century, we are all conscious that global-scale dangers will affect our ways of living and our ways of acting and thinking.
So let us defend our humanist values and help future generations to live together differently and to share the idea of the Senegalese philosopher Kocc Barma Fall who said “nit moy garab u nit”, or, “Man is Man’s remedy”.
I reiterate that our states and governments must do more to eradicate the death penalty from our legal systems once and for all, which means, signing and ratifying international and regional instruments in favour of abolition, implementing moratoriums, advancing bravely towards formal and total abolition!
As long as there remains just one retentionist country, this will constitute a challenge for the collective Francophone conscience.
Thank you.

THE WORDS FOR ABOLITION

speech made by ***Robert Badinter***

Senator, Former Minister of justice, initiator of the abolition of death penalty in France, in 1981, under the presidency of Fran√ßois Miterrand.

“Let us be clear, this is a congress of militants. Whatever our role in society, whatever our ability here and now to intervene, what counts is the common fight, what counts is the great battle for the universal abolition of the death penalty. I repeat, whatever our situation, that is the cause which we all support. And that is why I insist, this is a congress of militants.

At the forefront of these militants I applaud the non-governmental organisations, as I applaud all those I know well, who are tirelessly striving, always and everywhere, for the abolition of the death penalty.
If I have been invited to speak, it is not with regard to my past, it is because, in view of the time which has elapsed and of what I can say in this respect, it would seem somewhat natural for me to take stock of these years. That is what counts, and it is that which arouses the spirit, when one has lived through so many decades of this fight for abolition.
In 1981, when France abolished the death penalty, we were the 35th country in the world to do so. Today, almost 30 years later, I look back at the progress we have made, and I am delighted to be able to say that today, out of the 192 member states of the United Nations, 138 are abolitionist in law or in practice. Look at how far we have come. Today, abolition is overwhelmingly in the majority across the world.
For this achievement, which I have to admit I did not dare to hope for in 1981, we must thank militants on every level. Without them, without their tireless action, we would not have been able to advance so quickly and so far. However, that is no reason to stop.
So, as it is a question of universal abolition, let us simply take stock of the global progress that we have achieved. Let us consider the fact that regional covenants today ensure that once states have ratified these agreements, they are no longer able to resort to the death penalty.
I do not need to remind you how successfully in this respect, the fight has been carried out on the European continent, now purged of the death penalty, which, considering its bloody and criminal past, notably in the first half of the 20th century, cannot fail to lift our spirits.
Firstly the Council of Europe with the Covenant, the additional protocol to the European Convention on Human Rights, the 6th protocol of 1983, the 13th protocol of 2002, all of which prohibit states which have ratified them from using the death penalty. As of today every country on the European continent except for Belarus, the last of the Stalinist states (that analogy will come as no surprise), has abolished the death penalty in law, except for one which is still abolitionist in practice.
However, that is not all. Remember that the highest judicial body in Europe, the European Court of Human Rights, in official land mark judgements and notably with the ruling in the Öcalan case in 2003, qualified the death penalty as inhumane and declared that it must no longer be applied on the European continent.
Let us also remember that the European Union, in the Charter of Fundamental Rights, a solemn declaration of the values which structure the European Union and from which we must never stray, states in article 2, “No one shall be condemned to the death penalty, or executed".
Other regional agreements echo those which today govern the European continent.
This is the case of the Inter-American Convention on Human Rights with the 2000 protocol, which has been ratified by many states. Today, the whole American continent, with the lamentable exception of the United States and some other small Caribbean countries, has also banished the death penalty.
It is also entrenched in the African Charter on Human Rights which advocates the principle of the respect of the right to life. Much work still remains to be done on this vast continent and I applaud the example of Senegal which has become an abolitionist country, one of the first on the African continent.
That is the situation with regard to regional conventions but we must also assess the world’s progress towards abolition in terms of the action carried out in the framework of the United Nations.
In this respect we have the Second Optional Protocol,

an amendment to the 1966 Covenant on Civil and Political Rights which definitively prohibits the use of the death penalty by countries which have ratified it, 67 to date.
We also have the highly symbolic, highly significant Treaty of Rome creating the International Criminal Court which followed the creation of the international criminal courts for the former Yugoslavia and Rwanda. A Statute of Rome which prohibits the use of the death penalty against the perpetrators of the worst crimes which can be committed on the surface of this earth - genocide, crimes against humanity. Most certainly, Rome 1988 was a momentous moment for human conscience and one which is still etched in my mind.

Over the last few years we have also seen the movement initiated by Italy and adopted by all EU countries, led decisively by the European Union, to achieve a moratorium on executions across the world. We know that a resolution on this moratorium has been passed on two occasions by the United Nations General Assembly. In 2007, 104 countries voted for the moratorium; in 2008, 106 voted in favour. We will see what can be achieved next, but again these votes show that abolition is in the majority and that the march towards universal abolition, this progress of humanity, is continuing to move forward.
Of course the death penalty still has its strongholds - countries such as China, the United States, Islamic states, which sadly in the Near East are increasing their use of the death penalty; including for women, including for juveniles in defiance of international conventions, including, and I am thinking in particular of Iran, against political opponents.

