



6TH
21-23
JUNE
2016

WORLD CONGRESS
AGAINST THE
DEATH PENALTY
OSLO

ABOLITION
NOW

PROCEEDINGS





ACKNOWLEDGEMENTS

ECPM would like to thank the States which sponsored the Congress, the financial and political partners, the NGO partners, the witnesses, the members of the Core Group, the speakers, the members of the Advisory Panel, the members of the working groups, the volunteers and the participants of the 6th World Congress Against the Death Penalty.

Sponsor States: **Norway, Australia and France.**

Core Group Member States: **Argentina, Australia, Benin, Spain, France, Mexico, the Principality of Monaco, Mongolia, Norway, Rwanda and Switzerland.**

Members of the Advisory Panel: **Sandrine Ageorges-Skinner (ECPM), Robert Badinter, Raphaël Chenuil-Hazan (ECPM), Roger Hood, Aurélie Plaçais (WCADP), Ole Petter Ottersen (UiO) and Sinapan Samydarai (ADPAN)**

Volunteer rapporteurs of the debates: **Nkem Adeleye, Hannah Berg, Frida Bjørneseth, Per Høyland, Kaja Joval, Tzushuo Lui, Lelia Marceau, Ilaria Montagna, Trude Jacobsen Nyttun, Rune Andre Tveit, Momoka Tamura and Richard Vyse.**

Publication Director: **Raphaël Chenuil-Hazan**

Editorial Management Team: **Raphaël Chenuil-Hazan, Emmanuel Maistre, Seynabou Benga and Marie-Lina Samuel**

Coordination: **Seynabou Benga**

Art Director: **Bérangère Portulier**

Illustrations: **Colombe Salvaresi**

Photos: **Christophe Meireis**

Maps graphic design: **Stephen Rousselin**

Copy-editor: **Olivier Pradel**

Translation: **Morag Young, Sandrine Ageorges-Skinner**

Layout: **Olivier Dechaud**

Printing: **Imprim'ad hoc**



Ensemble contre la peine de mort

69, rue Michelet
93100 Montreuil – France
www.abolition.fr
© ECPM, 2017





CAHIERS DE L'ABOLITION

#4

PROCEEDINGS
6TH WORLD CONGRESS
AGAINST THE DEATH PENALTY
OSLO 2016





LES CAHIERS DE L'ABOLITION

- #1 4th World Congress Against the Death Penalty
• Geneva 2010 • Proceedings (2011)
- #2 Iran: the death penalty in question, (2014)
- #3 5th World Congress Against the Death Penalty
• Madrid 2013 • Proceedings (2014)
- #4 6th World Congress Against the Death Penalty
• Oslo-2016 • Proceedings (2017)

ISBN 978-2-95522-644-5
ISSN: 2-9525533-9-4
© 2017



CONTENTS

A INTRODUCTION	11
I PREFACE	
By Zeid Ra'ad Al Hussein	
UN High Commissioner for Human Rights	15
II THE WORLD CONGRESS: A CIVIC AND POLITICAL EVENT MAKING A DIFFERENCE	
By Raphaël Chenuil-Hazan	
Executive Director of ECPM	17
III OFFICIAL CEREMONIES	23
1 OPENING CEREMONY	23
2 POLITICAL PARTICIPATION DURING THE CONGRESS	24
3 FORMAL CLOSING SESSION	25
IV PROGRAMME OF DEBATES	27
B DEBATES	29
I THE FACES OF THE CONGRESS	31
1 THE WITNESSES WHO ATTENDED THE CONGRESS	32
2 THE CHILDREN OF PARENTS SENTENCED TO DEATH OR EXECUTED	39
II THE ISSUES	43
1 REGION AND COUNTRIES	43
a) Progress and Set-backs in Asia: the lessons to be learnt	44
b) The draft Protocol to the African Charter on Human and Peoples' Rights on the abolition of the death penalty in Africa	53
c) The United States: new allies joining the fight to end the death penalty	59



2	VULNERABLE GROUPS	65
a)	Individuals with mental disorders	66
b)	Migrants and minorities: strategies to overcome challenges in capital cases	73
3	CONTEXT OR PRETEXT?	79
a)	Political use of the death penalty to counter terrorism	80
b)	The death penalty for drug trafficking in 2016	84
III	THE ACTORS FOR CHANGE	99
1	THE IMPORTANCE OF NHRIS IN THE ABOLITIONIST CAUSE	100
2	MOBILISING YOUNG PEOPLE AROUND THE ABOLITIONIST CAUSE	107
3	HOW TO EFFICIENTLY COMMUNICATE WITH THE MEDIA	113
4	ADVOCATING FOR ABOLITION WITH PARLIAMENTARIANS AND THE EXECUTIVE	117
IV	THE TOOLS	123
1	DOCUMENTING THE USE OF THE DEATH PENALTY	124
2	NATIONAL PATHWAYS TO ABOLITION OF THE DEATH PENALTY	131
3	LEGAL TOOLS FOR MOVING TOWARDS ABOLITION OF THE DEATH PENALTY	134
4	ART AT THE SERVICE OF ABOLITION	139
5	THE CULTURAL PROGRAMME OF THE CONGRESS	142
V	ALTERNATIVES TO THE DEATH PENALTY	145
VI	SIDE EVENTS	149
C	AFTER THE DEBATES	155
1	THE FINAL DECLARATION OF THE 6 TH WORLD CONGRESS AGAINST THE DEATH PENALTY	156
2	AFTERWORD BY BØRGE BRENDE, NORWEGIAN MINISTER FOR FOREIGN AFFAIRS	160
3	ECPM: OUR HISTORY	162
4	ECPM: OUR TEAM	164
5	CONGRESS PARTNERS	165



D APPENDICES	169
1 LIST OF SPEAKERS	170
2 DECLARATION BY HIS HOLINESS POPE FRANCIS	182
3 DECLARATION BY MRS BAYARTSETSEG JIGMIDDASHSTATE, SECRETARY OF THE MONGOLIAN MINISTRY OF JUSTICE	183
4 RESOLUTION BY BAR ASSOCIATIONS AGAINST THE DEATH PENALTY	184
5 RESOLUTION BY THE INTERNATIONAL OBSERVATORY FOR LAWYERS IN DANGER	185
6 CONCLUSION BY MRS KASTHURI PATTO ON BEHALF OF PARLIAMENTARIANS AND THE PGA	186
7 MAP OF RESULTS OF THE UN VOTE FOR A UNIVERSAL MORATORIUM ON USE OF THE DEATH PENALTY – DECEMBER 2016	188





INDEX OF ABBREVIATIONS USED

ACAT – Action by Christians Against Torture
ACHPR – African Commission on Human and Peoples' Rights
ADPAN – Anti-Death Penalty Asia Network
AI – Amnesty International
AIHR – Arab Institute for Human Rights
ASEAN – Association of Southeast Asian Nations
ASF – Avocats sans frontières [Lawyers Without Borders]
ATA – Anti-Terrorism Act (1997)
AU – African Union
CCADP – Conservatives Concerned About the Death Penalty
CCPR – Centre for Civil and Political Rights
CHESO – Children Education Society
CG – Core Group
CRC – Convention on the Rights of the Child
DPIC – Death Penalty Information Center
DPP – The Death Penalty Project
DRC – Democratic Republic of Congo
ECOSOC – UN Economic and Social Council
ECHR – European Court of Human Rights
ECPM – Ensemble contre la peine de mort
EMHRF – Euro-Mediterranean Foundation of Support to Human Rights Defenders
FHRI – Foundation for Human Rights Initiative
Fiacat – Fédération internationale de l'Action des chrétiens pour l'abolition de la torture [International Federation of Action by Christians Against Torture]
FIDH – Fédération internationale des ligues des droits de l'homme [Worldwide Movement for Human Rights]
GANHRI – Global Alliance of National Human Rights Institutions
HRI – Harm Reduction International
IACHR – Inter-American Commission on Human Rights
ICC – International Coordinating Committee for National Human Rights Institutions
ICCPR – International Covenant on Civil and Political Rights
ICDP – International Commission Against the Death Penalty
ICORN – International Cities of Refuge Network
ICJ – International Court of Justice
ID – Intellectual Disability
IDRS – The Intellectual Disability Rights Service
IHR – Iran Human Rights
Ilina – Iranian Labour News Agency
Imparsial – The Indonesian Human Rights Monitor



IOM – International Organization for Migration
IS – Islamic State
JCPC – Judicial Committee of the Privy Council
JPP – Justice Project Pakistan
KMMK-G – Association for Human Rights in Kurdistan of Iran–Geneva
LACR – The Lebanese Association for Civil Rights
MENA – Middle East and North Africa
NCHR – Norwegian Centre for Human Rights
NDM – National Defence Ministry
NHRI – National Human Rights Institution
OAS – Organisation of American States
OHCHR – Office of the United Nations High Commissioner for Human Rights
OIAD – Observatoire international des avocats en danger [International Observatory for Lawyers in Danger]
OMDH – Organisation marocaine des droits humains [Moroccan Human Rights Organisation]
PGA – Parliamentarians for Global Action
PRI – Penal Reform International
Repecap – Red académica internacional por la abolición de la pena capital [International Academic Network for the Abolition of Capital Punishment]
Sali – Saving Lives project
TAEDP – Taiwan Alliance to End the Death Penalty
TTP – Tehrik-e-Taliban Pakistan [Pakistani Taliban]
UGTT – Union générale tunisienne du travail [Tunisian General Trade Union]
UiO – University of Oslo
UN – United Nations
UNESCO – United Nations Educational, Scientific and Cultural Organization
UNGA – United Nations General Assembly
UNGASS – United Nations General Assembly Special Session on Drugs
UNODC – United Nations Office on Drugs and Crime
UPR – Universal Periodic Review
WCADP – World Coalition Against the Death Penalty



6TH WORLD CONGRESS
AGAINST THE
DEATH PENALTY
OSLO





A INTRODUCTION

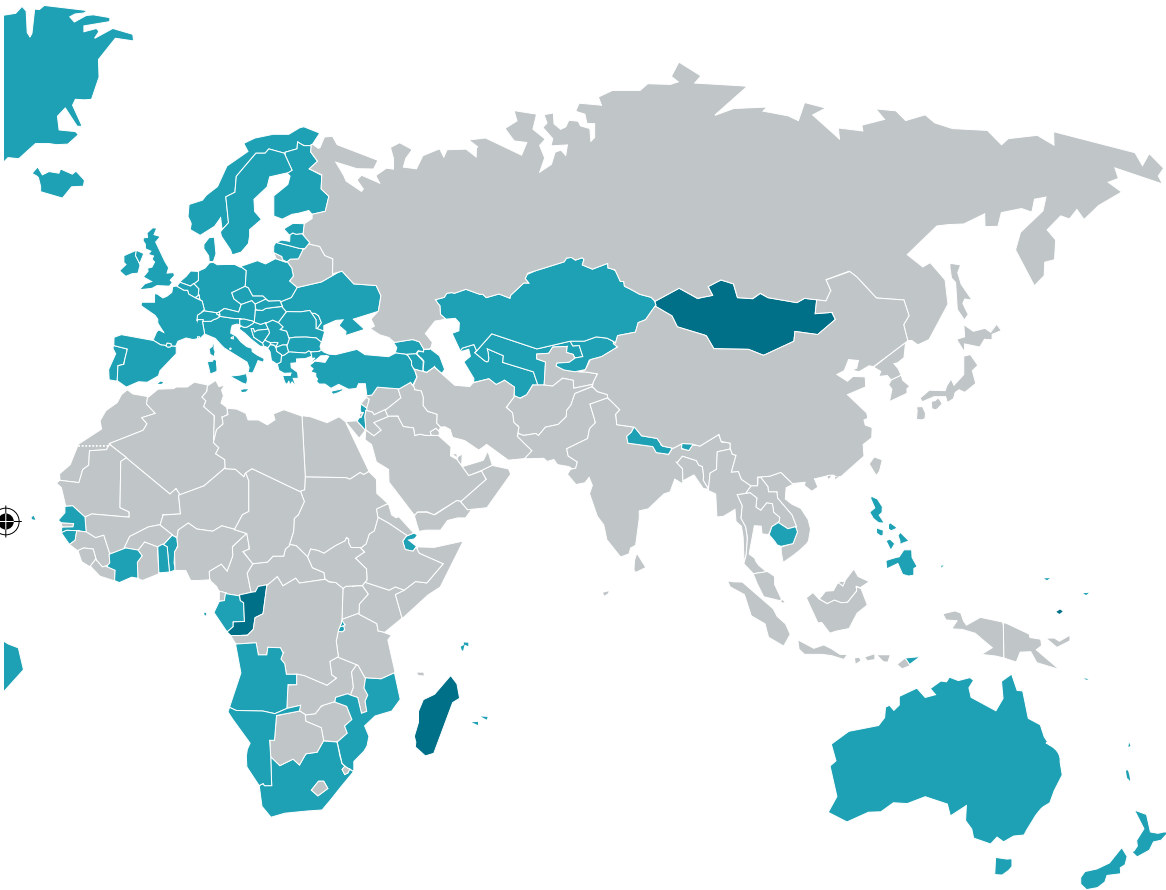




WORLD

EVOLUTION OF THE ABOLITION OF THE DEATH PENALTY BETWEEN THE MADRID WORLD CONGRESS AGAINST THE DEATH PENALTY IN 2013 AND OSLO CONGRESS IN 2016.









PREFACE



ZEID RA'AD AL HUSSEIN

UN High Commissioner for Human Rights

The death penalty is incompatible with the fundamental tenets of human rights, in particular human dignity, the right to life and the prohibition of torture or other cruel, inhuman or degrading treatment or punishment. This bedrock statement is confirmed by the evolution of international human rights law and jurisprudence, and by State practice.

Application of the death penalty has also been found, in many cases, to violate the right to equality and non-discrimination. The decision to sentence a convict to death or to a lesser punishment is far too often arbitrary, and all too rarely follows predictable and rational criteria. In practice, the odds are stacked against the poor; persons belonging to racial, ethnic, sexual and other minorities; and other groups that are commonly the target of discrimination – in particular foreign nationals, including migrant workers.

Furthermore, there is extensive evidence that innocent people have been put to death. Even the best-functioning judicial systems may err; but in the case of capital punishment, that error is final. The State has, in effect, murdered an innocent person. Meanwhile, there is no evidence whatsoever to demonstrate that capital punishment has any deterrent effect over and above that of any other legal sanction, such as prison sentences.

It has been ten years since the General Assembly resolution of December 2007 which urged States to adopt a moratorium on the use of the death penalty, with a view towards its full abolition. In those ten years, the global trend against capital punishment has





The death penalty
is incompatible
with the funda-
mental tenets
of human rights,
in particular
human dignity.



become increasingly strong. Today, almost three out of four countries have either abolished the death penalty or do not practice it – an important advancement for the cause of justice and humanity.

However, we still have many causes for concern. The overall number of executions in States that continue to resort to the death penalty has increased in the last two years. Furthermore, some States in which a moratorium had been in place for many years have

recently resumed executions.

This publication makes a compelling case for ending use of the death penalty. It brings together the contributions of experts and discussions among participants at the 6th World Congress against the Death Penalty held in Oslo, Norway, in June 2016. I recommend it in particular to leaders and civil society actors in States which continue to use the death penalty. I urge them to reflect, and to step forward in favour of ending this cruel and inhumane practice.



II THE WORLD CONGRESS: A CIVIC AND POLITICAL EVENT MAKING A DIFFERENCE



RAPHAËL CHENUIL-HAZAN
Executive Director of ECPM

*“There is nothing in the world as powerful as an idea whose time has come”
Victor Hugo*

No human rights subject is more political than abolition of the death penalty - to such an extent that some countries do everything possible to disentangle one from the other. But it's no use: abolition has always been the fruit of the political courage and political choice of a head of State or government on the basis of strong convictions; on the basis of tangible and proven facts. The death penalty is immoral, unjust, socially and ethnically discriminatory, racist, and fallible in the extreme, totally ineffective, dangerous and non-compliant with international law and the founding principles of modern democracies, human rights and the respect for human values, including the very first of them: the right to life and dignity. Politicians therefore sit at the very heart of the abolitionist struggle. It is often through the courage of a president or a head of government, the self-sacrifice of a justice minister and the will of a parliament that abolition sees the light of day.





A citizen's right to life or death cannot be left in the hands of leaders with unlimited powers or the sometimes unpredictable fate of a justice system which will never be infallible, and even less so to popular and passionate scapegoating which is just an instinct for revenge and death



The abolitionist cause is an opportunity to consider how power is exercised and how such power can be made dignified and respectful of human beings; to consider the limits of mankind and the institutions which form the basis of humane societies. Anyone and everyone can be fallible, in democracies and even more so within authoritarian powers. A citizen's right to life or death cannot be left in the hands of leaders with unlimited powers or the sometimes unpredictable fate of a justice system which will never be infallible, and even less so to popular and passionate scapegoating which is just an instinct for revenge and death.

But over and beyond States, all those involved in this work (civil society in the first instance, professional and legal networks, cultural and media networks, educational networks, public institutions, local bodies and the private sector) are essential representatives for strengthening the debate and promoting the desired social and political changes.

That is why the World Congress exists. ECPM would like to use this event to create a space entirely devoted to abolition. The particularity of the Congress is that it brings together actors from far-off and distant horizons.

We bring together those who can make a difference. Nearly 1,500 of these *opinion-makers* from 121 different countries participated in the Oslo Congress in June 2016 to learn, meet, find new energy, network, exchange views about points of agreement and difference, tackle ideas and opinions. Through sharing, knowledge, dialogue and meeting other people, mankind moves forward and humanity progresses.

What assessment can be made of the World Congress?

As after every Congress, the abolitionist dynamics which emerged from Oslo must be considered. In strategic terms, it is noteworthy that Oslo highlighted two important priorities: Asia and NHRIs.

Asia: the leading retentionist continent

Firstly, by putting the Asian continent centre stage at the preparatory congress in Asia which took place in Kuala Lumpur in June 2015 and which brought together 300 participants from 40 different countries: it highlighted the many assorted situations in Asia, as well as the important problems it shares: the compulsory death penalty, drug trafficking and foreign nationals on death row.

The innovation of the Oslo Congress: the involvement of NHRIs

Secondly, by focusing on abolition of the death penalty as an important subject which is part of the mandate of the National Human Rights Institutions (NHRIs) for the first time:



the Oslo Congress launched this striking approach to the abolitionist battle. The death penalty must become a priority for NHRIs in the same way as the struggle against torture is. There will be a before and after Oslo in terms of the fight against the death penalty within NHRIs.

The call to the networks at the heart of our strategy

The closing ceremony of the Congress highlighted the strength of the networks united against the death penalty, be they parliamentarians, lawyers, city mayors or deans of universities: they recalled that together we can carry aloft the voice of abolition.

Unprecedented political mobilisation

There has never been so much high-level political participation at a Congress, giving the event unprecedented political scope. Two Heads of State, Pope Francis and the President of Mongolia, supported the Congress by sending powerful video messages. Political effervescence around abolition was in full swing before and after the World Congress, the result of an intense lobbying campaign around the event.

The Republic of Congo abolished capital punishment in November 2015. Mongolia announced the adoption of a new Criminal Code without the death penalty in September 2016. A few weeks before the Oslo Congress, Nauru officially abolished the death penalty and Guinea did the same just afterwards. In September, Kenya commuted the sentences of 2,747 prisoners sentenced to death (including 92 women) at the instigation of several members of the Board of Pardons present in Oslo.

In total, the Congress welcomed more than 250 official representatives from 66 different countries, including a very large number from non-abolitionist countries.

- 2 video messages from the Pope and the President of Mongolia;
- 19 Ministers (foreign affairs ministers, justice ministers, secretaries of State or deputy ministers) from Norway, France, Sri Lanka, Malaysia, CAR, DRC, Cambodia, South Africa, Australia, Lebanon, Palestine, Mongolia, Italy, Switzerland, Belgium and Spain);
- 14 representatives from IGOs, including the UN High Commissioner for Human Rights (OHCHR), the Secretary General of the Council of Europe (CoE), the EU Special Representative for Human Rights (EUSR), the General Representative of the *Organisation internationale de la francophonie* (OIF) and the Director General of the OSCE;
- More than 50 parliamentarians from across the world, including the President of the Norwegian Parliament and others from Morocco, Tunisia, Malaysia, Indonesia, Cameroon, DRC, Lebanon, Burkina Faso, Kenya, CAR, Chad, Guinea, Mali, Benin, United Kingdom, France, Italy, Germany, EU, etc.;
- 53 ambassadors and 120 representatives from embassies, diplomatic councils and others;
- 10 senior figures (Nobel Prize winners, former ministers).

Such mobilisation enabled a number of non-abolitionist countries to make progress on the abolition front at their own pace:

- In Oslo, the Democratic Republic of Congo (DRC) committed to voting in favour of the moratorium resolution at the UN General Assembly and announced its desire to





commute all death sentences. After the Congress, President Joseph Kabila signed Order No. 16/066 of 22 July 2016 on the collective pardoning of all prisoners sentenced to death and the commutation of their sentences into life imprisonment. The DRC then sponsored a side-event on this theme organised by ECPM at the UN Third Committee;

- Via its Justice Minister, Nancy Shukri, Malaysia announced its official commitment to end the compulsory death penalty in her country;
- The Central African Republic (CAR) confirmed its commitment to reform its Criminal code with a view to future abolition;
- Sri Lanka committed itself to moving forward in the abolitionist process and reaffirmed this position via its Foreign Affairs and Justice Ministers.

The essential role of ECPM's Core Group

This support group was founded at the Madrid Congress because of the need to work in a network to raise awareness politically about abolition of the death penalty with all States through participation at the World Congress. Political participation at the highest level possible is therefore encouraged but the fight against the death penalty must also be integrated into political affairs nationally, regionally and internationally in a sustainable manner. The members of the Core Group are Norway, France, Benin, Rwanda, Australia, Turkey, Mongolia, Switzerland, Spain, Belgium, Monaco, Mexico and Argentina. One obvious result of the work of the Core Group, in association with ECPM, is that all diplomatic services and foreign affairs and justice ministries have heard about the World Congress Against the Death Penalty. ECPM was therefore able to raise awareness directly with more than 300 ambassadors at special presentations with the UN and Unesco, and in Oslo.

The importance of new public and political actors

The special role of parliamentarians

Parliamentarian mobilisation goes without saying today but it is the result of a progressive awareness of the fundamental role members of parliament can play. This evolution can be observed through their ever increasing involvement at the World Congresses. From the first World Congress in Strasbourg in 2001, numerous parliamentarians from Europe and abolitionist countries have been in attendance to reaffirm their commitment against the death penalty. Today, mobilisation also affects numerous parliamentarians from retentionist countries who are bravely keeping alive the necessary abolition debate within their parliaments. More than 50 parliamentarians from across the world were present in Oslo and participated in the side event organised at the *Stortinget*, the Norwegian Parliament.

Let's be innovative by calling for Unconventional Weapons for Abolition

For the abolitionist movement, we must move towards an ever more inclusive approach by integrating or reinforcing the involvement of new stakeholders from the civic, economic, political and cultural spheres, in the spirit of the NHRI in Oslo. The tipping point could happen through the emergence of new forms of cooperation. It is up to us to find new allies at the next World Congress, particularly major actors from the cultural,



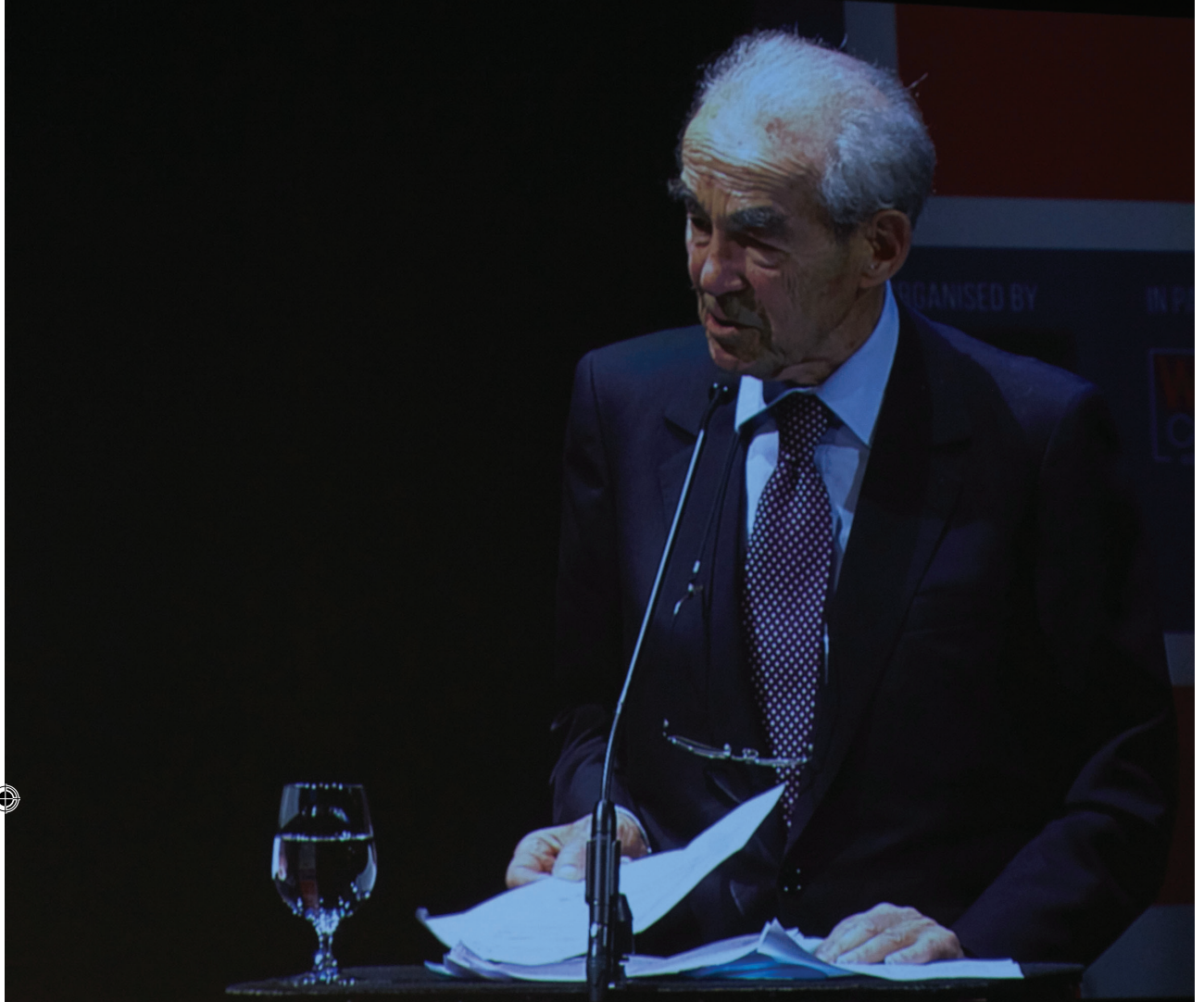
sporting and economic fields. These allies will be unconventional weapons who, coming as they do from off the beaten track, could convince a large number of people to join us.

When will there be a Nobel Prize for abolition?

Once again, numerous Nobel Prize winners supported what they judge to be the primordial struggle for abolition through their presence or through video messages - in particular, the representatives of the Tunisian National Dialogue Quartet (winners in 2015), Desmond Tutu (1984) and Ramos Horta (1996).

Universal abolition is a right, a necessity for justice and a moral duty founded on the principles of democracy, justice, non-violence and respect for human dignity - four elements which are the foundations of the principles of peace and progress for humanity. Finally, like the Mayor of Oslo and the Dean of the University of Oslo, I think that the time has come for the international abolitionist movement to receive the Nobel Peace Prize and for abolition to be recognised as a fundamental right, a moral right and a human right.







III OFFICIAL CEREMONIES

1 OPENING CEREMONY

The Opening Ceremony of the 6th World Congress Against the Death Penalty is dedicated to the next steps toward abolition. It is the chosen place of expression for States and intergovernmental organisations wishing to testify as to their international commitment and progress in their country regarding the death penalty.

21ST JUNE - OPERA HOUSE - OSLO

THE ORGANISERS OF THE CONGRESS

- **Robert Badinter**, Former Minister of Justice who abolished the death penalty in France in 1981, former President of the Constitutional Council, member of the International Commission Against the Death Penalty, France
- **Raphaël Chenuil-Hazan**, Executive Director of ECPM, France
- **Antonio Stango**, Coordinator of the 6th World Congress Against the Death Penalty, ECPM

INTRODUCTORY WORDS AND WELCOME

- **Zeid Ra'ad Al Hussein**, United Nations High Commissioner for Human Rights
- **Stavros Lambrinidis**, European Union Special Representative for Human Rights
- **Børge Brende**, Minister of Foreign Affairs, Norway
- **Jean-Marc Ayrault**, Minister of Foreign Affairs and International Development, France

NEXT STEPS: COMMITMENT TOWARDS ABOLITION

- **Hajah Nancy Shukri**, Minister in the Prime Minister's Department as the Minister in charge of Law, Malaysia
- **Flavien Mbata**, Minister of Justice and Human Rights, Central African Republic
- **Ali Abu Diak**, Minister of Justice, State of Palestine
- **Achraf Rifi**, Minister of Justice, Lebanon
- **Ang Vong Vathana**, Minister of Justice, Cambodia
- **Christophe Mboso N'Kodia Pwanga**, Deputy Minister of Justice and Human Rights, Democratic Republic of the Congo





SUPPORT GROUP FOR ABOLITION OF THE DEATH PENALTY

- **Philip Ruddock**, Special Envoy for Human Rights, Australia
- **Ignacio Ybañez**, Secretary of State for Foreign Affairs and Cooperation, Spain
- **Benedetto Della Vedova**, Secretary of State for Foreign Affairs and International Cooperation, Italy
- **Jacques Bilodeau**, Special Advisor to the Secretary-General of the Organisation Internationale de la Francophonie
- **Armand De Decker**, Minister of State, representative of the Minister of Foreign Affairs, Belgium
- **Georges Martin**, Deputy State Secretary of the Federal Department of Foreign Affairs, Switzerland

VIDEO MESSAGE

His Holiness **Pope Francis**, Head of State, the Vatican

2 POLITICAL PARTICIPATION DURING THE CONGRESS

Many senior political representatives participated in the debates and exchanges of views during the three days of the Congress. Besides the participants at the official ceremonies (Opening and Closing), the Congress provided many other opportunities for strong interaction between senior political actors and the delegates.

SESSIONS OPENED BY

- **Thorbjorn Jagland**, Secretary General of the Council of Europe
 - plenary session “the importance of NHRIs in the abolitionist cause”
- **Tsakhagiyn Elbegdorj**, President, Mongolia (video message)
 - plenary session “Progress and set-backs in Asia: lessons to be learnt”
- **Hon. Mangala Samareweera**, Minister of Foreign Affairs, Sri Lanka
 - plenary session “Progress and set backs in Asia: lessons to be learnt”
- **Ibrahim Najjar**, former Minister of Justice, Lebanon, member of the International Commission Against the Death Penalty (video message)
 - roundtable “the political use of the death penalty to counter terrorism”
- **Olemic Thommessen**, President of the Parliament-Storting, Norway
 - parliamentary side event at the Storting



3 FORMAL CLOSING SESSION

The formal Closing Session announces the initiatives developed during the Congress, future commitments, and reads out the participants' final declaration. It is the place for the synergies which exist between the political, voluntary sector, legal and academic spheres to be expressed. For this 6th Congress, the place of honour will be given to the speech by the Nobel Peace Prize winners, the common thread of the evening in this place which is dedicated to the award ceremonies of this highly symbolic prize.

23RD JUNE - CITY HALL - OSLO

WITH THE PARTICIPATION OF:

- **Marianne Borgen**, Mayor of Oslo, Norway
- **Tore Hattrem**, Secretary of State for Foreign Affairs, Norway
- **Bayartsetseg Jigmiddash**, Secretary of State for Justice, Mongolia
- **Erasmus Lara Cabrera**, Executive Director of Human Rights, Ministry of Foreign Affairs, Mexico
- **Federico Mayor Zaragoza**, former Executive Director of UNESCO, President of the International Commission Against the Death Penalty
- **Élizabeth Zitrin**, President of the World Coalition Against the Death Penalty
- **Raphaël Chenuil-Hazan** and **Emmanuel Maistre**, Executive Director and Secretary-General of ECPM, France

INITIATIVES IN FAVOUR OF ABOLITION: COMMON MESSAGES

- **Parliamentarians Against the Death Penalty** - message by **Kasthuri Patto**, MP (Malaysia), Secretary of the Women's Caucus of the Malaysian Parliament and Member of Parliamentarians for Global Action (PGA)
- **Messages from the National Human Rights Institutions (NHRI)**, **Gillian Triggs** - President of the Australian Human Rights Commission
- **The Cities for life: appeal from Mayors Against the Death Penalty** - message carried by **Mario Marazziti** - Spokesperson for the community of Sant Egidio
- **The Bar Associations Against the Death Penalty** - appeal launched by the Bar associations of Paris & Oslo, **Dominique Attias** - vice-president of the Bar association of Paris,
- Followed by a motion by the **International Observatory for Lawyers in Danger** by **Richard Sedillot**, Spokesperson of ECPM and President of the IOLD-OIAD
- **Appeal from Universities Against the Death Penalty** - launched by Professor **Ole Petter Ottersen** - President of the Universities Against the Death Penalty Worldwide Network, Rector of the University of Oslo



COMMON THREAD: THE NOBEL PEACE PRIZE WINNERS

- **Tunisian National Dialogue Quartet**, winner of the 2015 Nobel Peace Prize, Tunisia
 - **Halima Jouini**, Vice-President of the Tunisian Human Rights League
 - **Sami Tahri**, Secretary-General of the UGTT
 - **Mr Mohamed Fadhel Mahfoudh**, President of the Tunisian Order of Lawyers
- **Archibishop Desmond Tutu**, winner of the 1984 Nobel Peace Prize, South Africa (video)
- **José Ramos-Horta**, winner of the 1996 Nobel Peace Prize, Timor-Leste (video)

TRIBUTES TO

Marco Pannella, leader of the Italian Radical Party, founder and honorary President of Hands Off Cain

TESTIMONY FROM

Byson Kaula, former death row prisoner, Malawi

CEREMONY FOLLOWED BY THE GLOBAL MARCH AGAINST THE DEATH PENALTY THROUGH THE STREETS OF OSLO



IV

PROGRAMME OF DEBATES

TUESDAY 21 ST JUNE OPERA					
SCENE 1					
5:00-7:30 PM OPENING CEREMONY					
WEDNESDAY 22 ND JUNE OPERA					
	SCENE 1	SCENE 2	PROVESAL	R 1	R 2
9:00-11:00 AM	PLENARY Progress and Setbacks in Asia: lessons to be learnt		SIDE EVENT Death penalty in Belarus		
11:00-11:30 AM *** COFFEE BREAK					
11:30 AM 1:30 PM	ROUNDTABLE Political use of the death penalty to counter terrorism	WORKSHOP Developing legal strategies to move towards abolition of the death penalty			SIDE EVENT Drug crime and the death penalty in China
1:30-3:00 PM *** LUNCH BREAK					
2:00-4:00 PM	SIDE EVENT Iran out of isolation: Impact on the death penalty				
3:00-5:00 PM		ROUNDTABLE Legal, social and medical perspectives on the problem of protecting people with mental disorders from the death penalty	WORKSHOP How to efficiently communicate with the media?		SIDE EVENT 6 th UNGA resolution for a moratorium on use of the death penalty
5:00-5:30 PM *** COFFEE BREAK					
5:30-7:30 PM		ROUNDTABLE Migrants and minorities: Strategies to overcome challenges in capital cases	WORKSHOP Documenting use of the death penalty		SIDE EVENT The death penalty for drugs in 2016, a follow-up to the UNGASS on drugs and the World Day



THURSDAY 23 RD JUNE OPERA					
	SCENE 1	SCENE 2	PROVESAL	R 1	R 2
9:00-11:00 AM	PLENARY The importance of NHRIs for the abolitionist cause				
11:00-11:30 AM *** COFFEE BREAK					
11:30 AM 1:30 PM	ROUNDTABLE The draft Protocol to the African Charter on Human and Peoples' Rights on Abolition of the Death Penalty in Africa	ROUNDTABLE USA: New allies joining the fight to end the death penalty	WORKSHOP Advocating for abolition with Parliamentarians and the Executive	SIDE EVENT Sharia Law and the Death Penalty: an open debate	SIDE EVENT National Pathways Towards Abolition
1:30-3:00 PM *** LUNCH BREAK					SIDE EVENT Diplomacy and universal abolition: meet the "Friends of the Protocol"
3:00-5:00 PM	ROUNDTABLE Facing the challenge of alternatives to the death penalty	WORKSHOP OPEN TO LAWYERS ONLY Effective legal representation for people facing the death penalty	WORKSHOP Mobilising young people around the abolitionist cause		SIDE EVENT Children of Parents Sentenced to Death or Executed: Understanding Wider Impacts and Limiting Use of the Death Penalty
6:00-7:30 PM	CLOSING CEREMONY AT THE CITY HALL				
FROM 7:30 PM	GLOBAL MARCH AGAINST THE DEATH PENALTY DEPARTURE FROM CITY HALL				



B DEBATES

ABOLITION
NOW







THE FACES OF THE CONGRESS

Seeing their faces and understanding the journeys of both prisoners previously sentenced to death and their families is a reminder of why we are fighting the death penalty. These faces testify to what has been achieved by the abolitionist movement since the first World Congress in 2001. It also reminds us that much still remains to be done to achieve universal abolition.