It is there where today I believe the real fight lies, and it is in order to define the best tools and strategies for this fight, that this Congress has come together. We will share our experiences, we will define strategies and at the end we will make a solemn declaration. Then we will each leave to continue our fight against the death penalty in our own corner of the world.
Let me share with you, with all militants, my strongest conviction.
Yes, the death penalty will disappear and will disappear sooner than we think from our humanity! Yes, we will see universal abolition because the death penalty is quite simply, like torture, a disgrace for humanity!
Never in any part of the world has the death penalty been an effective weapon against bloody crime, and with regard to terrorism I would even say that, perversely, it turns the terrorist into a hero, a martyr for those who believe in the cause which he or she supports.
Yes, the death penalty is a humiliation for all of those who believe that the most fundamental of human rights is the right to life! Those who believe in the inviolability of the human being without which in this world, "man is just a wolf to man"!
Allow me for a moment to go far back into the cruel history of the great and beautiful country of Spain. During the civil war, in the ruins of Toledo, a fascist general blasphemously proclaimed "Viva la muerte!", “Long live death!” - the most atrocious utterance that a person could make on this earth. No, we, the militants of abolition, proclaim, "Long live life! Long live life, and tomorrow, long live universal abolition!” Thank you."

THREE DAYS OF MOBILIZATION
4TH WORLD CONGRESS AGAINST THE DEATH PENALTY
PROGRAM

Wednesday February 24 • PALAIS DE NATIONS

Room XX of the Human Rights and Alliance of Civilizations, Palais des Nations
A live broadcast will be held the next door in Room XIX, however in English only.

9.30 am-12.00 pm • OPENING

Welcome words
- **Sergei Ordzhonikidze**, Director-General, United Nations Office at Geneva, Switzerland
- **Raphaël Chenuil-Hazan**, Director-General, Ensemble contre la peine de mort, ECPM
- **Pascale Bruderer**, President, National Council of Switzerland

MUSICAL INTERLUDE:
- **Christian Benda**, Chief Conductor and Artistic Director of the Prague Sinfonia Orchestra, cello

Speaches of partners of the 4th Congress:
- **Elizabeth Zitrin**, Representative of the World Coalition Against the Death Penalty, USA
- **Bianca Jagger**, Goodwill Ambassador, Council of Europe, UK
- **Maxime Ahoueke**, Special Counselor of the President, Benin
- Permanent Ambassador In Geneva, Ireland
- **François Zimeray**, Ambassador of Human Rights, France
- **Victorio Taccetti**, State Secretary for Foreign Affairs, Argentina
- **Enzo Scotti**, State Secretary for Foreign Affairs, Italy
- **Gry Larsen**, Vice-Minister of Foreign Affairs, Norway
- **Laurette Onkelinx**, Vice-First Minister, Minister of Social Affairs and Public Health, Belgium
- **Jean Asselborn**, Vice-Prime Minister and Minister of Foreign Affairs, Luxembourg

MUSICAL INTERLUDE:
- **Christian Benda**, Chief Conductor and Artistic Director of the Prague Sinfonia Orchestra, cello

Plea in favour of Abolition:
- **Robert Badinter**, Senator, Minister of Justice from 1981 to 1986, author of the abolitionist law in France, France
- **Abdou Diouf**, General Secretary of La Francophonie
- **José Luis Rodríguez Zapatero**, head of the Spanish Government, country who ensure the presidency of the European Union Council (UE), Spain

Geneva Congress: Instructions and organization

ANIMATOR:
- **Darius Rochebin**, Journalist, Télévision suisse romande, Switzerland

12.30-1.15 pm • PRESS CONFERENCE

Wednesday February 24 • CICG

2.00-4.30 pm • PLENARY 1 • **ROOM 1**

☛ International and Regional Organizations: commitments to abolition of the death penalty.

SPEAKERS: **William Schabas**, professor of human rights law at the National University of Ireland, Galway' and consultant on the UN quinquennial Report of the Secretary-General on Capital punishment • **Miri Sharon**, Associate Legal Officer, Division for Treaty Affairs, United Nations Office on Drugs and Crime • **Jan Kleijssen**, Director of standard setting activities in the Directorate General of Human Rights and Legal Affairs Council of Europe • **Karel Kovanda**, Deputy Director General, External Relations and Political Director, European Commission, European Union • In the name of the World Coalition: **Claudio Cordone**, Secretary General, Amnesty international • **Manfred Nowak**, United Nations Special Rapporteur on torture • **Phillip F. Iya**, Member of the working group on death penalty, ACHPR • **Felipe González**, First Vice-president of the Inter-American Commission on Human Rights, OAS • **Janez Lenarcic**, director OSCE Office for Democratic Institutions and Human Rights (ODIHR)• In the name of the World Coalition: **Liévin Ngondji**, President , CPJ • **Philip Alston**, United Nations Special Rapporteur on extrajudicial, summary or arbitrary • **Taleb Al Saqqaf**, Rapporteur of the Human Rights expert committee of the Arab League • **Danthong Breen**, Chairperson of the Union for Civil Liberty, Thailand • In the name of the World Coalition: **Taghreed Jaber**, Regional Director of PRI's Middle East and North Africa Regional Office

CHAIR: **Ruth Dreiffuss**, former member of the Swiss Federal Council, Switzerland

MODERATOR: **Maurice Possley**, Journalist, USA

5.00-6.30 pm • ROUNDTABLE • **ROOM 3-4**

☛ Racial, ethnic, and social bias in the death penalty: are political and social commitments to equality effective tools for abolition?