1 THE WITNESSES WHO ATTENDED THE CONGRESS



HIDEKO HAKAMADA

Sister of Iwao Hakamada, the world's longest serving death row inmate, **Japan**

To accomplish her deceased mother's wish that Iwao should be exonerated, Hideko Hakamada, now 83 years old, has devotedly supported her younger brother. Iwao, aged 80, was arrested at the age of 30. He was sentenced to death and spent 47 years and 7 months in detention for murder. He is the world's longest serving death row prisoner. On 27 March 2014, he was released following the decision to reopen the case but the decision is pending and he remains a convicted prisoner.



SUNNY JACOBS

Former death row prisoner, founder of a sanctuary for former death row prisoners, **USA**

Sunny was tried for murder, convicted and wrongfully sentenced to death in Florida, USA, in 1976. As there was no death row for women at the prison where she was held, she spent 5 years sentenced to death into solitary confinement before spending a further 12 years among the general prison population to whom she began to teach yoga. With the help of lawyers who worked for many years without pay and friends who assisted them in the research, Sunny had her conviction overturned in 1992 and achieved her liberty.



PETER PRINGLE

Former death row prisoner, founder of a sanctuary for former death row prisoners, **Ireland**

Peter was prosecuted, tried and wrongfully convicted of capital murder and robbery by the non-jury Special Criminal Court in Dublin, Ireland, in 1980. He was sentenced to death and 15 years of imprisonment. In 1981, his death sentence was commuted to 40 years of penal servitude without remission. He studied law and prepared his case under the Irish Constitution. He opened his case in the High Court in Dublin in January 1992, representing himself. He won his freedom in 1995.

Sunny Jacobs and **Peter Pringle** each devoted themselves to healing and peace and reconciliation upon their respective releases. They met in 1998 and together have established the Sunny Center, a sanctuary especially dedicated to people who were wrongfully convicted of crimes they did not commit and who spent time on death row.

For more information about the Sunny Centre: <http://www.thesunnycenter.com>



NDUME OLATUSHANI

Ndume spent 28 years in prison in the **United States**, 20 of them on death row, for a crime he did not commit. He was saved by his discovery of drawing and painting, and helped throughout his detention by his family and friends, and abolitionist organisations. Today, he continues to campaign powerfully against the death penalty through his contact with young people.

What was your first reaction when you learned that you had been sentenced to death?

I was just really angry. I knew I was going to be sentenced for a crime I hadn't committed. All I wanted was to tell the judges and the jurors to get lost. I was really angry. That rage followed me through the first two years of my incarceration until I learned of the death of my mother in a road accident. That forced me to take myself in hand and abandon that anger to move forward. In fact, I think that I actually turned that anger into something more positive. Anger is a human emotion. We should always be angry about something. There is so much injustice.

Is that when painting came into your life?

Shortly after the death of my mother, I started drawing. After a year, I started to paint. There was a beginners painting course in prison. There were not many of us on the course, only four or five people. Today, I use art a lot to communicate with pupils in schools.

How did you deal with solitude on death row?

I was certainly alone most of the time. I could communicate with other prisoners through the door of my cell. Sometimes, during exercise time which was done in cages, I could interact with other prisoners but most of the time I was alone. Death row is very separate from the rest of the prison. The only real interaction I was given was with my family and friends and some organisations which supported me. That helped me keep a link with the outside, stay in touch with the reality of what was happening outside. Throughout my time in prison, I expected them to release me. Thanks to all those people, I was able to survive all those years in prison without losing hope and thanks to them again I was able to deal with my release under good conditions.

Did you think about death every day?

No. I was one of the ones who was not waiting for death.

After 28 years in prison, you were released but you have not been exonerated.

I pleaded guilty to involuntary homicide – otherwise I would have had to wait in prison for years to be exonerated. But that didn't really bother me. It wasn't a real concern for





These so-called Christians try to use the Bible to justify the death penalty, just as they used the Bible to keep Blacks enslaved for years.



me. I can't do much to change that situation. I can't complain about the life I have now and the fact that I haven't been exonerated doesn't prevent me from building something new.

How did your release from prison go?

I missed a lot of things in prison but the first thing I did when I was released was to eat real food. I wanted to eat everything I had been deprived of for those 28 years: biscuits, pancakes, eggs...I also discovered a world which was very different, particularly in terms of technological progress. When I was put in prison the internet didn't exist, mobile phones, flat-screen TVs didn't exist...

What was your experience at the last World Congress Against the Death Penalty?

I took a lot from those few days. It was an opportunity to discover Oslo but, above all, to meet people from across the world who were taking action against the death penalty. That made me realise the power and responsibility I have, personally, to change the perception people have of the death penalty. It also bolstered me in my desire to keep fighting when I get home so that the death penalty no longer exists.

So is that your plan for the future?

For the rest of my life, I will continue to talk to people around me, not only about what I went through personally but also about what other people across the world are enduring because of the death penalty. There's no doubt about it: as long as I live, I will fight the death penalty

You live in Tennessee, a particularly conservative state. How do you interact with supporters of the death penalty?

Tennessee does indeed have a long history of discrimination against Blacks in particular, and there is a real conservatism concerning punishments in general. It is often said that Tennessee is the buckle of the Bible Belt (the term for the very religious states in the south of the United States). Religion forms opinion for a lot of people there. For me, the real problem is hypocrisy. These so-called Christians try to use the Bible to justify the death penalty, just as they used the Bible to keep Blacks enslaved for years. If they applied the old adage 'an eye for an eye' literally, the whole of Tennessee would be blind today. In my work I often meet believers who are in favour of the death penalty. Most of the time, I question them about the necessity of having the death penalty in a supposedly evolved society. Conservatives are often also very suspicious of the Government and the State. This is a state which is incapable of collecting its rubbish, incapable of educating its children, incapable of doing anything well except for one thing: executing people. I try to point out this contradiction when I can.



What are your favourite arguments against the death penalty?

I'll give you two. First, which is unfortunately the most effective argument for people who support the death penalty, is the fact that it is too expensive. It is more expensive to sentence and execute someone than to keep someone in prison for the rest of his life. Another argument which has already been proved effective in my conversations is the fact that as long as we apply the death penalty, we will kill innocent people.

Interview by Nicolas Salvi



BYSON KAULA

Former death row prisoner, has volunteered as a teacher and a chaplain in prison since his release, **Malawi**

Byson Kaula was arrested in 1992 for the death of one of his employees who was seriously ill. After being held on remand for 7 years, he was convicted of murder and sentenced to the mandatory death penalty. In prison, he developed prisoner education programmes and quickly became known as “the professor” for his work teaching life skills to his fellow prisoners. After 23 years in prison, and multiple execution dates cancelled at the last minute, his sentence was commuted into life imprisonment before he was released in early 2015 after going before the judge again. Upon his release, Byson resided at the Prison Fellowship Malawi, a residence that helps newly released prisoners reintegrate into society. He has since left the residence but now volunteers as a teacher and a chaplain during the PFM's prison visits.

For more information about Prison Fellowship Malawi:

<https://www.facebook.com/Prison-Fellowship-Malawi-314822561964065/>



SUSAN KIGULA

former death row prisoner, studied law in prison, **Uganda**

Sentenced to death in Uganda for killing her husband, Susan Kigula never stopped protesting her innocence. The instigator behind a choir for prisoners on death row and a law graduate from the University of London, she finally obtained her freedom after 15 years in prison. She has become a real symbol of the struggle against the death penalty in her country. Susan Kigula left prison in January 2016. She has since founded the Susan Kigula African Child Foundation.

What were the first moments of your death sentence like for you?

Very bad. I couldn't believe that I had been sentenced to death when I knew that I hadn't committed the crime I was being accused of. When I was sentenced to death, I



I would like to devote myself to a cause which is too often neglected: helping those who will leave prison in the future.

felt like the world had stopped existing. I discovered that innocent people can be sentenced to death too. I cried a lot and then I picked myself up. I had left my daughter, who was still a baby, at home. I absolutely had to find the desire and the strength to live to see her again. My faith in God also gave me a lot of courage to continue to live and to focus.

How did you manage to obtain a law degree?

I hadn't finished high school before I went to prison but once I was there I discovered that some women were completely illiterate. I started to act as an English interpreter for them...and I discovered that there was a demand from them, a desire to study, to learn to read and write, to speak English. They needed to progress, to become another person through learning despite their situation. I felt a great anger and I felt that around me people wanted me to die. I refused to accept that idea and I decided that I would not be a useless person in the world. And to become someone useful in my country, I needed to study too. So I participated in the prison school, both as a student and a teacher, which led to me being discovered by the national exam board in Uganda. That is when Alexander McLean, from the African Prisons Project, came and offered to prepare me for a law degree from the University of London. Through determination and self-discipline, I rose to the challenge and Professor Hamilton in London indicated that I was one of his best students, despite the fact that I wasn't on campus. That convinced him to keep supporting me and so I obtained my law degree subsequently.

You were sentenced to death in 2002 and executions in Uganda ceased in 2005.

Did you think about your possible execution every day?

Yes, because you never know. These decisions can be very closely connected to political decisions. You can never know what is happening in that area and on death row very worrying stories did the rounds endlessly. So you live in fear. Anything can happen.

Did your studies and singing play an important role in helping you escape your condition?

Yes. Every time I sat down in class to learn, it gave me a lot of hope. I felt very anxious at one point in my studies. I didn't think I could succeed. Law can be very difficult sometimes. I wanted to send my books back to Alexander but I was convinced not to and that's what I did. I got back to studying, step-by-step at my own pace. And that was crucial because it created hope in me; it made it a little more concrete each time, a little more anchored inside me. The hope that maybe one day I would leave.

Singing helped me in a different way, by bringing me comfort and a lot of satisfaction. It has enabled me to get across important anti-death penalty messages. With my fellow prisoners, we recorded these songs and they have been broadcast across the country. It has become a real campaign to raise awareness in Uganda.



What was the World Congress Against the Death Penalty like for you?

Firstly, it brought me a lot of peace in my heart. I had just come out of prison and, by telling my story to all these people, I was able to start to heal. It also enabled me to meet amazing people who are taking action against the death penalty across the world. The energy and effort I have seen have motivated me to continue the struggle. Many people came to see the real Susan Kigula in the flesh and realised to what extent my story is concrete, real. Being able to stand alongside important political figures to consider the road to be followed to end the death penalty had a particular impact on me.

So the struggle for abolition does not end with your release?

I don't want to leave the fight half-way through. Now that I am out of prison, there is a lot to do. It would be hypocritical on my part not to continue. For the future, I want to get my Masters degree, campaign with an organisation which looks after the children of prisoners, help my fellow former prisoners, and I must also manage my rehabilitation in the open air. I would like to devote myself to a cause which is too often neglected: helping those who will leave prison in the future.

Interview by Nicolas Salvi



LUBOV KOVALEVA

Mother of Vladislav Kovalev, executed in Belarus.

Winner of the Human Rights Defender Prize, *Belarus*

Lubov Kovaleva is an active member of the coalition "Human Rights Defenders Against the Death Penalty in Belarus". In 2012, she was awarded the Human Rights Defender Prize for her active support for her son, Vladislav Kovalev, and for her fight against the death penalty. Found guilty of collaborating with terrorists after the Minsk subway explosion in April 2011, Vladislav Kovalev was sentenced to death in a hasty trial marred by irregularities in November 2011. The execution took place in March 2012 while his individual complaint set down by Lubov Kovaleva for violations of the rights guaranteed by the International Covenant on Civil and Political Rights, was still being considered by the UN Human Rights Committee.



CELIA VELOSO

Mother of Mary Jane Veloso, on death row in Indonesia,

Philippines

Celia Veloso is the mother of Mary Jane Veloso who was arrested in Indonesia for drug trafficking and was sentenced to death in October 2010. Her family, together with the NGO Migrante International, launched a campaign to save Mary Jane, asserting that





she was abused by a women who had recruited her in Malaysia. In April 2015, Mary Jane was transferred to a holding cell prior to her imminent execution. A last-minute turnaround saved her from execution, but her life is still on the line and Celia Veloso is tirelessly working for Mary Jane's freedom.





2 THE CHILDREN OF PARENTS SENTENCED TO DEATH OR EXECUTED

Alongside these faces, the Congress was also the opportunity to tackle an important and often neglected subject: the fate of the children of parents sentenced to death or executed. One side event in particular recalled the impact of the use of the death penalty on these forgotten children. **Laurel Townhead**, Human Rights and Refugees Representative at the Quaker Office with the United Nations, the NGO which organised the event, told us more about it.

LAUREL TOWNHEAD

Human Rights and Refugees Representative at the Quaker Office with the United Nations

How many children are we talking about?

No one knows how many children have a parent on death row or how many people have lost a parent through execution. However, more is becoming known about the impact of a parental death sentence or execution on their children. The Congress reflected how this often overlooked issue is beginning to gain wider attention. The need to consider this group of children was raised in the Congress Opening Ceremony by Armand De Decker, Belgian Secretary of State, and was highlighted in other sessions of the Congress, by NGOs, the Office of the High Commissioner for Human Rights and mothers who had been on death row.

What are the key impacts of the death penalty on these children?

The side event outlined some of them, including:

- The unique burden children experience as a result of States action, the conflicted relationship with the State that this leads to and the impact this has on children's safety and wellbeing
- The stigma and isolation faced by children
- Challenges to maintaining a relationship with the parent while still on death row and the emotional and psychological distress caused by the pending execution.

Pending abolition of the death penalty, the impact on these children must be recognized and their rights must be upheld. Zaved Mahmood of the Office of the High



The impact of a death sentence on the children of parents sentenced to death or executed represents a very powerful argument against the death penalty.



Commissioner for Human Rights outlined the relevant rights and how these have been recognized in UN reports and resolutions. The Human Rights Council and the Committee on the Rights of the Child have clarified that the best interests of the child should be taken into account when sentencing a parent. Therefore, courts should consider the impact on the child of sentencing their parent to death. If a parent is sentenced to death, their children have a right to timely information about their parent and a right to maintain a family relationship with them (where this is in the child's best interests).

What should be the next steps to uphold their rights?

At the side event and outside the formal programme of the Congress, there was interest in learning more about this issue and sharing ideas on how to advocate for these children and how to utilize the growing recognition of their rights. This interest came from the broad range of individuals that make up the abolitionist community: activists, lawyers, parliamentarians, and educators amongst others. To take this interest forward and to pick up on suggestions made at the side event, the Quaker United Nations Office proposes the creation of a Working Group (of the World Coalition for example) on Children of Parents Sentenced to Death or Executed and will explore possibility of a future World Day Against the Death Penalty focusing on this issue.

Do you believe this issue could be an argument for abolition and why?

Yes, because the impact of a death sentence on the children of parents sentenced to death or executed represents a very powerful argument against the death penalty. It is an argument that is applicable in all countries, at all stages of the process from arrest through to post-execution. The Quaker United Nations Office works on this issue first and foremost because we believe that such children should not be forgotten and their rights should be upheld. Focussing on this issue also supports abolition by:

- Humanising and making more sympathetic those sentenced to death by showing them as a person who gives and receives love and care.
- Bringing additional legal standards to bear, based on the Convention on the Rights of the Child (CRC), which all States (except the USA) have now ratified. In particular, the duty to take the best interest of the child into account in all decisions affecting them (CRC Article 3) should contribute to reducing the use of the death penalty. This child rights approach makes it even harder for States to claim that they use the death penalty in accordance with international law.
- Supporting arguments for moving from moratorium to abolition. The negative impact on children remains even in situations where there is a moratorium (for example they still don't have access to imprisoned parents, worry constantly if the moratorium will be lifted and the parent executed).



- People who have experienced a parental death sentence or execution are and can be powerful advocates for abolition, similar to families of murder victims. It is hard to argue against the profound and unintended impact of the death penalty on this unquestionably innocent group.

For more information

- Convention on the Rights of the Child:
<http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>
- Human Rights Council Resolution 19/37 Rights of the child (paragraphs 68-69):
<https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/G12/131/73/PDF/G1213173.pdf?OpenElement>
- Human Rights Council Resolution 22/11 Panel on the human rights of children of parents sentenced to the death penalty or executed:
<http://www.right-docs.org/doc/a-hrc-res-22-11/>
- Human Rights Council Resolution 30/5. The question of the death penalty (paragraph 4):
http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/30/L.11/Rev.1
- Child Rights Connect, *Children of Parents Sentenced to Death or Executed: How are they affected? How can they be supported?* (2013). Available in English, French, Spanish, Chinese, Russian and Arabic: <http://www.quno.org/resource/2013/9/children-parents-sentenced-death-or-executed-how-are-they-affected-how-can-they-be>

Quaker UN Office (www.quno.org) publications on children of parents sentenced to death or executed:

- *Forgotten Victims* (2016):
<http://www.quno.org/resource/2016/5/forgotten-victims>
- *Children of parents sentenced to the death penalty or executed: developments, good practices and next steps* (2014):
<http://quno.org/resource/2014/8/children-parents-sentenced-death-penalty-or-executed-developments-good-practices-and>
- *Lightening the Load of the Parental Death Sentence on Children*, Oliver Robertson and Rachel Brett (2013) Available in English, French, Spanish, Japanese, Farsi and Arabic:
<http://www.quno.org/resource/2013/6/lightening-load-parental-death-sentence-children>
- *Children of parents sentenced to death*, Helen F. Kearney (2012) Available in English, French and Arabic:
<http://www.quno.org/resource/2012/2/children-parents-sentenced-death>

WORLD CONGRESS
THE DEATH PENALTY
JUNE 2016





II THE ISSUES

1 REGIONS AND COUNTRIES

This section sets out the issues discussed at the 6th World Congress Against the Death Penalty. It is not an exhaustive list of the challenges facing the abolitionist movement but rather a snapshot of the debates and the challenges faced in particular regions and countries by certain groups and in certain contexts.


Asia and Africa were discussed for different reasons. In Asia, a vast region which executes more people than anywhere else in the world, it was a question of highlighting the positive developments which have occurred since the Regional Congress Against the Death Penalty organised by ECPM in Malaysia in June 2015, and assessing their impact and their possible use at regional level. In Africa, it was essential to discuss a draft regional treaty which could bring about abolition in the months and years to come, and constitute an additional advocacy tool for civil society.

The arrival of new allies in the United States, thought to be unlikely a few years ago, dictated the choice of a roundtable on these new voices.



a PROGRESS AND SETBACKS IN ASIA: LESSONS TO BE LEARNT

“On the day I swore in as the President of Mongolia on June 18, 2009, two draft decrees were table on my desk. One was on the death penalty for a criminal. Other was to pardon him. I decided to choose life. I choose a clean, just and bloodless future for my people.”

 **Tsakhiaiygn Elbegdorj**, President of Mongolia,
video message, 22 June 2016, Oslo Norway

Opening address

- **Hon. Mangala Samareweera**, Minister of Foreign Affairs of Sri Lanka - **Sri Lanka**

Video Message


- **Tsakhiaiygn Elbegdorj**, President of **Mongolia**

Speakers

- **Ajit Prakash Shah**, Former Chairperson of the Law Commission of India – **India**
- **Mai Sato**, Lecturer in Criminal Law and Criminology, University of Reading – **United Kingdom**
- **Jeffrey Fagan**, Professor of Law and Public Health, Columbia University – **USA**
- **Bin Liang**, Associate Professor, Department of Sociology, Oklahoma State University – **USA**
- **Bhatara Ibnu Reza**, Principal Researcher, Imparsial (NGO) – **Indonesia**

Moderator

- **S.E. Dr Seree Nonthasoot**, Representative of Thailand to the ASEAN Intergovernmental Commission on Human Rights - **Thailand**

 There have been positive developments in the direction of abolition of the death penalty in Asia, although it remains the continent with the highest number of executions in the world. Mongolia abolished the death penalty in its Criminal Code in December 2015. Reductions in the number of crimes punishable by death, including in China in August 2015, and the scope of mandatory death sentences in Singapore in 2012 are also positive signs of progress to be acknowledged. This Plenary session highlighted this progress and how it could be of use to overcome some of the shared challenges facing abolition in retentionist countries in Asia.



Positive developments demonstrate a clear desire in some Asian countries to reassess the death penalty on that continent.

Since the Madrid Congress in 2013, there has been a certain amount of progress in Asia-Oceania, particularly in 2015. The list of abolitionist countries was extended to include Fiji and Mongolia in 2015 and Nauru in 2016. Nepal, which abolished the death penalty in 1997, ensured that there could be no return to capital punishment in its national legislation by adopting a new Constitution in September 2015, prohibiting the adoption of a law providing for the death penalty¹.

There was also a significant turning point for capital punishment in India after the submission by the Law Commission of India² of its 262nd report entitled *The Death Penalty* in August 2015. The Commission notes in particular that the goals of the death penalty do not serve either restorative aspects of justice or any of the penological aims recognised by the Constitution. It considers that the death penalty is a means of distracting attention from the real problems connected to the dysfunctioning of the criminal justice system³. In the light of this, the Commission recommends abolition of the death penalty. However, it includes a reservation with regard to cases of terrorism and acts of war against the State⁴. Here, the Commission remains loyal to the reality of the death penalty in India where the last two executions (in 2013 and 2015) involved prisoners sentenced to death for acts of terrorism⁵. However, this situation should be qualified by the fact that this is not a frequently used charge; in 2015 for example, none of the 75 death sentences handed down in India were for terrorism⁶. Nonetheless, and despite this reservation, the Commission dares to go further and declare that it would like to see absolute and irreversible abolition of capital punishment in India⁷, thereby indicating its clear position on the issue.

Nonetheless, although abolition has been recorded or is on the right path in these States, other have adopted dubious measures or extended the scope of application of capital punishment.

Some countries, such as China and Vietnam, still refuse to publish statistics related to the death penalty which are classed as a “State secret”. In Vietnam, legislators adopted a revision of the Criminal Code in November 2015, abolishing the death penalty for seven

- 1 Human Rights Council, 33rd session, *Question of the Death Penalty*, Secretary General's report, A/HRC/33/20, July 2016, paragraph 4.
- 2 The Law Commission of India is an executive body created by governmental decree. Composed mainly of legal experts, its main purpose is to act as a consultative body for legislative reforms with the Ministry of Justice. Its reports are transmitted to the Government and constitute consultative advice.
- 3 Law Commission of India, *The Death Penalty*, report No. 262, August 2015 paragraphs 7.1.2. and 7.1.3., available at: <http://lawcommissionofindia.nic.in/reports/report262.pdf>.
- 4 Law Commission of India, *The Death Penalty*, paragraph 7.2.4 (see footnote 2)
- 5 Death sentences by virtue of the 1987 and 2002 laws on acts of terrorism. For more information, see the website of Death Penalty Worldwide: <https://www.deathpenaltyworldwide.org/country-search-post.cfm?country=India>.
- 6 Amnesty international, *Death Sentences and Executions in 2015*, available at: <https://www.amnesty.org/en/latest/research/2016/04/death-sentences-executions-2015/>.
- 7 Law Commission of India, *The Death Penalty*, paragraphs 7.2.5 and 7.2.6 (see footnote 2).





These
controversial
measures in China
and Vietnam
strongly qualify
abolitionist
progress in Asia.



crimes (reducing the number of capital crimes from 22 to 15)⁸. As statistics on the death penalty are a State secret, it is difficult to be sure what impact this step will have on the number of sentences. Nonetheless, and although this measure is welcome, some will be quick to criticise the reformulation of certain crimes, particularly those related to the production, sale and possession of drugs. Although these crimes are not included in the revised Criminal Code, they are nonetheless punished under three new articles the illegal production of drugs (Article 248), the illegal transpor-

tation of drugs (Article 251) and the illegal sale or purchase of drugs⁹.

China also revised its Criminal Code in 2015¹⁰, thereby withdrawing nine charges from the list of capital crimes, reducing it from 55 to 46 crimes¹¹. Although positive, this progress must be qualified. These charges were rarely used and such a reduction will have little impact in practice in the end, something the official media has actually declared, adding that, nonetheless, this modification is supposedly part of the Government's policy to "kill fewer people with more restraint"¹². The same is true of the revisions to the Criminal Code: although the defence will enjoy more rights¹³ such as the right for lawyers to talk freely with their clients and participate in the final examination of sentences, China still does not respect international standards in this area. China has not ratified the 1966 International Covenant on Civil and Political Rights¹⁴ and it therefore ignores provisions such as Article 14 on the right to a fair trial before a competent, independent and impartial court¹⁵.

These controversial measures in China and Vietnam strongly qualify abolitionist progress in Asia. Above all, such timid steps bear witness to a strong attachment to application of the death penalty on that continent and the difficulty of breaking away from it. Indeed, some countries, such as Pakistan, have been quick to take a path opposed to abolition, hardening their legislation in terms of application of the death penalty.

8 Theft, the production or sale of false food, the possession of drugs, the purchase of drugs, the destruction of projects threatening national security, opposition to order and capitulation to the enemy.

9 Vietnam Committee on Human Rights, *The Death Penalty in Vietnam*, Report compiled for the 6th World Congress against the Death Penalty FIDH, (2016), available at: https://www.fidh.org/IMG/pdf/2016_-_report_on_death_penalty_in_vietnam.pdf.

10 9th amendment of the 1997 Criminal Code.

11 Trafficking of weapons, munitions, nuclear materials, false currency, the collection of funds through fraud, organising or forcing someone to enter prostitution, hindering a police officer or another person in exercising their duties, and fabrication of rumours to trick others in times of war.

12 Amnesty international, *The State of the World's Human Rights, 2015/2016 Report*, available at: <https://www.amnesty.org/en/documents/pol10/2552/2016/en>.

13 Information Office of the Council for the Affairs of the Chinese State, *New progress in the legal protection of human rights in China*, September 2016, English version available at: <http://www.peinedemort.org/document/9076>.

14 The People's Republic of China signed the International Covenant on Civil and Political Rights in 1998 but has still not ratified it to date.

15 Article 14 of the International Covenant on Civil and Political Rights, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>





The attack by the Taliban on the school in Peshawar in 2014 marked a decisive turning point in application of the death penalty in Pakistan¹⁶. Following that attack, the Government lifted its moratorium on executions dating back to 2008, and in 2015 modified its Constitution and its law on the armed forces authorising application of the death penalty for civilians suspected of offences connected to terrorism. In October 2016, Pakistan had already carried out more than 400 executions since the moratorium was lifted in 2014¹⁷. Bangladesh has also extended the scope of application of the death penalty to include coastguards in the event of mutinies¹⁸. In Indonesia, executions continue to be carried out, mainly for offences connected to legislation on drugs and particularly drug trafficking. Singapore, which had modified its legislation on the mandatory application of the death penalty in 2012 for drug trafficking, continues to apply it, particularly for cases of voluntary homicide. Malaysia is also highlighted as one of the few countries which continue to apply this punishment in a compulsory manner¹⁹.

What is the goal of States which refuse to consider abolition of the death penalty? Do they think they are responding appropriately to the desire of ill-informed public opinion in search of a particularly dissuasive criminal sentence?

Retentionist States spread the incorrect idea that the death penalty gives the impression of a strong State. Its abolition would therefore be a sign of weakness and insecurity for the public which supposedly sees this punishment as a means of controlling the crime rate²⁰. Consequently, if a State retains capital punishment it is supposedly because a majority of public opinion is in favour of the death penalty, particularly because of its dissuasive aspect. Its abolition would therefore supposedly lead to a loss of confidence among the public²¹.

In research carried out by the governments of Asian retentionist States, the public mainly answers 'yes' to the question 'do you support the death penalty?' However, by asking more detailed questions putting the death penalty into the context of the criminal justice machine, it appears that the same public does not have the same opinion; that it has never really considered the issue and that it suffers from a lack of information concerning its own judicial system. This has been demonstrated in several independent studies carried out in Malaysia²², Japan²³ and China²⁴. In Japan for example, although

16 Amnesty International, *2015/2016 report* (see footnote 12).

17 For more information, see the website of the Justice Project Pakistan, available at: <http://www.jpp.org.pk>.

18 Human Rights Council, *The Death Penalty*, A/HRC/33/20, paragraphs 16 and 17 (see footnote 1).

19 Human Rights Council, *The Death Penalty*, A/HRC/33/20, paragraph 10 (see footnote 1).

20 According to the 2016 Global Peace Index, published for the Institute for Economics and Peace, of the 20 safest countries in the world, only Japan and Singapore are retentionist. See the section 'For More Information'.

21 Amnesty International, *Five Received Ideas About the Death Penalty Faced with the Facts*, available at: <http://www.amnesty.fr/Nos-campagnes/Abolition-de-la-peine-de-mort/Presentation/Cinq-idees-recues-sur-la-peine-de-mort-confrontees-aux-faits>.

22 Hood, Roger, *The Death Penalty in Malaysia Public opinion on the mandatory death penalty for drug trafficking, murder and firearms offences*, the Death Penalty Project in association with the Bar Council of Malaysia, 2013, available at: <http://www.deathpenaltyproject.org/wp-content/uploads/2013/07/Malaysia-report.pdf>.

23 Sato, Mai & Bacon, Paul, *The Public Opinion Myth. Why Japan retains the death penalty* [online] the Death Penalty Project, 2015, available at: <http://www.deathpenaltyproject.org/wp-content/uploads/2015/08/The-Public-Opinion-Myth1.pdf>.

24 Oberwittler Dietrich and Q. Shenghui, *Public Opinion on the Death Penalty in China Results from a General Population Survey Conducted in Three Provinces in 2007/08*, Max Planck Institute For Foreign And International Criminal Law, available at: https://www.mpicc.de/files/pdf2/forschung_aktuell_41.pdf





71% of people surveyed who supported the death penalty declared that they would follow the Government's lead if the latter decided to abolish capital punishment



83% of the 1,542 people surveyed initially declared that they supported the death penalty, only 27% considered it to be inevitable after answering a question relating to the degree of their conviction; 49% of people surveyed did not know about the single execution method and only 0.58% were able to correctly answer all the questions asked, revealing both how confidential information relating to capital punishment is and a lack of interest in the subject²⁵. Such uninformed support for the death penalty is particularly based on the widespread idea that this kind of sentence would have a deterrent effect on people²⁶.

This deterrent effect is often used by governments to justify application of the death penalty with public opinion. However, the death penalty does not serve

the penological aim of deterrence any more than life imprisonment²⁷. In research carried out in Malaysia in 2013²⁸, although the death penalty was placed in a context of dissuasive policies, only 12% of the retentionist public surveyed felt that the death penalty fulfilled the criteria of dissuasion, relegating it to last place in five policies which could reduce very violent crime leading to death. The same was true for drug trafficking: with only 15%, the death penalty found itself again in last place. In the same way, in Japan only 27% of the people surveyed believed that the death penalty could reduce the rate of the most terrible crimes²⁹. These low figures demonstrate that, once it has been better informed, the deterrence argument is not the strongest argument with the public. Indeed, seemingly it tends to support the death penalty because of its punitive aspect rather than the dissuasive aspect³⁰.

Finally, retentionist governments put forward the argument that the public would no longer have confidence in the State should it decide to abolish the death penalty. This is the case in Indonesia which likes to politicise use of the death penalty and experiences peaks of executions before every election. However, in research carried out in Japan, **71% of people surveyed who supported the death penalty declared that they would follow the Government's lead if the latter decided to abolish capital punishment**³¹.

25 Sato, Mai & Bacon, Paul, *The Public Opinion Myth* (see footnote 23).

26 Oberwittler Dietrich and Q. Shenghui, *Public Opinion on the Death Penalty in China*.

27 Law Commission of India, Report No. 262, *The Death Penalty*, August 2015, paragraph 7.1.1.

28 Hood, Roger, *The Death Penalty in Malaysia*, page 31 (see footnote 22).

29 Sato, Mai & Bacon, Paul, *The Public Opinion Myth* (see footnote 23).

30 Hood, Roger, *The Death Penalty in Malaysia* (see footnote 22).

31 Ibid., page 35.



MALAYSIA

DO YOU SUPPORT THE DEATH PENALTY FOR MURDER?

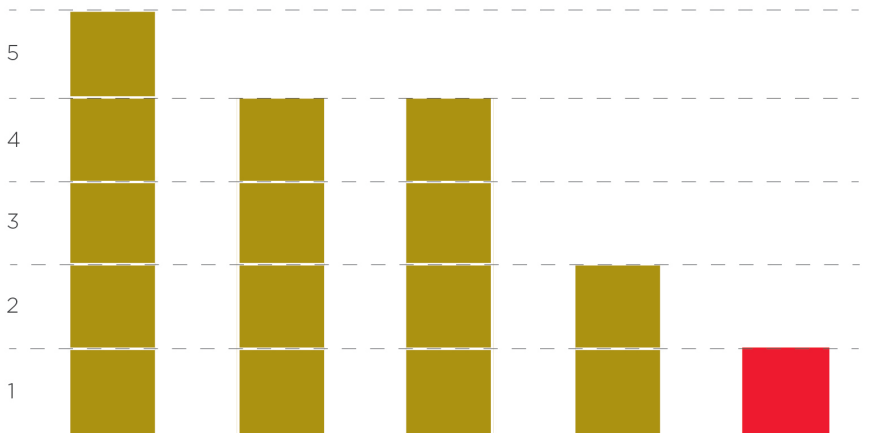
YES
91 %



LET'S HAVE A CLOSER LOOK

WHEN ASKED TO RANK A RANGE OF POLICIES TO TACKLE VIOLENT CRIMES THAT LEAD TO DEATH, RESPONDENTS PLACE THE DEATH PENALTY IN THE LAST POSITION

MOST EFFICIENT POLICY



EDUCATION
BETTER MORAL
EDUCATION OF
YOUNG PEOPLE

MORE JUSTICE
MORE EFFECTIVE
POLICIES TO BRING
CRIMINALS TO
JUSTICE AND MAKE
PUNISHMENT MORE
CERTAIN

**CONTROL DRUG
CONFLICTS**
MORE EFFECTIVE
POLICIES TO
CONTROL CONFLICT
BETWEEN DRUG
TRAFFICKERS AND
DEALERS

**CONTROL
FIREARMS**
MORE EFFECTIVE
POLICIES TO
CONTROL THE
POSSESSION
OF FIREARMS

**DEATH
PENALTY**
GREATER
NUMBER OF
EXECUTIONS

For more information: Roger Hood, *The Death Penalty in Malaysia Public opinion on the mandatory death penalty for drug trafficking, murder and firearms offences*, the Death Penalty Project in association with the Bar Council of Malaysia, 2013.