ORGANIZER: **Death Penalty Focus** and **ECPM**

INTRODUCED BY Robert R. Bryan, National Lawyers Guild, USA, in collaboration with the Collectif Unitaire national de soutien à Mumia Abu-Jamal

SPEAKERS: • **Kamran Arif**, Lawyer, Human Rights Commission of Pakistan • **Nabeel Rajab**, Vice-President of the Bahrain Center for Human rights • **Michael Radelet**, Professor, University of Colorado, USA

CHAIR: **Henderson Hill**, Attorney, USA

5.00-6.30 pm • ROUNDTABLE • **ROOM 2**

☛ Protecting vulnerable groups from death penalty: juveniles and those with mental health issues

ORGANIZERS: **Hands Off Cain** and **ECPM**

SPEAKERS: • **Nazanin Afshin-Jam**, President and co-founder of Stop Child Executions, Canada • **James Ellis**, Lawyer, Professor, University of New Mexico, USA • **Mohammad Mostafaei**, Lawyer, Iran • **Ameir Mohamed Suliman**, Legal Program Coordinator, African Center for Justice and Peace Studies, Sudan • **James Welsh**, Health and Human Rights Coordinator, Amnesty international*

CHAIR: **Antonio Stango**, Board member, Hands Off Cain, Italy

5.15-6.30 pm • WORKSHOP • **ROOM 5**

☛ Elaborating arguments to convince public opinion

SPEAKERS: • **Joaquín José Martínez**, Former death row inmate, cleared and released in the USA, Spain • **Bill Pelke**, President and Cofounder of Journey of Hope… from Violence to Healing, USA

MODERATOR: **Dave Lindorff**, Freelance journalist at *Counterpunch magazine*, USA

5.15-6.30 pm • WORKSHOP • **ROOM 6**

☛ Defining strategies for abolition

SPEAKERS: • **Hsin-yi Lin**, Executive Director, Taiwan Alliance to End the Death Penalty (TAEDP) • **Ogarit Younan**, President, University for non-violence and Human Rights in the Arab World, Lebanon

MODERATOR: **Odjitan Djoutoungona**, Journalist at *FM-Liberté*, Chad

5.30-6.00 • PRESS BRIEFING

Wednesday February 24 • CPG

Centre de la Photographie Genève (CPG)

7.00 pm • DEBATE-PHOTOGRAPHY

☛ **Photographer Lucinda Devlin** will give a conference on her work; **The Omega Suites** with **ODAGE**.

Wednesday February 24 • LA COMÉDIE

Théâtre La Comédie

7.30 pm • THEATRE EVENING AND COCKTAIL DINNER*

**Limited number of seats*

☛ ***Last Day of a Condemned Man***, by Victor Hugo.
directed by **François Bourcier** with **David Lesné** offered by **the Republic and Canton of Geneva, the City of Geneva and the Swiss Confederation.**

Thursday February 25 • CICG

9.00-10.30 am • ROUNDTABLE • **ROOM 3-4**

☛ **Violence, victims and death penalty:**
how to respond to violence and compensate victims without the death penalty

ORGANIZERS: **FIDH** and **Murder Victim's Families for Human Rights**

SPEAKERS: • **Renny Cushing**, Executive Director, MVFHR, USA • **Toshi Kazama**, member of MVFHR, Board of Directors, Japan • **Guissou Jahangiri**, Executive Director, Armanshahr Foundation, Afghanistan • **Sari Nusseibeh**, President of the Al-Quds University, Jerusalem • **Mariana Pena**, FIDH permanent representative at the International Criminal Court, Netherlands

CHAIR: **Florence Bellivier**, Secretary general of FIDH

9.00-10.30 am • ROUNDTABLE • **ROOM 2**

☛ **Religions and Death Penalty: opportunities and/or obstacles**

ORGANIZER: **Comunità Di Sant' Egidio**

SPEAKERS: • **H.G Jonas Jonson**, Co-President of the Joint Work Group of the Catholic Church and the World Council of Churches, Sweden • **Danthong Breen**, Chairperson of the Union for Civil Liberty, Thailand • **Marc Raphaël Guedj**, Former Chief Rabbi of Geneva, Switzerland • **Siti Musdah Mulia**, Muslim woman theologian, Indonesia

CHAIR: **Mario Marazziti**, Comunità di Sant' Egidio

9.15-10.30 am • WORKSHOP • **ROOM 5**

☛ **Coalitions Development**

SPEAKERS: • **Amina Bouayach**, President of the Moroccan Organization for Human Rights, Morocco • **Aurélie Plaçais**, Campaigns Officer, World Coalition Against the Death Penalty, France

MODERATOR: **Thomas H. Speedy Rice**, Professor of Practice, Transnational Law Institute, National Association of Criminal Defense Lawyers, USA