ASIA

**DO YOU WANT TO KEEP THE DEATH PENALTY?
COMPLEX AND NUANCED OPINIONS
LIE BEHIND THE ANSWERS**

YES

NO

I want to keep the death penalty but is there a risk of killing innocent people?

I am against the death penalty but how can we ease the suffering of victims' families?

We should keep the death penalty but not execute anyone.

I am in favour of the death penalty but it should not be used as often.

If my son is murdered, the murderer should hang. But what would happen if my son became a murderer?

I have never been interested in this subject before.

From the presentation by Mai Sato at the workshop: "Progress and Setbacks in Asia: Lessons to be learnt",
6th World Congress Against the Death Penalty - Oslo 2016



With objective information in hand and after proper consideration of the death penalty and its application, the public can form its own opinion and reassess this punishment. Finally, the public is also ready to follow its government's lead in the event of abolition. This was indeed the case in a number of countries such as France where, upon abolition of the death penalty in 1981, 63% of French people still supported the death penalty. This demonstrates that the public is therefore not a barrier to abolition of the death penalty - one less argument for retentionist countries in Asia.

RECOMMENDATIONS

RETENTIONIST STATES:

- **Remove mandatory application of the death penalty for all capital crimes from the legislations of States which still apply it;**
- **During moratorium periods, work on the alternatives in order to give the moratorium concrete impact.**

NGOS:

- **Carry out research in each Asian retentionist State in order to establish a picture of informed public opinion in the region;**
- **Carry out research on the deterrent effect of the death penalty in each Asian retentionist State, particularly for offences connected to drug trafficking;**
- **Draw conclusions from this research and organise free training on the criminal justice system of each country for the public;**
- **Work with governments to draw up other alternatives to the death penalty which respect the restorative aspect of justice.**

For more information

- Amnesty International, world report, Death Sentences and Executions Report 2015, ACT 50/3487/2016, April 2016, available at: <https://www.amnesty.org/en/documents/document/?indexNumber=act50%2f3487%2f2016&language=en>
- Death Penalty Centre of National Law University Delhi, The Death Penalty India Report (2016), available in English at: www.deathpenaltyindia.com.
- Law Commission of India, The Death Penalty (2015), Report No.262, available at: www.lawcommissionofindia.nic.in
- Institute for Economics and Peace – IEP, 2016 Global Peace Index, available at: <http://economicsandpeace.org/research/>
- Hood, R. *The Death Penalty in Malaysia: Public opinion on the mandatory drug trafficking, murder and firearm offences* (2013), The Death Penalty Project.
- Liang, B. and Lu., Hong, *The Death Penalty in China: Policy, Practice, and Reform* (2015), Columbia University Press.





- Sato, M., *The Death Penalty in Japan. Will the Public Tolerate Abolition?* (2014), Weisbaden Springer VS.
- Sato, M. and Bacon, P., *The public opinion myth: why Japan retains the death penalty* (2015), The Death Penalty Project.
- Zimring, F.E., Fagan J. and Johnson D.T., 'Executions, Deterrence, and Homicide: A Tale of Two Cities', 7 *Journal of Empirical Legal Studies* 1 (2010), pages 1 à 29.
- India, Supreme Court, *Bachan Singh vs. State of Punjab*, (1980) 2 SCC 684 or UOI [AIR 1980 SC 898] where the Supreme Court confirmed the constitutionality of the death penalty but limited its application to "the rarest cases".
- India, Supreme Court, *Shankar Kisanrao Khade vs. State of Maharashtra*, (2013) 5 SCC 546.

The presentations of some of the speakers are also available on the Congress website:

<http://congres.abolition.fr>

- Jeffrey Fagan, Capital Punishment in Asia: Challenges and Advances
- Bin Liang, Death Penalty Policies and Practices in China: Progress and Challenge
- Bhatara Ibnu Reza, Inveighing against death penalty in Indonesia
- Mai Sato, Public opinion as a barrier to abolition?



b THE DRAFT PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON ABOLITION OF THE DEATH PENALTY IN AFRICA

The draft text of the Additional Protocol to the African Charter on Human and Peoples' Rights on Abolition of the Death Penalty was adopted by the African Commission on Human and Peoples' Rights in May 2015. As 35 of the 54 Member States of the African Union still retain the death penalty, adoption of this regional instrument could be a crucial step towards abolition of the death penalty in Africa. What is the added value of such a Protocol? How should its adoption and ratification be advocated?

Speakers

- **Maya Sahli Fadel**, Commissioner and member of the Working group on the Death Penalty, Extra-Judicial, Summary or Arbitrary killings in Africa, African Commission on Human and Peoples' Rights - **Gambia**
- **Mabassa Fall**, FIDH Permanent Representative at the African Union - **Senegal**
- **Lucy Peace Nantume**, Manager, Death Penalty Project, Foundation for Human Rights Initiative (FHRI)

Moderator

- **Anita Nyanjong**, Programme Manager - Access to Justice, International Commission of Jurists - ICJ Kenya - **Kenya**

During the Second Regional Conference on the death penalty organised in April 2010 in Cotonou, Benin, by the African Commission on Human and People's Rights (hereafter referred to as the Commission), States expressed the need to draft an additional protocol on the death penalty to the African Charter on Human and People's Rights³², (hereafter referred to as the African Charter).

One of the recommendations of this Conference was to propose the drafting of a Protocol to the African Charter on Human and Peoples' Rights on abolition of the Death Penalty in Africa, **to fill in the gaps and expand the provisions enshrined in the Second Optional Protocol to the International Covenant on Civil and Political Rights, and place stronger emphasis on restorative rather than retributive justice.**³³

32 See the Second Regional Conference on the Death Penalty in Africa – Cotonou, 12-15 April 2010 - <http://www.fiacat.org/second-regional-conference-on-the-death-penalty-in-africa-cotonou-12-15-april-2010>

33 See the Cotonou Framework Document towards abolition of the death penalty in Africa, April 2010 - http://www.achpr.org/files/special-mechanisms/death-penalty/cotonou_framework_.pdf





Article 66 of the African Charter provides for special protocols or agreements, if necessary to supplement the provisions of the aforementioned Charter³⁴. The Protocol was drafted by the Working Group on the Death Penalty in Africa of the African Commission on Human and People's Rights³⁵ and presented at the 56th Ordinary Session of the Commission. The latter adopted the draft Protocol in May 2015.³⁶ The text is now before the African Union for adoption.

The process, although already making progress, therefore finds itself at a crucial stage. More than ever, the abolitionist movement and African civil societies have an important role to play at several stages in order to accelerate:

- Adoption of this draft by the African Union³⁷;
- Ratification of/accession to the Protocol by at least 15 Member States of the African Union in order to allow for its entry into force³⁸;
- And then its ratification/accession by all the other Member States of the African Union which have not yet abolished the death penalty.

But what exactly would be the added value of a new instrument? **Maya Sahli Fadel**, Commissioner at the Commission and member of its Working Group on the Death Penalty in Africa gives us her answer³⁹.

Can you tell us more about the Working Group on the Death Penalty in Africa?

This group was created in 2007. Its first task was to initiate a study into the death penalty in Africa, research which will be updated soon. All regions were assessed and the study contained proposals and recommendations. Among the recommendations was the idea of moving towards drafting an African protocol, supplementary to the African Charter but specifically dedicated to abolition of the death penalty. It was felt that there was already a movement towards abolition and we wanted to reinforce that. The question had been asked as to what format this initiative should take: guiding principle, general observation, guide? In the end, the Working Group decided to create a legally-binding instrument, an additional protocol.

34 See the African Charter on Human and Peoples' Rights - <http://www.achpr.org/instruments/achpr/#a66>

35 The Working Group consists of the Special Rapporteur on Prisons and Conditions of Detention in Africa and two Commissioners. (Resolution 79, 38th Ordinary Session of the African Commission, November 2005).

36 See the Final Communiqué of the 56th Ordinary Session of the African Commission on Human and Peoples' Rights, available at <http://www.achpr.org/files/sessions/56th/info/communique56/>

37 As of the date these Reports were drafted, the Executive Council of the AU must adopt a resolution in which it authorises the Technical Committee to study the draft. The Technical Committee, which is composed of legal experts, will then analyse the draft and submit it, where applicable, for adoption by the members of the AU.

38 The Protocol would enter into force 30 days after ratification or accession by at least 15 Member States of the African Union. See the sidebar at the end of the article on the difference between ratification and accession.

39 These extracts are taken from an interview granted by Ms Fadel with ECPM in June 2016 in Oslo on the fringes of the 6th World Congress Against the Death Penalty.





So, all the States which sign this protocol must abolish the death penalty?

Yes. Those which have already abolished it, and there are 19 of them⁴⁰, will already be State parties automatically. However, often the problem is that some of them have abolished the death penalty but have not yet begun procedures to revise the criminal code and, in particular, the constitution, both of which provided for the death penalty. This Protocol will be legally-binding for all those who accede to it or ratify it. The States which ratify it and which still have a moratorium in place must therefore continue their efforts; they must make the move towards definitive abolition by revising internal texts. International work will follow; that is the second phase. As for retentionist States, if they integrate the Protocol, as a minimum they will be asked to apply a moratorium before finalising all the procedures to integrate the Protocol. This is therefore the first legally-binding instrument on this issue for African States.

What is the added value of this Protocol compared to the Second Optional Protocol to the International Covenant on Civil and Political Rights which seeks to abolish the death penalty⁴¹?

For several years now, there has been a trend in Africa to develop its own instruments. This Protocol is part of this trend to develop the law of the African Union, particularly as regards conventional instruments. Although a universal instrument already exists, the African one is supplementary and takes into account African specificities. The African Charter on the Rights and Welfare of the Child, for example, goes above and beyond what had already been done. There are specificities relating to African children.

What are the obstacles to abolition which, in your opinion, are inherent to the African continent?

First of all, there are all the obstacles which I would put under the umbrella of security. There are still a number of conflicts and crises with some regions affected much more than others, particularly in Central Africa. At the moment, there is a crisis in Burundi and the DRC. Certainly, for these States abolition of the death penalty is not yet a priority. Stability and peace must be ensured first. Respect for human rights must go hand in hand with this process but unfortunately there are priorities in respect for human rights. In my opinion, the first right where intervention is necessary is respect for the right to life. These crises have a direct impact on this right which makes the situation very difficult. On the other hand, in areas which enjoy stability some States remain reticent to abolition for religious, cultural or socio-cultural reasons and sometimes also the ignorance of the population. It is necessary to access these populations to explain and interpret the information in detail. To do this, it is essential to have go-betweens on the ground, channels through which messages can be passed (NGOs, the media, etc.), because the

40 Authors' note: 19 States had abolished the death penalty for all crimes as of the date of this interview. The Republic of Guinea has abolished the death penalty for all crimes since the Oslo Congress.

41 Authors' note: As of the date these Reports were drafted, only 12 of 54 African States had ratified (or acceded to) the 1989 Second Optional Protocol to the International Covenant on Civil and Political Rights seeking abolition of the death penalty. They are: South Africa, Benin, Cape Verde, Djibouti, Guinea-Bissau, Gabon, Liberia, Mozambique, Namibia, Rwanda, the Seychelles and Togo.





AFRICA

IN 2016, OF THE

54

AFRICAN STATES

THE DEATH PENALTY IN AFRICA FACTS AND FIGURES

20

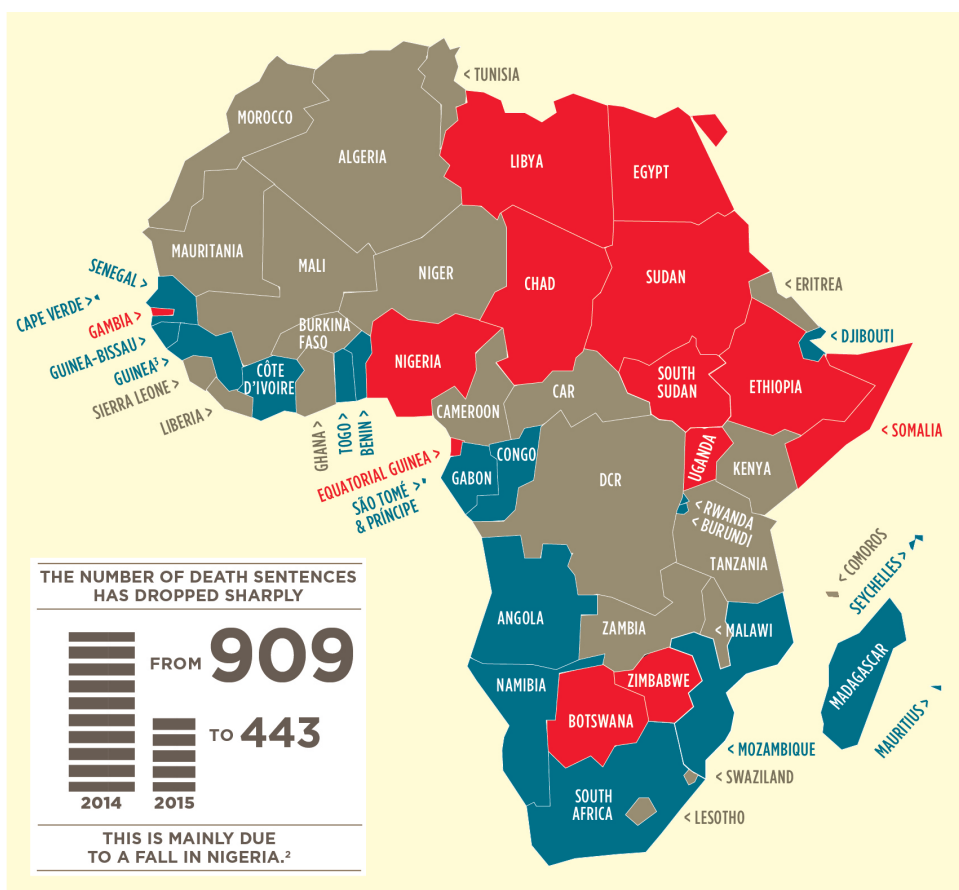
HAD ABOLISHED
THE DEATH
PENALTY IN LAW¹

21

HAD NOT EXECUTED
ANYONE FOR 10 YEARS
AND WERE CONSIDERED
DE FACTO ABOLITIONISTS²

13

RETAINED THE
DEATH
PENALTY³



1. Definitions by *Ensemble contre la peine de mort* (NGO):

- Abolitionist country for all crimes (States or territories where the death penalty has been completely abolished);
- *De facto* abolitionist country (States or territories where the death penalty

is in force but no executions have taken place for ten years and which have not voted against the last UN resolution in favour of a universal moratorium on executions);

- Retentionist country (States or territories still applying the death penalty).

2. See Amnesty International, World Report, Death Sentences and Executions in 2015, ACT 50/3487/2016, April 2016. In 2015, Somalia allegedly executed at least 25 people (Federal Government of Somalia (17+), Somaliland (6+), Jubaland (2+)); Chad 10 people;

South Sudan at least 5 people; and Sudan 3 people.

3. On 4 July 2016, the Guinean Parliament adopted a new Criminal Code and a new Code of Criminal Procedure, neither of which included the death penalty.





State can't do everything. Indeed, States often offload their responsibility by saying "we agree, we want to abolish it but public opinion is resistant..." but, in the meantime, these same States do nothing to open up public opinion and begin work to explain, educate, mobilise and raise awareness. As this pitfall, this gap, exists at State level, other partners are required to do the work in their place. **That is where civil society comes into play in all its various categories:** NGOs, bar associations, professional bodies, etc. - any organisation which can give the population very straightforward explanations.

Do you think that Africa will be the next continent to abolish the death penalty?

I think that's optimistic but why not? That kind of optimism is behind the work of the African Commission. We have good support from those I call the champion States such as Benin, Côte d'Ivoire and Senegal, and we are counting on a snowball effect [...]. At the Cotonou conference in 2014, the justice ministers put it very well in the declaration: "We are assisting the African Commission in the process to draw up a draft protocol". So, they are ready as abolitionists to carry out this work with their peers from other countries which currently have a moratorium in place. That is already a very important step. Of course, there are retentionists where work needs to be done as regards the approach but I remain optimistic. If we manage to raise awareness on the ground, involving all the parties (parliamentarians, magistrates, universities, etc.), we will see results.

RECOMMENDATIONS

- Identify champion States ready to plead the cause of the draft Protocol, such as Benin and Cote d'Ivoire;
- Educate people about abolition;
- Commit to more documentation;
- Involve magistrates;
- Advocate for quick adoption of this draft by the African Union and then ratification/accession by all the other Member States of the African Union which have not yet abolished the death penalty.

Sidebar: Reminder: Ratification or Accession

Although accession and ratification produce the same effect, the procedures are different.

Ratification = 2 stages	Accession = 1 stage
<p>1. The signature</p> <p>This does not result in an enforceable obligation but demonstrates a State's intention to examine the treaty at national level and envisage ratifying it.</p> <p>2. Ratification</p>	<p>The accession procedure is accomplished in a single process – it is not preceded by an act of signature.</p>





C USA: NEW ALLIES JOINING THE FIGHT TO END THE DEATH PENALTY

The fight to end the death penalty is gaining ground in the USA. The arrival of new and unexpected allies, such as people who were previously advocating for the death penalty, provides a new angle of discussion to the question of abolition of the death penalty in the USA. This roundtable aimed to inform participants about the state of the death penalty in the USA and introduce new allies and the strategies used to bring them over to the abolitionist cause.

Speakers

- **Robert Dunham**, Executive Director, Death Penalty Information Center – USA
- **Virginia E. Sloan**, President and Founder, the Constitution Project – USA
- **Liliana Segura**, Senior Writer/Editor at The Intercept and The Nation – USA

Moderator

- **Kevin Miguel Rivera-Medina**, Chair of the Puerto Rico Bar Association Committee on Death Penalty, Vice President of the World Coalition Against the Death Penalty – Puerto Rico

In 2016, of the 50 states which make up the United States of America, 19 had abolished the death penalty⁴², and four retentionist states respected a moratorium on executions⁴³. Six others had not executed any prisoners for more than 10 years⁴⁴, therefore acting as *de facto* abolitionist states.

When considering the figures relating to the number of capital punishment sentences and executions in the United States in 2016, 2013 and 2000, it is clear that the situation surrounding the death penalty is undergoing change. In 2000 for example, 223 people were sentenced to death, compared to 83 in 2013 and 49 in 2015. The same is true for executions which have significantly dropped: 85 executions in 2000 compared to 39 in 2013 and 17 in 2016⁴⁵. As well as a drop in the numbers, it is interesting to note that, in addition to traditional allies, such as civil liberties defenders and defence lawyers, new, more unlikely allies have joined the conversation concerning abolition of the death penalty. These unlikely allies are composed of men and women who have been traditionally known for their support for the death penalty: Republicans, representatives of the law

42 Alaska, North Dakota, Connecticut, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New Jersey, New York, New Mexico, Vermont, West Virginia, (Washington DC), Wisconsin, Rhode Island.

43 Oregon in 2011, Colorado in 2013, Washington State in 2014 and Pennsylvania in 2015.

44 California, Nevada, Wyoming, Kansas, Arkansas, New Hampshire.

45 The Death Penalty Information Center, Facts about the death penalty. In Death Penalty Information Center, available at: <http://www.deathpenaltyinfo.org/documents/FactSheet.pdf>.



Public prosecutors
and former and
current judges today
find themselves
criticising a legal
system in decline
and application
of the death
penalty which is
unreliable, unequal,
discriminatory and
very costly.

who used to support the death penalty and victims or their families, among others. This list is not exhaustive. This mosaic of new unlikely allies means that a wider audience can be reached, an audience which is perhaps not to be found in the more usual abolitionist arguments.

Republicans are often characterised as supporters of the death penalty⁴⁶. One of the arguments for such support is that the families of the victims must be supported and the imposition of very harsh sentences, such as capital punishment, allegedly has a deterrent effect⁴⁷. However, it is important not to generalise this shared space. Some particularly criticise the high cost of the death penalty system which is far too high when compared to that of life imprisonment without parole, as well as the overly large role of the Government when Republicans, generally conservatives, advocate

limited intervention by government⁴⁸.

A reassessment of the death penalty has also taken place within the judicial system itself. Public prosecutors and former and current judges who used to support the death penalty today find themselves criticising a legal system in decline and application of the death penalty which is unreliable, unequal, discriminatory and very costly, and in which it is impossible to have full confidence⁴⁹, particularly with regard to the number of innocent people executed. For example, Mark White, a former public prosecutor and governor of Texas, and Mark Earley, former public prosecutor of Virginia⁵⁰, have supported the death penalty and sentenced and signed numerous executions. Today, they have become fervent abolitionists, deploring the fallibility of the system for applying the death penalty and recognising that the death penalty does not serve anyone and is quite simply cruel at all levels⁵¹.

Among these new unlikely voices are also victims and the families of victims who have also chosen to fight against the death penalty. Although they can be perceived as seeking an uncompromising crackdown on the crimes committed and supporting the death

46 According to research carried out by the Pew Research Center in August 2016. For more information, see the website of the Pew Research Center: www.pewresearch.org/fact-tank/2016/09/29/support-for-death-penalty-lowest-in-more-than-four-decades.

47 For more information, see the website of Republic Views On the Issues: <http://www.republicanviews.org/republican-views-on-the-death-penalty/>

48 For more information, see the website of Conservatives Concerned about the Death Penalty: <http://conservativesconcerned.org/who-we-are/>

49 WHITE, Mark and EARLEY, Mark, Enough is enough on death penalty, *Tulsa World* 1 October 2015 available at: http://www.tulsaworld.com/opinion/readersforum/mark-white-and-mark-earley-enough-is-a-enough-on/article_bd9e872c-b41f-567f-b97e-f385ac9b7faa.html

50 They are members of the Death Penalty Committee of the Constitution Project, a bipartite committee which promotes the improvements made the death penalty system in the United States.

51 WHITE, Mark and EARLEY, Mark, Enough is enough on death penalty, *Tulsa World*, 1 October 2015, available at: http://www.tulsaworld.com/opinion/readersforum/mark-white-and-mark-earley-enough-is-a-enough-on/article_bd9e872c-b41f-567f-b97e-f385ac9b7faa.html.



penalty, it appears today that this is not, or not necessarily, the case. Their voices are increasingly present and heard in the debate around abolition of the death penalty. These families of victims, a new 'unlikely' ally, denounce a traumatic process which "does not keep" its promises. They would prefer a life sentence which, in their opinion, would probably be more effective, given that the individual sentenced would actually serve out his sentence without having to continually reopen old wounds over the course of appeals; without an eternal feeling of expectation and hopelessness⁵². This new category of ally also redefines the discussion which very often focuses on the prisoner sentenced, forgetting the victims and their families and how the death penalty affects them too⁵³.

The strength of these allies lies in their journey and their story. This is not about defending abolition of the death penalty from a theoretical point of view anymore; these new unlikely allies describe the reality they have faced and which has pushed them to say no to the death penalty. The abolitionist message of a former public prosecutor who used to support the death penalty or the family of a victim will therefore have a different impact to that of traditional allies. These messages can be circulated through the media in particular, informing an audience which too often lacks information about the issue. That may help the American public to forge its own opinion about the death penalty.

The public is an important actor as, depending on the state, it must elect legislators who support, or otherwise, the death penalty and give its opinion about the future of the death penalty through referendums on the issue. It is therefore essential that it is informed and that it recognises itself in the arguments used in messages advocating abolition of the death penalty.

The strength of these new unlikely allies is that they are not afraid to reveal the flaws of the American judicial machine in general, and the death penalty in particular, resulting in a more open, diversified debate which is therefore closer to the American public. The quality of these new allies and the debates they engender are breathing new life into the American abolitionist movement, thereby proving that the death penalty is indeed in the process of changing in the United States.

Brief summary of the latest progress

In Connecticut, the State Supreme Court, which abolished the death penalty for new crimes in 2012, declared that the death penalty was unconstitutional in the *State of Connecticut vs. Eduardo Santiago* in 2015; abolition is thereby being applied retroactively to prisoners sentenced to death before 2012⁵⁴. The American Supreme Court also declared the death penalty to be unconstitutional in Florida in its decision on *Timothy Lee Hurst vs. Florida* passed on 12 January 2016. In this instance, the Court denounced the unconstitutional nature of the statutes governing the death penalty in Florida, particularly

52 Segura Liliana, False promises, *The Intercept*, 20 June 2016, available at: <https://theintercept.com/2016/06/20/in-the-battle-over-nebraskas-death-penalty-victims-families-refuse-to-be-political-pawns/>

53 Conservatives Concerned About the Death Penalty, The Closure Myth: how the death penalty fails victim's families. In Conservatives Concerned About the Death Penalty, CCADP, available at: <http://conservativesconcerned.org/why-were-concerned/victims>

54 For more information, see the website of the Death Penalty Information Center: <http://www.deathpenaltyinfo.org/connecticut-1>.





In Nebraska,
a referendum
invalidated the
decision taken
by the State
Parliament in May
2015 to abolish
the death penalty
by 60%, while
Californian voters
rejected a proposal
for abolition for
the second
consecutive
time.



the fact that they give the judge disproportionate power by enabling him or her to exceed the recommendations of the jury which is not, indeed, forced to make a unanimous decision for death sentences⁵⁵. Since then, the same Court has recalled the state of Alabama to order. Suffering from the same malady as Florida, it was ordered to reconsider its death sentences in the light of *Hurst vs. Florida*. In Delaware, the State Supreme Court followed this trend and, in August 2016 (*Rauf vs. State of Delaware*), declared that the texts governing the death penalty in the state of Delaware were unconstitutional. Finally, to conclude this brief summary of progress, in 2016 the pharmaceuticals company Pfizer let it be known through an official press release that it does not allow its products to be used in lethal injection protocols for executions.

However, there were a few significant setbacks at the end of 2016⁵⁶: firstly, the election of Donald Trump to the presidency of the United States strongly reduces the possibility of a change at the Supreme Court due to his power over future nominations. At the same

time, Oklahoma voted for the inclusion of the death penalty in its Constitution by 67%. This stipulates henceforth that “any method of execution shall be allowed, unless prohibited by the United States Constitution.” This measure, unique of its kind, followed serious problems connected to executions in Oklahoma. In 2014, the execution of Clayton Lockett caused indignation as the prisoner spent a long time moaning and writhing on the stretcher. In Nebraska, a referendum invalidated the decision taken by the State Parliament in May 2015 to abolish the death penalty by 60%, while Californian voters rejected a proposal for abolition for the second consecutive time.

RECOMMENDATIONS

STATES:

- Invest in more structures to assist the families of victims

UNITED STATES SUPREME COURT:

- Declare the unconstitutional nature of all methods of execution

⁵⁵ For more information, see the website of the Death Penalty Information Center:
<http://www.deathpenaltyinfo.org/category/categories/states/florida>.

⁵⁶ <http://www.abolition.fr/en/united-states-abolition-in-retreat>



STATES WHICH HAVE SIGNED A MORATORIUM ON OFFICIAL EXECUTIONS AND ARE *DE FACTO* ABOLITIONIST STATES:

- Abolish the death penalty in their state.

ABOLITIONIST MOVEMENT:

- Involve these new actors in the abolitionist struggle

For more information

- Earley, Mark, *A pink Cadillac, an IQ of 63, and a fourteen year-old from South Carolina: why I can no longer support the death penalty*, University Of Richmond Law Review, Vol. 49:811 (2015), pages 811 à 823, available at:
<http://lawreview.richmond.edu/wp/wp-content/uploads/2015/04/Earley-493.pdf>
- New voices: Former Ohio Attorney General Jim Petro Says Death Penalty Unfixable, "Not Worth It Any More" available at:
<http://www.deathpenaltyinfo.org/category/categories/resources/new-voices>
- Segura, Liliana, *Pfizer's death penalty ban highlights the black market in execution drugs*, The Intercept, 19 May 2016 available at:
<https://theintercept.com/2016/05/19/pfizers-death-penalty-ban-highlights-the-black-market-in-execution-drugs/>
- Segura, Liliana, *False promises*, The Intercept, 20 June 2016, available at:
<https://theintercept.com/2016/06/20/in-the-battle-over-nebraskas-death-penalty-victims-families-refuse-to-be-political-pawns/>
- White, Mark and Earley, Mark, *Enough is enough on death penalty*, Tulsa World 1 October 2015, available at:
http://www.tulsaworld.com/opinion/readersforum/mark-white-and-mark-earley-enough-is-a-enough-on/article_bd9e872c-b41f-567f-b97e-f385ac9b7faa.html

The presentations of some of the speakers are also available on the Congress website:

<http://congres.abolition.fr>

- Robert Dunham, *The state of the death penalty in the United States*
- Virginia Sloan, *Engaging unlikely allies to achieve criminal justice reform*





II THE ISSUES

2 VULNERABLE GROUPS

Over and beyond the obstacles to abolition at national and regional level, the Oslo Congress was also an opportunity to address the challenges related to capital punishment for certain particularly vulnerable groups. Although international standards prohibit application of the death penalty for people with mental disorders, these are rarely applied. Migrants and national minorities are also particularly vulnerable and rarely benefit from their right to a fair trial.



INDIVIDUALS WITH MENTAL DISORDERS

LEGAL, SOCIAL AND MEDICAL PERSPECTIVES ON PROTECTING INDIVIDUALS WITH MENTAL DISORDERS FROM THE DEATH PENALTY

Human rights standards clearly prohibit application of the death penalty for people with mental disorders. However, implementation of these standards is often impossible in practice for various reasons, including the capacity of medical professionals and the availability of legal defences. This roundtable aimed to discuss these practical challenges and how they can possibly be overcome, taking into account the views of the disability rights movement.

Speakers

- **Saul Lehrfreund**, Co-Executive Director, The Death Penalty Project - **United Kingdom**
- **Dr. Richard Latham**, Consultant Forensic Psychiatrist, National Health Service - **United Kingdom**
- **Inès de Araoz**, Legal Advisor, Plena Inclusion - **Spain**
- **Ricky Gunawan**, Lawyer and Director of the Community Legal Aid Institute - **Indonesia**

Moderator

- **Sandra Babcock**, Clinical Professor and Director of the International Human Rights Clinic, Cornell Law School - **USA**

Established international standards prohibit imposition of the death penalty for individuals with mental disorders but these are rarely implemented.

A number of international standards aiming to protect people with mental disorders from application of the death penalty have been adopted. In 1984, the UN Economic and Social Council (ECOSOC) adopted *safeguards* for the *protection of the rights of people facing the death penalty (the safeguards)*⁵⁷. Safeguard 3 sets out that “persons below 18 years of age at the time of the commission of the crime shall not be sentenced to death, nor shall the death sentence be carried out on pregnant women, or on new mothers, or on persons who have become insane”.

In 1989, ECOSOC specified in Resolution 1989-64 (adopted on 24 May 1989) that these safeguards should be applied for people with mental disorders, recommending that Member States eliminate the death penalty “for persons suffering from mental

⁵⁷ The text is available at: <http://www.ohchr.org/FR/ProfessionalInterest/Pages/DeathPenalty.aspx>



retardation or extremely limited mental competence, whether at the stage of sentence or execution".⁵⁸

Similarly, the UN Human Rights Commission (since replaced by the Human Rights Council), urgently asked States which continue to apply the death penalty "not to impose the death penalty on a person suffering from any mental or intellectual disabilities".⁵⁹

A number of national courts and regional and international human rights mechanisms have also recognised this prohibition⁶⁰.

The problem lies in the implementation of such a prohibition. Legally, several problems arise in practice:

- Few countries have adopted measures for effective protection of people with mental disorders from application of the death penalty, particularly when mental disorders develop after sentencing;
- The possibility of pleading incompetence to face trial is restrictive because it is only applied in the event of serious mental illness;
- The defence of insanity is very limited and, although the interpretation of this defence varies from one State to another, it is generally admitted that it rests on criteria which are too restrictive based on an extremely severe mental illness. Most of those accused invariably fall below the required standard.
- The less restrictive defence of reduced responsibility was introduced in numerous jurisdictions. However, it too has its limits, in particular because it can only be put forward if the accused accepts it and many of the accused with mental disorders cannot appreciate the necessity of exercising such a defence.

Another significant problem is countries where application of the death penalty is mandatory. In those cases, the only solution is for the Pardons Committee/Commission (the name varies depending on the country) to grant a commutation of sentences due to mental disorders. This issue is currently before the Judicial Committee of the Privy Council or JCPC of the Republic of Trinidad and Tobago in the cases of Pitman⁶¹ and Hernandez⁶².

The difficulty of obtaining precise forensic expertise for people facing the death penalty

The medical information required to draw up a diagnosis and the understanding of concepts such as the ability to plead, insanity and reduced responsibility vary greatly, both

58 Economic and Social Council, Resolution 1989/64, paragraph 51.

59 See the UN Human Rights Commission, Resolution 2005/59, 20 April 2005, E/CN.4/RES/2005/59, available at: http://ap.ohchr.org/documents/alldocs.aspx?doc_id=11140.

See too the report of the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, E/CN.4/1998/68, 23 December 1997, paragraph 117: governments that continue to enforce capital punishment legislation "with respect to minors and the mentally ill are particularly called upon to bring their domestic legislation into conformity with international legal standards. States should consider the adoption of special laws to protect the mentally retarded, incorporating existing international standards." See more recently the report of the UN Special Rapporteur on Torture, A/67/279, paragraphs 57 and 58.

60 A number of decisions and judgments are listed in the For More Information section at the end of this article.

61 Pitman vs. the State (Trinidad and Tobago), JCPC 2014/0084

62 Hernandez vs. the State (Trinidad and Tobago), JCPC 2015/0046





In any case, in the event of disagreement on the subject of a person's mental health, the execution should not take place.



in terms of legal and medical definitions. The lack of qualified medical staff is also a problem for obtaining medical assessments of the accused.

The difficulty of implementing the prohibition also stems from:

- difficulties categorising the various types of mental disorders and making a relevant diagnosis;
- the fact that psychiatric disorders evolve and it is therefore difficult to assess mental disorders at any given moment of the legal procedure;
- the fact that legal concepts do not necessarily have an equivalent in medicine.

In any case, in the event of disagreement on the subject of a person's mental health, the execution should not take place. Abolition of the death penalty is therefore the only solution.