9.15-10.30 • RENCONTRE-DÉBAT • **ROOM 1**

☛ **Debate with political cartoonists"50 Press Cartoons Against the Death Penalty"**
In partnership with the Foundation **Cartooning for Peace** and the **OIF**

• **Patrick Chappatte**, cartoonist, Switzerland • **Jeff Danziger**, cartoonist, USA • **Damien Glez**, cartoonist, Burkina-Faso • **Norio Yamanoi**, cartoonist, Japan

10.45 am-12.15 pm • ROUNDTABLE • **ROOM 3-4**

Law Enforcement views on the death penalty

ORGANIZERS: **Death Penalty Focus** and **ECPM**

SPEAKERS: • **James Abbott**, Chief of Police Department, New Jersey, USA • **Pierre Akele**, President of the High-Military Court, DRC • **Vito Monetti**, Deputy Prosecutor General of the Supreme Court of Cassation, President of MEDEL, Italy • **John Van de Kamp**, former Attorney General of the State of California and District Attorney of Los Angeles, USA

CHAIR: **Elizabeth Zitrin**, Attorney, Death Penalty Focus, USA

10.45 am-12.15 pm • ROUNDTABLE • **ROOM 2**

Tools and strategies for death penalty abolition in Middle East and North Africa

ORGANIZERS: **Penal Reform International (PRI)** and **ECPM**

SPEAKERS: • **Nassr Abbood**, Iraqi Alliance for the Prevention of the Death Penalty, Iraq • **Miloud Brahimi**, Lawyer, Algeria • **Ahmed Karaoud**, Head of Office Middle East and North Africa, Amnesty International, Lebanon • **Nisreen Zerikat**, Lawyer, Head of Criminal Justice Unit at the National Center for Human Rights, Jordan

CHAIR: **Taghreed Jaber**, Regional Director of Penal Reform International's Middle East and North Africa Regional Office, Jordan

12.00-2.00 pm • FILM-DEBATE • **PROJECTION ROOM**

In Prison My Whole Life by **Marc Evans**.

With **Robert Bryan**

11.15 am-12.15 pm • WORKSHOP • **ROOM 5**

Abolitionists States' advocacy

SPEAKERS: • **Thomas C. Greminger**, Head of Political Affairs Division IV, Human Security, Federal Department of Foreign Affairs, Switzerland • **Carlos Portales**, Permanent Representative of Chile to the United Nations Office at Geneva, Chile • **Rafael Valle Garagorri**, Ambassador in special mission, National Coordinator against the death penalty, Minister of Foreign Affairs and Cooperation, Spain

MODERATOR: **Ghania Mouffok**, Journalist at *Algérie News* and *El Djazaïr News*, Algeria

11.00 am-12.15 pm • WORKSHOP • **ROOM 6**

Promoting abolition through academic research and collaboration

SPEAKERS: • **Luis Arroyo Zapatero**, Director of the European Institute of European and International law, University of Castilla-La Mancha, Spain • **Sandra Babcock**, Professor, Center for International Human Rights, Northwestern University Law School, USA

MODERATOR: **Alvaro Corcuera Ortíz de Guinea**, Journalist, *El País*, Spain

12.15-2.00 pm • POSTERS PRESENTATION SESSION

2.00-4.30 pm • PLENARY 2 • **ROOM 1**

Next challenges for universal abolition: the examples of USA, Japan, China and Iran

SPEAKERS: **Mina Ahadi**, Head of the International Committee Against Executions, Iran • **Gail Chasey**, New Mexico State Representative, USA • **Shirin Ebadi**, Iranian Lawyer, 2003 Peace Nobel Prize • **Roger Hood**, Professor Emeritus of Criminology, University of Oxford, UK • **Tianyong Jiang**, Chinese Lawyer • **Joey Lee**, Lawyer, Human Rights in China (HRIC) • **Maurice Possley**, Journalist, USA • **Maiko Tagusari**, Lawyer, Center for Prisoner's Rights (CPR), Japan • **John Van de Kamp**, former Attorney General of the State of California and District Attorney of Los Angeles, USA • **Renate Wohlwend**, Rapporteur on death penalty of the Parliamentary Assembly of the Council of Europe (PACE), Liechtenstein • **Ning Zhang**, senior Lecturer, University of Geneva, China/Switzerland

CHAIR: **Eric Bernard**, Lawyer, ECPM Board member

MODERATOR: **Stéphane Bussard**, Journalist, *Le Temps*, Switzerland

5.00-6.30 pm • ROUNDTABLE • **ROOM 2**

Sub-saharan Africa, from moratorium to abolition in law

ORGANIZERS: **FIACAT, ACAT France** and **ACAT Switzerland**

SPEAKERS: • **Sidiki Kaba**, Senegalese Lawyer, former FIDH president • **Philip F. Iya**, Member of the Working group on death penalty, African Commission on Human and People's Rights (ACHPR), South Africa • **Lievin Ngondji**, President of Culture pour la Paix et la Justice (CPJ), DRC • **Johnson Byabashaija**, Commissaire général des prisons, Uganda