The case of Indonesia

One example of the difficulties related to implementing prohibition of the death penalty is Indonesia. One of the challenges for lawyers is firstly to communicate with people suffering from mental disorders and make them understand the procedure, possible defences and the impact of certain decisions on the judicial procedure.

Those working in the legal system lack knowledge about mental health; lawyers do not have the necessary training and education to understand and recognise mental disorders. Added to that is the lack of psychiatrists and a reluctance among certain psychiatrists of being associated with cases connected to drugs for example, something which does not allow for effective protection of people with mental disorders, as witnessed by the execution of Rodrigo Gualarte (a Brazilian citizen) in Indonesia after his death sentence in 2005 for importing cocaine into the country. Rodrigo had been diagnosed with bipolar affective disorder in the 1990s and had been hospitalised at the time. He had also been diagnosed with paranoid schizophrenia in prison. Rodrigo's state of health was ignored, as was his request to be transferred to a mental health establishment, and he was executed in 2015. As Indonesia does not have legislation prohibiting the execution of people suffering from mental disorders, prosecutors and judges rarely take international standards into account. It is therefore urgent to legislate into this area. More generally, it is also important to ensure that people accused of crimes punishable by death and sentenced to death are regularly assessed as to the state of their mental health.

The perspective of an organisation defending the rights of disabled people

The protection of people with an intellectual disability constitutes a dilemma for some organisations defending the rights of disabled people. Although the latter defend abolition of the death penalty for all, nonetheless such protection remains based on stereotypes as it supposes that people with an intellectual disability cannot be held responsible for their actions.



The Convention on the Rights of Persons with Disabilities⁶³ asserts that we cannot automatically concede that people with an intellectual disability are incapable of intention or are irresponsible. They can have the capacity to understand and act. Above all, the important thing is to ensure that trials are fair. To do that, appropriate training of staff in justice administration, the police and the penitentiary system on how to manage cases involving people with an intellectual disability is necessary.

RECOMMENDATIONS

- Advocate nationally so that States adopt laws to protect people suffering from mental disorders from application of the death penalty and execution. States should incorporate the international standards in force into their national legislation;
- Train judges and lawyers on the issue of mental disorders and international standards in that area, including safeguards for the protection of the rights of people facing the death penalty and the Convention on the Rights of Persons with Disabilities;
- Raise awareness among judges and prosecutors about the need to divulge the medical file of those accused of offences punishable by death to the defence;
- Raise awareness among medical staff of international standards and the importance of the issue of mental disorders with regard to application of the death penalty, particularly in countries without psychiatric staff;
- Assist with training on mental disorders for national medical staff;
- Ensure that those accused of offences punishable by death and prisoners sentenced to death receive regular medical examinations, including assessments of their mental health, at all stages of the procedure;
- Work more systematically with the movement for disabled people and integrate them into the various training sessions for medical and judicial staff;
- Create opportunities for dialogue and conversation between medical staff, lawyers, judicial staff and the movement for disabled people;
- Document the issue of mental health and the death penalty, including in prisons.

For more information

- *Pipersburgh vs. the Queen* [2008] UKPC 11
- United States, Supreme Court, *Ford vs. Wainwright*, 477 US 399 (1986)
- United States, Supreme Court, *Atkins vs. Virginia*, 536 US 304 (2002)

63 Available at: <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/ConventionRightsPersonsWithDisabilities.aspx>.
See too the directives concerning Article 14 of the Convention on the Rights of Persons with Disabilities adopted by the Committee on the Rights of Persons with Disabilities in 2015, available at: <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx>.





- India, Supreme Court, Chauhan & Another vs. Union of India, Writ petition (criminal) No.55 of 2013, paragraphs 73 to 75
- Inter-American Human Rights Court, Cadogan vs. Barbados, judgement of 24 September 2009, paragraph 128
- Inter-American Human Rights Court, Report No. 52/13, 15 July 2013, paragraph 206 et seq.
- Nigel Eastman, Tim Green, Richard Latham, Marc Lyall, Leon Huang, *Handbook of Forensic Practice in Capital Cases in Taiwan* (2015), The Death Penalty Project
- Nigel Eastman, Tim Green, Richard Latham and Marc Lyall, *Handbook of Forensic Psychiatric Practice in Capital Cases* (2013), The Death Penalty Project
- See too documents by the World Coalition Against the Death Penalty within the framework of the 12th World Day Against the Death Penalty dedicated to the theme of mental health:
<http://www.worldcoalition.org/en/worldday2014.html>
- The presentations of the speakers are available on the Congress website:
<http://congres.abolition.fr>



MENTAL ILLNESS AND INTELLECTUAL DISABILITY: DEFINITIONS AND RELEVANCE TO APPLICATION OF THE DEATH PENALTY

By **Sandra L. Babcock**, Clinical Professor, Cornell Law School⁶⁴

In its 2014 moratorium resolution, the UN General Assembly called on States not to impose the death penalty on individuals with mental or intellectual disabilities. The General Assembly's resolution reinforced longstanding principles prohibiting such executions under international law. Nevertheless, few countries have enacted sufficient protections for persons with mental illnesses or intellectual disabilities. Lawmakers, judges, lawyers and juries also lack awareness of the varied symptoms of mental illnesses, and fail to understand the difference between mental illness and intellectual disability.

The Intellectual Disability Rights Service⁶⁵ provides a helpful chart to distinguish between mental illness and intellectual disability (often referred to as mental retardation or learning disability).

Cognitive and neurological impairments, including intellectual disability (ID)	Mental illness
Difficulty with certain mental tasks such as thinking and understanding, usually with a basis in the biology or physiology of the individual	Disturbances in thought processes, mood, perception or memory. May experience hallucinations and delusions. May be caused by chemical imbalances.
Generally lifelong and will not dissipate	May be temporary, cyclical or episodic
For ID, onset must occur before a specific age	Onset can occur at any stage of life (though onset is often in teen or early adult years)
Medication cannot restore cognitive ability	Medication can be prescribed to control and ameliorate the symptoms

64 The Death Penalty Worldwide project at Cornell Law School is leading a project on best practices in the protection of mentally disabled persons facing the death penalty. For more information, contact us at info@deathpenaltyworldwide.org

65 See The Intellectual Disability Rights Service (IDRS) : <http://www.idrs.org.au/home/index.php>



It is often impossible for laypersons to identify persons with mental illness or intellectual disability through casual conversation.



It is often impossible for laypersons to identify persons with mental illness or intellectual disability through casual conversation. Symptoms of mental illness change over time, and a severely mentally ill person may have periods where he functions normally. Persons with intellectual disability may be able to work, marry, read and write. It is therefore essential that lawyers obtain expert assistance to assess their clients' mental health.

To properly inform the expert in charge of assessing the accused individual, lawyers should first interview their client and his family members. Obtaining information from family members about childhood illnesses, development, and unusual behavior will help your expert gain insight into your client's possible symptoms. Nonverbal intelligence tests, such as the Ravens Matrices, may also provide helpful indications of intellectual disability.



b MIGRANTS AND MINORITIES: STRATEGIES TO OVERCOME CHALLENGES IN CAPITAL CASES

In numerous countries, the death penalty is more frequently applied to vulnerable groups such as migrants and religious, ethnic, linguistic or sexual minorities. Migrants and minorities accused of offences punishable by death find themselves in a particularly vulnerable situation. Although they should be protected by fair trial safeguards, they are, in particular, victims of legal discrimination, not provided with the assistance of an independent interpreter and have limited or no access to legal aid. This roundtable focused on the legal strategies which could mitigate the challenges confronting migrants and minorities facing the death penalty and the way forward.

Speakers

- **Celia Veloso** Mother of Mary Jane Veloso who was arrested in Indonesia for drug trafficking and sentenced to death in October 2010 - **Philippines**
- **Zainab Malik**, Lawyer, Justice Project Pakistan - **Pakistan**
- **M. Ravi**, Human Rights Lawyer - **Singapore**
- **Zaved Mahmood**, Focal Point on Abolition of the Death Penalty, Office of the United Nations High Commissioner for Human Rights - **Switzerland**
- **Monireh Shirani**, Balochistan Human Rights Group - **Sweden**

Moderator

- **Raphaël Chenuil-Hazan**, Executive Director, ECPM - **France**

The vulnerability of migrants facing the death penalty - examples from Pakistan and Singapore

Pakistani migrants in the Gulf countries

A considerable number of Pakistani migrants move to countries in the Gulf in order to build a better life. 96% of the total number of Pakistani migrants are concentrated in six countries in the Gulf, 90% of whom are in Saudi Arabia, Oman and the United Arab Emirates. Most of these migrants are employed to do manual work such as construction or carpentry for example.

Over the last three years, 39 Pakistanis have been executed in Saudi Arabia, particularly in cases linked to drug trafficking. Usually, these people are uneducated and come from the poorer sections of Pakistani society.

According to *Justice Project Pakistan*, in most of the cases in Saudi Arabia prisoners do not have access to a lawyer. Most of the hearings are carried out in Arabic



In a good number of cases, national legislation is applied in a discriminatory manner with regard to minorities.

without access to a translation so prisoners cannot understand the accusations retained against them or defend themselves. In some cases, confessions are obtained under torture and prisoners are refused any contact with their families. Families do not receive information about arrests, death sentences or executions, and the bodies are not returned to Pakistan. The latter does not provide any consular assistance to these migrants and their families but fully benefits from the significant sums of money transferred from these workers to Pakistan (approximately 30% of total funds sent to Pakistan come from migrant workers in Saudi Arabia alone according to *Justice Project Pakistan*).

The situation in Singapore

Amnesty International has called Singapore the “Disneyland of the death penalty” with the highest number of executions per inhabitant in the world. Between 25 and 50% of prisoners sentenced to death are foreign nationals, most of whom are overseas workers with little education. The economic status of the prisoners, as well as their civil status and level of education, have an impact on their ability to access a fair trial.

Most executions are connected to drugs cases. Singapore’s legal specificities pose specific problems for vulnerable groups, particularly migrants and minorities. For example, the presumption of guilt in cases of drug trafficking where the burden of proof is reversed. There is no obligation to provide an independent interpreter which has an impact on the reliability of the questioning transcripts and means that the accused cannot understand their statements before signing them. Added to these obstacles is the 21-day period before the accused can access a lawyer.

The situation for minorities is just as alarming, although less well-known

In a good number of cases, national legislation is applied in a discriminatory manner with regard to minorities. For example, according to the UN High Commissioner for Human Rights, legislation in nearly 30 countries targets religious minorities or atheists. Similarly, the laws related to the struggle against terrorism are sometimes used to target minorities, such as the Shiites in Saudi Arabia for example.

How can this vulnerable group be protected from application of the death penalty? In particular, it is essential:

- To ensure that everyone has access to a fair trial, knowing that the poverty and poor levels of literacy and education among numerous minority groups increase their vulnerability;
- For governments to provide consular assistance to their nationals in conformity with the Vienna Convention on Consular Relations adopted on 24 April 1963;
- To identify good practice in terms of consular assistance.



Minorities in Iran

The minority Baloch ethnic group in Iran is disadvantaged and systematically discriminated against in terms of access to housing, the right to a fair trial, and social and political rights. Further, there are high levels of poverty and marginalisation, and a strong military presence in regions where minorities live. The obstacles facing Iranian minorities are impossible to resolve individually.

These ethnic minorities are discriminated against with regard to accessing legal representation. Last year, 95% of executions carried out in Iran were not made public. Numerous death sentences for crimes related to drugs were, in fact, sentences for political dissidents, sometimes without a trial and, above all, without access to a lawyer. Most prisoners from minorities are arbitrarily arrested without a mandate or a reason.

The Revolutionary Court, the strictest judicial institution in Iran, handles most cases connected to drugs. Most judges rely on confessions, often obtained through physical or psychological torture. Sometimes, the families of prisoners are only informed after the execution and do not even have the right to know where the member of their family has been buried.

The Iranian State uses the death penalty as a political tool to discourage activism among ethnic minorities. Combined with accelerated trials and the movement of prisoners between regions, in particular to regions where journalists are refused access, there is little awareness of what is happening. The only account is that of the State and the latter dehumanises ethnic minorities.

Consular and diplomatic issues

Consular support is essential from the very first days of arrest and investigation, particularly in order to ensure that migrants can benefit from their right to freedom and safety, their right to a fair trial and to ensure that they are treated in conformity with all the minimum regulations for the treatment of detainees (they must be represented, understand the accusation proceedings and have access to a translation of the statement and other official documents which will form part of the file, have an interpreter to understand the questions of the investigators for example). Many countries do not offer their fellow citizens this elementary consular support. This was case notably for Mary Jane Veloso in Indonesia who only received diplomatic support from the Philippines Government long after the sentence. It was already much too late.

Such diplomatic support is also essential with regard to appealing a conviction or a sentence, requests for pardon or to halt executions. Indeed, the ambivalence of certain countries which internally execute prisoners sentenced to death (including foreigners) but, on the other hand, take real action for their fellow citizens in danger overseas was underlined. This contradiction is particularly obvious in Indonesia, Pakistan and China, countries which do not accept the executions of their fellow citizens in the countries of the Gulf region for example. This ambivalence is visible within both diplomatic services and governments, as well as public opinion. In Indonesia, for example, millions of people demonstrated in the streets of Jakarta in 2014 in support of Satinah Binti Jumadi Ahmad, sentenced for murder, while at the same time executions in Indonesia, mainly of foreigners, make little or no impact on public opinion.





Other countries engage their entire diplomatic service in support of their fellow citizens sentenced to death. This is the case, for example, of Mexico which even went so far as to take the United States to the International Court of Justice.⁶⁶

However, some countries do not offer their fellow citizens any support, be it consular or diplomatic, demonstrating real abandonment of those people, some through a lack of diplomatic capabilities and others through active support for executions and aggressive repression. That is the case for Afghan migrants in Iran, for example, who are often the subject of persecution by the Iranian authorities with the support of the Afghan Government. Moreover, the Ministry of Justice of South Africa recalled that, even when a country abolishes the death penalty and believes the practice to have been consigned to the past, capital punishment can catch up with us through the conversations and communications of individuals and fellow citizens. Diplomatic and political supervision must therefore remain vigilant.

RECOMMENDATIONS

- **Abolish the death penalty;**
- **Create an international network of lawyers to discuss best practices and strategies concerning the representation of minorities and migrants facing the death penalty;**
- **Consider the creation of an NGO platform to financially support the legal representation of migrants and minorities;**
- **Call upon States to provide a fair trial by guaranteeing migrants and minorities in particular access to a lawyer and an independent interpreter;**
- **Raise awareness among States of their obligation to provide consular assistance to all their nationals from arrest onwards and throughout all stages of the process; call upon States to provide all nationals leaving their country with clear information about their consular protection overseas;**
- **Document best practices for consular assistance concerning migrants;**
- **Denounce cases of systematic convictions, particularly through the media and social networks;**
- **Advocate for the implementation of the recommendations of the 2015 Forum on Minority Issues, including several paragraphs relating to minorities and the death penalty (see the section below, For More Information);**
- **Advocate with the special proceedings of the Human Rights Council, and particularly the Special Rapporteur on Minority Issues, in order for them to take on the issue of migrants and minorities facing the death penalty;**
- **Work on the ambivalence of public opinion which supports the death penalty internally but fights it when it affects fellow citizens overseas.**

⁶⁶ See for example, ICJ, *Mexique vs. United States of America*, case relating to the request for interpretation from the arrest of 31 March 2004 in the case of Avena and other Mexican nationals, 19 January 2009, available at: <http://www.icj-cij.org/docket/index.php?p1=3&p2=3&k=11&case=139&code=musa&p3=4>



For more information

- Recommendations made by the Forum on Minority Issues at its 8th session on the subject of minorities and the criminal justice system, A/HRC/31/72, 4 February 2016, paragraphs 71 et seq., available at: http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/31/72
- Annual supplement to the Secretary General's five-yearly report on capital punishment: Capital punishment and application of safeguards for the protection of the rights of people facing the death penalty, A/HRC/30/18, 16 July 2015. See in particular paragraph 36 on minorities. Available at: <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session30/Pages/ListReports.aspx>.
- Secretary General's report on the human rights situation in Iran, A/HRC/31/26, 3 March 2016, paragraphs 6 et seq. Available at: <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Pages/ListReports.aspx>.

A few definitions

• Migrant (source: International Organization for Migration)

Internationally, there is no universally accepted definition of the term “migrant”. It is usually applied when the decision to emigrate is taken freely by the individual concerned for reasons of “personal convenience” and without intervention from a restrictive external factor. This term is therefore applied to people travelling to another country or another region in order to improve their material and social conditions, their prospects for the future and those of their family.

• Migrant worker (source: International Organization for Migration)

Migrant carrying out a profession acquired through higher education and/or experience. Qualified migrant workers frequently benefit from preferential treatment regarding entry and stay in the host State (reduced requirements in terms of change of professional activity, family gathering, duration of stay).

• Minorities (source: OHCHR “Who are minorities under international law?”)

According to Article 1 of the Declaration of the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities adopted in 1992, States protect the existence and national or ethnic, cultural, religious or linguistic identities of minorities on their respective territories, and encourage the establishment of proper conditions to promote that identity. There is no universally accepted definition of the term “minorities”. It is often underlined that the existence of a minority is a question of fact and that any definition of the term must include objective factors (for example, the existence of a shared ethnicity, language or religion) and subjective factors (including individuals identifying themselves as being part of a minority).

• Right to a fair trial

According to Article 14 of the International Covenant on Civil and Political Rights, everyone is equal before courts and tribunals. Everyone has the right for their case to be heard fairly and publicly by a competent, independent and impartial court, established by law,





which shall decide either the merits of any accusations in criminal matters directed against them or any challenges to their rights and obligations of a civilian nature.