CHAIR: **Lucienne Zoma**, Chairperson of ACAT-Burkina Faso and member of FIACAT International Board, Burkina Faso

5.00-6.30 pm • ROUNDTABLE • **ROOM 3-4**

Asia, the legal road to moratorium and abolition

ORGANIZER: **Amnesty International**

SPEAKERS: • **Hsin-yi Lin**, Executive Director, Taiwan Alliance to End the Death Penalty (TAEDP), Taiwan • **Bhatara Ibnu Reza**, Human Rights Manager, Imparsial, Indonesia • **Sun Zhongwei**, Lawyer, Beijing Death Penalty Defence Lawyers Network, China

CHAIR: **Bikramjeet Batra**, Lawyer, Amnesty International, India

5.15-6.30 pm • WORKSHOP • **ROOM 6**

Online communication strategies

SPEAKERS: • **Simon Shepherd**, Founder and Director of Death Watch International, UK • **Yang Hengjun**, Blogger, China

MODERATOR: **Thomas Hubert**, Journalist, editor in chief of the World Coalition against the Death Penalty website, France

5.15-6.30 pm • WORKSHOP • **ROOM 5**

Partnership NGOs-European Union for abolition

SPEAKERS: • **Angela Raffaela Della Porta**, uropean Instrument for Democracy and Human Rights (EIDHR) , European Commission - EuropeAid cooperation office, Belgium • **David Sellwood**, EC Project Coordinator, Reprieve, UK

MODERATOR: **Guillaume Parent,** Former coordinator of the World Coalition Against the Death Penalty, France

5.30-6.00 pm • PRESS BRIEFING

5.30-6.30pm : • FILM-DEBATE • **PROJECTION ROOM**

Beneath the Maps, Le Dessous des Cartes,
by **Jean Christophe Victor.** With **Jean-Christophe Victor**

Thursday February 25 • BFM

Bâtiment des Forces Motrices (BFM)

7.00 pm • WORD OF VICTIMS-VOICES OF EXPERIENCE*

**Limited number of seats*

"Words of Victims-Voices of Experience"

Snejana Dimitrova, a Bulgarian nurse exonerated from Libya death-row • **Zhou Qing** exonerated from China death-row • **Nathalie Fustier** a French victim of the 'war on terror' legislation • the double testimony of **Jo Berry**, whose father was the victim of an attack from the IRA, and **Pat Magee**, an IRA Activist • **Bill Babbitt** a close friend of a murder victim and of an executed prisoner • **Masaharu Harada**, japanese whose brother was murdered • **Rebiya Kadeer**, a member of the Ouïgoures, an ethnic group specifically targeted by Chinese lethal discrimination policy • two Kids from the Texas organization **Kids Against the Death Penalty** (KAPD), which fights against the death penalty in the United States • **Bob Curley**, American whose son was murdered • **Mohammed Younus Shaikh**, exonerated from pakistanian death-row, condemned for blasphemy…

ANIMATOR: **Amobé Mévégué**, journalist, also radio and TV producer

Evening with Franco-British singer **Emily Loizeau**.

Friday February 26 • CICG

9.00-10.30 am • ROUNDTABLE • ROOM 2

☛ Access to a competent counsel in capital cases: how lawyers can make the difference between life and death?

ORGANIZER: **ECPM**

SPEAKERS: • **Parvais Jabbar**, Lawyer, Co-director of Death Penalty Project, UK • **Robin Maher**, Lawyer, Director of the American Bar Association (ABA) Death Penalty Representation Project, USA • **Caroline Muchuma**, Coordinator of the Death Penalty project, Foundation for Human Rights Initiative, Uganda • **Navkiran Singh**, Lawyer, Secretary General of Lawyers For Human Rights International (LFHRI), India • **Maiko Tagusari**, Lawyer, Center for Prisoner's Rights (CPR), Japan

CHAIR: **Richard Sédillot**, Lawyer, ECPM Board member, France

9.00-10.30 am • ROUNDTABLE • ROOM 3-4

☛ The Caribbean: the continued danger of escalating executions

ORGANIZERS: **The Puerto Rico Bar Association** and **ECPM**

SPEAKERS: • **Piers Bannister**, Death Penalty Coordinator, Amnesty International, UK • **Carmelo Campos Cruz**, General Coordinator of the Puerto Rican Coalition Against the Death Penalty, Puerto Rico • **Saul Lehrfreund**, Co-Director of the Death Penalty Project, UK • **Douglas Mendes SC**, Constitutional and Human Rights lawyer, Trinidad

CHAIR: **Juan Matos de Juan**, Chairman of the committee against the death penalty, Puerto Rico Bar Association, Puerto RIco

9.15-10.30 am • WORKSHOP • ROOM 5

☛ Sharing educational tools

SPEAKERS: • **Emmanuel Maistre**, General Secretary, ECPM, France • **Jean-Christophe Victor,** Author of a weekly TV program dealing with international relations, *Le Dessous des cartes* (Beneath the Maps), France • **Bernadette Forhan**, death penalty coordinator, ACAT France

MODERATOR: **Jean-Pierre Dubois**, President of the Huma Right League, France

9.15-10.30 am • WORKSHOP • ROOM 6

☛ Mobilizing target groups (members of Parliament, judges, law enforcement...)

SPEAKERS: • **Merius Rusumo**, Judge at the Constitutional, Burundi • **Raphaël Nyabirungu Mwene Songa**, Professor and Parlementarian Assembly Deputy, DRC

MODERATOR: **Shirley Pouget**, Jurist, Scientific Programme Coordinator, 3rd World Congress against the death penalty, France

11.00 am-1.00 pm • SOLEMN CEREMONY • ROOM 1

☛ Synthesis of the Debates

• **Florence Bellivier**, General secretary, FIDH, France
• **Mario Marazziti**, Communita Sant'Egidio, Italy

☛ Reading of the Final Declaration

• Reading by **Arnaud Gaillard**, Congress Coordinator, ECPM
• Handing over of the declaration by the **Kids Against Death Penalty**, USA to
• **Navanethem Pillay**, High Commissioner for Human Rights, United Nations

MUSICAL INTERLUDE: • **Harieta Hermann,** Violonist

☛ Official Speaches

• **Shirin Ebadi**, Lawyer, 2003 Peace Nobel prize, Iran
• **Sister Helen Prejean**, USA
• **Mustapha Iznasni**, Consultative Council for Human Right, Morocco
• Message of **Ts. Elbegdorjthe**, President of Mongolia
• Vidéo message of **Ibrahim Najjar**, Minister of justice, Lebanon.

Tribute to

• **Emaddedin Baghi**, Association for the Right to Live, Iran
by **Antoinette Chahine**

Interventions for abolition

• Message addressed by Personalities (**Barbara Hendricks, Marc Foster, Nicolas Hayek**)
• Message addressed by Ambassadors for Human Rights
• Message addressed by the Religious Representatives Against the Death Penalty

MUSICAL INTERLUDE: • **Harieta Hermann,** Violonist

Final Speech

• **Robert Badinter**, Senator, Minister of Justice from 1981 to 1986, author of the abolitionist law in France, France
• **Micheline Calmy Rey**, Swiss Federal Councillor, head of the Federal Department of Foreign Affairs, Chairperson of the Committee of Ministers at the Council of Europe, Switzerland

Closing Speech

• **Raphaël Chenuil-Hazan**, Director-General, ECPM, France
• **Emmanuel Maistre**, General Secretary, ECPM, France

ANIMATOR: • **Romaine Jean**,Journalist and Producer, Télévision suisse romande, Switzerland

1.30 pm • CICG -> PALAIS DES NATIONS

Final march from the CICG and abolitionist gathering on the United Nations Square

THANKS TO PARTNERS, ACTORS AND VOLUNTEERS

Partners

• **International Entities:** European Commission – International Organization of La Francophonie –

• **Others Countries:** Argentina – Belgium – France – Germany – Italy – Ireland – Luxembourg – Norway – Spain – Switzerland

• **Local entities:** Canton of Geneva – City of Geneva – Canton of Zug – Région Pays de la Loire – Région Basse-Normandie

• **Bar associations:** Geneva Bar Association – Lille Bar Association – Paris Bar Association – Puerto Rico Bar Association (PRBA)

• **NGOs and Foundations:** ACAT France – ACAT Switzerland – Amnesty International – Amnesty International France – Amnesty International Switzerland – Cartooning for peace – Comunità di Sant'Egidio – Culture pour la Paix et la Justice (CPJ) – Death Penalty Focus – Festival du Film et Forum International sur les Droits Humains (FIFDH) – FIACAT – FIDH – Fondation de France – Free Mumia Abu-Jamal Coalition – Geneva press club – Geneva Welcome Center (CAGI) – Great Lakes Coalition Against the Death Penalty – Hands off Cain – Human Rights Watch (HRW) – Ici Theâtre – ICVolontaires /ICVolunteers – Institut Panos Paris – Lifespark – Ligue Suisse des Droits de l'Homme – Maison des associations socio-politiques de Genève – Mandat international – Murder Victim's Families for Human Rights (MVFHR) – National Association of Criminal Defense Lawyers (NACDL) – Organisation Mondiale Contre la Torture (OMCT) – Penal Reform International (PRI) – Reprieve – Réseau d'Alerte et d'Intervention pour les Droits de l'Homme (RAIDH) – Texas Coalition to Abolish the Death Penalty (TCADP)

• **Media:** Le temps – Ouest France

• **Private and Technical Partners:** Aténao – Bâtiment des Forces Motrices (BFM) – Geneva Tourism & Convention Bureau – International Conference Center of Geneva – Imprim ad'hoc – Kuoni agency – La Comédie Theater – Philippe Pascoët, Maître chocolatier – La Face B – Librairie envie de lire – Swiss – Tout Terrain

Actors and Cultural Participants

• **Actors:** Sandrine Ageorges – Rémy Allard – Johan Ankri – Teddy Aymard – Magali Andry – Ivan Armuna – Sylvie Artigue – Piers Bannister – Flora Barré – Maela Begot – Florence Bellivier – Eric Bernard – Cécile Bernet – Anne Bisang – Laurence Boubet – Reslane Bourafa – Didier Bron – Manuella Braun – Céline Bretel – Agnès Brulet – Emile Carreau – Asunte Cavalle – Patrick Chapatte – Cécile Charlotte – Aurélien Chenuil-Hazan – Jacques Chenuil – Raphaël Chenuil-Hazan – Fabienne Clément – Jessica Corredor – Charlotte Dargent – Pierre de Preux – Olivier Déchaud – Gilles Denizot - Cabinet Doucet &Beth – Aïcha Douhou – Christian Durish – Marc Enjolras – Arnaud Gaillard – Evelyne Giordani – Raphaël Gonet – Famille Grésillon – Ariane Grésillon – Claude Guillaumaud-Pujol – Thomas Harm – Thomas Hubert – Merav Jeandupeux – Amid Khallouf – André Klopmann – Rudolph Knoblauch – Hélène Labbouz – Karine Lancelle – Sylvie Lelan – Emilie Lefort – Gisela Lujan – Emmanuel Maistre – Mario Marazziti – Joaquin José Martinez – Véronique Mary – Anna Mattei – Guy Mettan – Severine Mondo – Cathy Mounier – EriK Metté – Mohammed Naitaleb – Emmanuel Oudar – Guillaume Parent – José Paz – Nicolas Perron – Priscilla Petit – Aurélie Plaçais – Shirley Pouget – Desislava Raoul – Marianne Rossi – Alexis Rutman – Raphaël Saborit – Marie-Françoise Santarelli – Richard Sédillot – Ursula Siegfridt – Sacha Solanes – Cécile Thimoreau – Florent Vassault – Anne Villeneuve – Elizabeth Zitrin

• **Cultural Participants:** Christian Benda - François Boursier - Lucinda Devlin – Harieta Hermann - Léo Kanéman – Kristof - David Lesné - Emilie Loizeau - Caroline Planque – Plantu - Yaël Reinharz-Hazan – Olivier Raoul – David Romain – Jean-Christophe Victor

Volunteers

ECPM thanks particularly 74 volunteers and 14 reporters of session who contributed to the success of it 4 ° Congress and every participant.

NOTES

1 "HOMO SUM, ET HUMANI NIHIL A ME ALIENUM PUTO" I am a man, and I consider nothing that is human alien to me. Terence, Heauton Timorumnos (The Self-Tormenter), v. 77, around 160 B.C.

2 The International Commission was officially launched on 7th October 2010 in Madrid, led by Federico Mayor Zara and made up of 15 members: Giuliano Amato (Italy), Louise Arbour (Canada), Robert Badinter (France), Mohammed Bedjaoui (Algeria), Ruth Dreifuss (Switzerland), Michèle Duvivier Pierre-Louis (Haiti), Asma Jilani Jahangir (Pakistan), Ioanna Kuçuradi (Turkey), Rodolfo Mattarollo (Argentina) and Bill Richardon, (USA)

3 The eighth five-year report from the UN Secretary General on "The death penalty and the application of safeguards guaranteeing the protection of the rights of those facing the death penalty" was officially presented on 22nd July 2010.

4 "Every human being has the right to life, liberty, security and the integrity of his/her person."

5 "Article 4. Right to life
1. Everyone has the right to have his life respected. This right shall be protected by law, and in general, from the moment of conception. No one shall be arbitrarily deprived of life.
2. In countries that have not abolished the death penalty, it may be imposed only for the most serious crimes and pursuant to a final judgement rendered by a competent court and in accordance with a law establishing such punishment, enacted prior to the commission of the crime. The application of such punishment shall not be extended to crimes to which it does not presently apply.
3. The death penalty shall not be reestablished in states that have abolished it.
4. In no case shall capital punishment be inflicted for political offences or related common crimes.
5. Capital punishment shall not be imposed upon persons who, at the time the crime was committed, were under eighteen years of age or over seventy years of age; nor shall it be applied to pregnant women.
6. Every person condemned to death shall have the right to apply for amnesty, pardon, or commutation of sentence, which may be granted in all cases. Capital punishment shall not be imposed while such a petition is pending decision by the competent authority.

6 Shirin Ebadi points out that in 1986, in one week, 3000 political prisoners were sentenced to death.

7 The Nobel Peace laureate also highlighted the case of the lawyer Mohammad Mostafaei, whose papers were confiscated just before he was due to take part in the 4th World Congress Against the Death Penalty.

8 "*The scope of application of the death penalty was to be reviewed shortly afterwards, and it was expected that this scope would be reduced, with the ultimate aim of abolition".*

9 More precisely, for "economic, non-violent crimes".

10 At the time of the congress, no execution had taken place. At the time of writing these Proceedings, Keiki Chiba deemed that it was her duty as Justice Minister to sign execution orders. She seemed to want to carry out a campaign to make the reality of the death penalty in Japan transparent. Thereby, the Justice Minister was present in person at the execution of the first prisoner whose execution order she signed and was on the point of authorising the media to witness hangings.

11 Keiko Chiba had announced the holding of a summit on the issue following the hanging of two prisoners in June 2010. She left her post as justice minister in September 2010 expressing her desire for this national debate to take place.

12 Comment: after the Congress, on 23rd August 2010, the Chinese government announced the suppression of 13 of the 68 crimes punishable by the death penalty.

13 Events which took place after the roundtable have been included in this article.

14 South Africa, Angola, Burundi, Cape Verde, Ivory Coast, Djibouti, Guinea-Bissau, Mauritius, Mozambique, Namibia, Rwanda, Sao Tome and Principe, Senegal, Seychelles and Togo.

15 Benin, Burkina Faso, Cameroon, Congo, Eritrea, Gabon, Ghana, Kenya, Liberia, Madagascar, Malawi, Mali, Mauritania, Niger, Central African Republic, Swaziland, Tanzania, Zambia.

16 Genocide, crimes against humanity and war crimes.

17 Botswana, Comoros, Ethiopia, Gambia, Guinea, Equatorial Guinea, Lesotho, Nigeria, Uganda, Democratic Republic of Congo, Sierra Leone, Somalia, Sudan, Chad, Zimbabwe.

18 With Yemen, Saudi Arabia and Iran.

19 Abolitionists from APRODH and the ITEKA league.

20 Notably in 1998, around the impending execution of a child-soldier aged 14.

21 "En attendant" (Waiting), produced by the RADHOMA network, active in Sud-Kivu (in the east of the country).

22 @BOLIR... no. 75

23 States are able to formulate a reservation for extremely serious crimes committed during war time when ratifying or adhering to the Protocol.

24 P*enry Case*

25 See the article *Discrimination in the application of the death penalty: the death penalty as a "sinister privilege" reserved for the poor and minority groups*

26 International Covenant on Civil and Political Rights, United Nations' basic principles on the role of lawyers and European Convention on Human Rights.

27 Sharing Educational Tools workshop, moderated by Jean-Pierre Dubois, president, Human Rights League, France. Participants: Charlotte Dargent, project manager Educating on Abolition, ECPM, and Bernadette Forhan, Death Penalty manager, ACAT- France

28 Workshop: Developing arguments to convince public opinion, moderated by Dave Lindorff, freelance journalist, Counterpunch magazine, United States. Participants: Joaquin José Martinez, former death row inmate, Bill Pelke, president and co-founder of Journey of Hope…from Violence to Healing, United States

29 Read the article "Acknowledging and providing reparation for the loss suffered by victims: a priority for the abolitionist movement"

30 Roundtable organised by the Sant'Egidio community, chaired by Mario Marazziti

31 Workshop: Drawing up strategies for abolition, moderated by Odjitan Djoutoungona. Participants: Piers Bannister, death penalty coordinator, Amnesty International - International Secretariat and Hsin-yi Lin, executive director, Taiwan Alliance to End the Death Penalty.

32 Read the article "Juveniles and mentally disabled people, vulnerable in the face of the cruelty of the death penalty system"

33 Development of Coalitions workshop, moderated by Thomas H. Speedy Rice, Professor, Washington & Lee Univ. School of Law, Transnational Law Institute, National Association of Criminal Defense Lawyers, USA. Participants: Amina Bouayach, president of the Moroccan Organisation for Human Rights (OMDH), member organisation of the National Coalition for the Abolition of the Death Penalty in Morocco, Morocco and Aurélie Plaçais, campaigns manager, World Coalition Against the Death Penalty, France

34 See online communication workshop.

35 Promoting abolition through research and academic collaboration workshop, moderated by Alvaro Corcuera, journalist. Participants: Luis Arroyo-Zapatero, director of the Institute of European and International Law, University of Castilla-La Mancha and Sandra Babcock, professor at the Northwestern University Law School, United States.

36 Workshop: Mobilising target groups (members of parliament, judges)Moderator: Shirley Pouget, international legal expert, participants: Merius Rusumo, Judge at the Burundi Constitutional Court and Raphael Nyabirungu Mwene Songa, professor, member of the Parliamentary Assembly, Democratic Republic of Congo.

37 NGO - European Union Partnership for Abolition workshop, moderated by Guillaume Parent, former coordinator of the World Coalition Against the Death Penalty. Participants: Angela Raffaella Della Porta, director of programmes, European Instrument for Democracy and Human Rights (EIDHR), European Commission – EuropeAid cooperation office, Belgium, David Sellwood, EC project coordinator, Reprieve, United Kingdom

38 http://ec.europa.eu/europeaid/what/human-rights/death_has_no_appeal_fr.htm
http://ec.europa.eu/europeaid/what/human-rights/death_has_no_appeal_en.htm

39 Guidelines http://www.consilium.europa.eu/uedocs/cmsUpload/1-0015.en08.pdf

40 https://webgate.ec.europa.eu/europeaid/online-services/index.cfm?ADSSChck=1274193919615&do=publi.welcome&userlanguage=fr

41 http://ec.europa.eu/europeaid/how/finance/eidhr_fr.htm
42 Hank Skinner was found guilty of a triple murder carried out in 1993. He was sentenced to death in 1995. Hank Skinner has always maintained his innocence. For more information on the "Hank Skinner" case visit: www.hankskinner.org and www.abolition.fr.
43 A documentary on the 13 days before this date should be broadcast during 2011.