Everyone accused of a criminal offence has the entirely equal right to the following safeguards at least:

- a) To be informed as soon as possible, in a language which they understand and in a detailed manner, of the nature of and reasons for the accusation made against them;
- b) To have the time and facilities necessary for the preparation of their defence and to communicate with the counsel of their choice;
- c) To be judged without excessive tardiness;
- d) To be present at the trial and to defend themselves or to have the assistance of a defence lawyer of their choice; if they do not have a defence lawyer, to be informed of their right to have one and, whenever the interests of justice so require it, to be automatically attributed a defence lawyer, at no cost, if they do not have the means to pay;
- e) To question or have questioned the prosecution witnesses and to obtain the appearance and questioning of defence witnesses under the same conditions as the prosecution witnesses;
- f) To be assisted freely by an interpreter if they do not understand or do not speak the language used at the hearing;
- g) Not to be forced to incriminate themselves or admit guilt.



II THE ISSUES

3 CONTEXT OR PRETEXT

Abolition of capital punishment within the context of terrorism and drug trafficking is a significant challenge for the abolitionist movement.


Although the argument that application of the death penalty for terrorists creates a deterrent effect does not hold water, it is nonetheless used by a number of States to maintain or reintroduce the death penalty and to violate human rights, something demonstrated at one of the roundtables at the Congress.

It was just as important to consider the strategies to be adopted following the Special Session of the UN General Assembly (UNGASS) on Drugs in April 2016. As States such as Iran and Malaysia continue to invoke the pretext of the campaign against drug trafficking to maintain capital punishment, a side event was the opportunity to tackle these issues. The debate also recalled the necessity for the abolitionist movement to continue to advocate with the UN Office on Drugs and Crime (UNODC), in particular for application of a human rights-based approach within the framework of its programmes.



a POLITICAL USE OF THE DEATH PENALTY TO COUNTER TERRORISM

In the absence of an international definition of terrorism, the “minimum would be to agree on the fact that one cannot attach such an irremediable and irreversible punishment as the death penalty to behaviour which we are unable to define precisely.”

 **Florence Bellivier**, Professor at Paris Ouest Nanterre La Défense University and Deputy Secretary General of FIDH

Video Message

- **Ibrahim Najjar**, Former Minister of Justice of Lebanon, Member of the International Commission Against the Death Penalty - **Lebanon**

Speakers

- **Basma Khalfaoui**, Lawyer - **Tunisia**
- **Guillaume Colin**, FIACAT, member of the Executive Board of the World Coalition Against the Death Penalty - **France**
- **Azam Nazeer Tarar**, Advocate of the Supreme Court of Pakistan - **Pakistan**
- **Florence Bellivier**, Professor at Paris Ouest Nanterre La Défense University and Deputy Secretary General of FIDH - **France**

Moderator

- **Nestor Toko Monkam**, Lawyer and President of Droits et paix - **Cameroon**

The terrorism phenomenon, although not new, makes it difficult to advocate for abolition, all the more so as several countries, such as China, Egypt, Chad and Tunisia, have recently adopted new anti-terrorism legislation which includes the death penalty. This roundtable discussed arguments of non-deterrence of the death penalty to combat terrorism. Presented too were information and examples on how retentionist States misuse the fight against terror to silence the opposition, criminalise human rights activities and, more generally violate human rights.

- Since the 1960s, the UN has drawn up 19⁶⁷ international legal instruments within the framework of the struggle against terrorism. However, none of them provide a definition of terrorism itself. Despite various attempts, **the international community has still not come to a consensus on an international legal definition of terrorism.**

67 The complete list of these instruments is available at: <http://www.un.org/en/counterterrorism/legal-instruments.shtml>



- **65 of the 94 retentionist countries or territories retain the death penalty for terrorism.⁶⁸**
- **15 retentionist countries or territories executed at least one person for crimes related to terrorism between 2006 and 2016.**
- **24 retentionist countries or territories sentence people to death for terrorism.⁶⁹**

Although proportionally terrorism is not the crime for which most sentences/executions have taken place over the last ten years, the issue remains important for the abolitionist movement. Across the world, terrorism seems to cause our requirements in terms of human rights and the right to life to retreat. One can witness the erosion of the absolute prohibition on torture. As for arbitrary arrests, extrajudicial executions and the increase in vague anti-terrorism laws allowing for application of the death penalty after unfair trials, they seem to be increasingly accepted by people in the name of the right to security.

In the case of the death penalty, a number of States use the argument of the deterrent effect of this punishment against terrorism, a term which has not been internationally defined, to justify retaining it in their legal arsenal or reintroducing it. The speakers at this roundtable forcefully recalled the non-deterrent nature and ineffectiveness of the death penalty to fight terrorism with particularly striking topical examples.

Thus, in Chad the execution of ten presumed members of the Islamist group Boko Haram on 29 August 2015 did not have the effect expected by the authorities. Although it was a matter of dissuasion, since it concerned the first trial in Chad of presumed members of Boko Haram following a double suicide attack in June 2015 in the capital N'Djamena, the argument does not hold up. On the contrary, it was followed by a rise in terrorist acts by Boko Haram in the area of Lake Chad.

These executions followed sentences handed down in contravention of the right to a fair trial. Less than three weeks separated the arrest of the prisoners, the trial and execution of the sentence, leading Christopher Heyns, UN Rapporteur on Extrajudicial, Summary or Arbitrary Executions, to say that "these executions have taken place after a trial which allegedly was not organised according to the required international standards." In effect, the executions took place after a non-definitive judgement by Ndjamena Criminal Court, not leaving the accused any possibility of taking an appeal to the Supreme Court or filing a plea for clemency⁷⁰ (contravening the right to a fair trial provided for in the International Covenant on Civil and Political Rights, to which Chad has been party since 9 June 1995⁷¹).

68 Within the framework of this publication, *de facto* abolitionist countries and abolitionist countries for all common law crimes are included in the list of retentionist countries.

69 Source: World Coalition Against the Death Penalty, 2016 World Day brochure and detailed information sheet on the death penalty and terrorism, available at: <http://www.worldcoalition.org/en/worldday.html>.

70 See in particular Articles 36, 39 and 61 of the Organic Law on the Structure and Operation of the Supreme Court, Law No. 006/PR/98, 7 August 1998, as updated on 11 June 2009. See too Article 4 of the Decree on the Regulations of the Power to Pardon, N° 230/PR-MJ, 19 October 1970, and Article 476 of the Order on the Code of Criminal Procedure, N° 63-013, 9 June 1967.

71 Article 6 (4) of the International Covenant on Civil and Political Rights sets out that "anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases". Article 14 (5) of the same Covenant sets out that "everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law." See too the press release on the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, *Chad: A human rights expert is alarmed at the execution of ten people following a summary trial*, 7 September 2015, available at: <http://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=16388&LangID=F>.





It is also quite worrying to observe that death sentences for crimes related to terrorism are most often based on vague juridical provisions.

It is also quite worrying to observe that death sentences for crimes related to terrorism are most often based on vague judicial provisions. The principle of legality of crimes and punishments is jeopardised as terrorism, often imprecisely defined, has become a catchall term enabling a number of countries to increase the number of death sentences and executions.

In Pakistan, a moratorium on executions was lifted in December 2014 following the terrorist attack on a school in Peshawar which killed nearly 140 people, included 132 children. The Taliban movement in Pakistan (Tehrik-e-Taliban Pakistan- TTP) claimed responsibility.

Numerous death sentences and executions have been handed down on the basis of the vague definition of

terrorism inscribed in Article 6 of the 1997 Anti-Terrorism Act 1997 (ATA)⁷². According to figures collected by *Justice Project Pakistan* and *Reprive*, **86% of those charged with crimes under the 1997 Anti-Terrorism Act were so accused for offences not connected to terrorism**⁷³.

One example of abusive use of the 1997 Anti-terrorist Act is the trial of Zafar Iqbal. Accused of murdering his father following an argument about inheritance, he was charged with terrorism. Declared guilty, he was sentenced to death in May 2003 in conformity with Articles 302(b) of the Criminal Code and 7(a) of the 1997 Anti-terrorist Act. The anti-terrorism court judge considered that the cold-blooded murder of a father by his son was itself sufficient to create a sense of insecurity and terror among local people, in line with the definition in Article 6 of the 1997 Anti-terrorist Act. Zafar was executed in March 2015 without any connection to terrorism or affiliation with a terrorist group being proven and despite a pardon by the victim's heirs which, according to Pakistani law, could have led to a commutation of his death sentence⁷⁴.

Although executions in Pakistan only involved sentences connected to terrorism offences after the moratorium was lifted, they were then extended to include all common law crimes. According to Azam Nazeer Tarar, 405 executions took place between December 2014 and 10 June 2016.

In numerous countries, the anti-terrorism struggle is above all used to muzzle civil society and/or political opposition, as well as to justify human rights violations.

In Egypt, the fight against terrorism has become a pretext for the arrest of opponents

72 Article 6 of the Anti-terrorism Act: "Terrorism refers to the use or threat of use of an act [...] aiming to restrict and intimidate or otherwise upset the Government or the population or part of the population or the community, or to create a feeling of fear or insecurity in society; or to support a religious, sectarian or ethnic cause." Article 7: "Anyone committing a terrorist act shall be punished by the death penalty if this act resulted in the death of a person."

73 *Justice Project Pakistan* and *Reprive*, *Terror on death row: the abuse and overuse of Pakistan's anti-terrorism legislation*, December 2014, page 10, available at: http://www.reprive.org.uk/wp-content/uploads/2014/12/2014_12_18_PUB-Pakistan-Terror-Courts-Report-JPP-and-Reprive.pdf

74 For more information about this case, see *Justice Project Pakistan* and *Reprive*, *Terror on death row: the abuse and overuse of Pakistan's anti-terrorism legislation*, December 2014, pages 9 et seq.





and/or members of civil society (activists, journalists and trade union members in particular), and application of the death penalty for non-violent offences, which cannot be qualified as crimes (such as demonstrations and activities to defend human rights) after manifestly unfair trials or mass trials. An anti-terrorist law promulgated in January 2016⁷⁵ established “in particular exceptional courts and provides for heavy fines for journalists who publish information about terrorism which is contrary to official press releases⁷⁶.”

For more information

- ACAT Chad and FIACAT, *La peine de mort au Tchad: Sensibiliser pour l'abolition*, June 2016, available at: <http://www.fiacat.org/IMG/pdf/Publication-Tchad-Basedef.pdf> (in French)
- World Coalition Against the Death Penalty, The Death Penalty and Terrorism, detailed information leaflet, 14th World Day Against the Death Penalty, available at: http://www.worldcoalition.org/media/resourcecenter/EN_WD2016_Factsheet.pdf
- Justice Project Pakistan and Reprieve, *Terror on death row: the abuse and overuse of Pakistan's anti-terrorism legislation*, December 2014, available at: http://www.reprieve.org.uk/wp-content/uploads/2014/12/2014_12_18_PUB-Pakistan-Terror-Courts-Report-JPP-and-Reprieve.pdf
- Tools for technical assistance and publications relating to the prevention of terrorism. UN Office On Drugs and Crime: <https://www.unodc.org/unodc/en/terrorism/technical-assistance-tools.html>
- Summary of the international legal instruments aiming to prevent acts of terrorism: <http://www.un.org/en/counterterrorism/legal-instruments.shtml>
- The presentations of some of the speakers are also available on the Congress website: www.congres.abolition.fr
- Guillaume Colin and Salomon Nodjitoulou, *Instrumentalisation of the Death Penalty in the fight against the terrorism in Chad*
- Azam Nazeer Tarar, Pakistan: *Anti - terrorism courts and the death penalty*

75 See Reuters, *Egypt's parliament endorses controversial anti-terrorism law*, 17 January 2016, available at: <http://www.reuters.com/article/us-egyptsecurity-parliament-idUSKCN0UV0UG>

76 Source: Amnesty International, 2015/2016 report, Egypt, available at: <https://www.amnesty.org/en/countries/middle-east-and-north-africa/egypt/report-egypt/>





b THE DEATH PENALTY FOR DRUG TRAFFICKING IN 2016 HOW TO FOLLOW-UP THE UN GENERAL ASSEMBLY SPECIAL SESSION ON DRUGS AND THE 2015 WORLD DAY

By **Aurélié Plaçais**, Director of the World Coalition Against the Death Penalty

On 10 October 2015, the World Day Against the Death Penalty was dedicated to the death penalty for drug trafficking, and the UN General Assembly Special Session on Drugs (UNGASS) was held in New York from 19 to 21 April 2016. Harm Reduction International, Reprieve, Amnesty International and the World Coalition Against the Death Penalty organised a side event on the fringe of the World Congress, revisiting the impact of the World Day, the conclusions of UNGASS and the strategy to be adopted in the future.

Speakers

- **Rick Lines**, Harm Reduction International
- **Maya Foa**, Reprieve
- **Mahmood Amiry Moghaddam**, Iran Human Rights
- **Shamini Darshni**, Amnesty International Malaysia

Moderator

- **Aurélié Plaçais**, World Coalition Against the Death Penalty

The “war on drug trafficking” for the abolitionist movement

Before Harm Reduction International, a non-governmental organisation, began to work on this issue in 2007, there was little debate about the impact of policies against drug trafficking on human rights, contrary to many other debates around the “war on terrorism” for example. The death penalty was therefore an excellent starting point to begin discussing this problem for the movement to reform drug policies. Nearly ten years later, in April 2016, the death penalty was one of the issues relating human rights most widely debated at UNGASS.

The Civil Society Task Force⁷⁷, which acted as the voice of civil society during the negotiations leading up to UNGASS, carried out wide-ranging consultations across the world. They highlighted seven priority questions as the focus for their advocacy work

⁷⁷ For more information see: <https://www.unodc.org/unodc/en/ngos/DCN11-Launch-of-the-Civil-Society-Task-Force.html>



before UNGASS. Abolition of the death penalty for drug-related offences was one of them⁷⁸.

During UNGASS, debates notably covered the issue of funding for the struggle against drug trafficking in countries which execute people, and on the complicity of the abolitionist countries which fund these programmes. On this occasion, the European Union published a joint statement encouraging Member States to hold the international institutions responsible for these programmes in countries which still use the death penalty⁷⁹. The final Resolution⁸⁰, adopted in April 2016, represents the strongest text ever adopted in terms of safeguards for human rights in the struggle against drug trafficking. In particular, it recommends respect for human rights in the criminal procedure for people charged with drug trafficking and opens the way for an interpretation in support of abolition of the death penalty. The reference to torture and other cruel, inhuman or degrading punishment or treatment in paragraph 4.o) of the Resolution is in line with the conclusions of the UN Special Rapporteur on Torture who considers that the conditions under which capital punishment is actually applied “renders the punishment tantamount to torture. Under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment.”⁸¹

Resolution A /RES/S-30/1, paragraph 4.o)

“We, Heads of State and Government, ministers and representatives of Member States [...] recommend the following measures [...]

Promote and implement effective criminal justice responses to drug-related crimes to bring perpetrators to justice that ensure legal guarantees and due process safeguards pertaining to criminal justice proceedings, including practical measures to uphold the prohibition of arbitrary arrest and detention and of torture and other cruel, inhuman or degrading treatment or punishment and to eliminate impunity, in accordance with relevant and applicable international law and taking into account United Nations standards and norms on crime prevention and criminal justice, and ensure timely access to legal aid and the right to a fair trial.”

The paradox of Malaysia

Malaysia is, paradoxically, one of the most progressive countries in Asia in terms of its reform of drug policies and access to care for people who take drugs. In parallel however,

78 For more information, see the recommendations of the Civil Society Task Force for the “version zero” of the document on the results of UNGASS 2016 on the website of the International Drug Policy Consortium:
<http://idpc.net/publications/2015/09/civil-society-task-force-recommendations-for-the-zero-draft-of-the-outcome-document-for-ungass-2016>

79 See the joint position of the European Union on UNGASS 2016, paragraph 7, available at:
www.unodc.org/documents/ungass2016/Contributions/IO/EU_COMMON_POSITION_ON_UNGASS.pdf.

80 See the Resolution adopted by the UN General Assembly, 19 April 2016, A /RES/S-30/1, available at:
www.un.org/Docs/journal/asp/ws.asp?m=A/RES/S-30/1

81 Interim report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment, 9 August 2012, A/67/279, paragraphs 74 et seq., available at: http://www.un.org/ga/search/view_doc.asp?symbol=A/67/279





Malaysia is, paradoxically, one of the most progressive countries in Asia in terms of reform of drugs policies and access to care for people who take drugs. In parallel however, it is part of the small group of seven countries⁸² in the world which often applies the death penalty.

it is part of the small group of seven countries⁸² in the world which often applies the death penalty.⁸³

Research on the death penalty carried out by an inter-ministerial commission is supposedly underway and in November 2015 reforms were announced on the death penalty but few details are available as regards the detail of this research and the scope of reforms envisaged (mandatory death penalty for drug trafficking only or wider abolition).

However, previous ministers of laws made similar announcements in 2010 and 2012, announcements which, to date, have always remained without effect. Nonetheless, it would seem that an unofficial moratorium on executions for drug trafficking is in place because the last executions were for murder while many death sentences are for drug trafficking.

It is therefore important to maintain international pressure, particularly within the framework of the Universal Periodic Review (UPR), and regional pressure, for example with the Anti-Death Penalty Asia Network

(ADPAN)⁸⁴. Nationally, the wider public must be made aware of the situation through witness accounts and human faces.

The impact of abolitionist work with the UN Office On Drugs and Crime (UNODC)

Officially, as the body of the UN Secretariat, UNODC recommends abolition of the death penalty and invites Member States to follow international standards relating to prohibition of the death penalty for trafficking or possessing drugs.

An UNODC position document on human rights dating from 2012 goes even further because it recommends: "If, in spite of all of the above, a country actively continues to apply the death penalty for drug offences, UNODC places itself in a very vulnerable position vis-à-vis its responsibility to respect human rights if it maintains support to law

⁸² The six other countries are: Saudi Arabia, China, Indonesia, Iran, Singapore and Vietnam.

⁸³ According to Harm Reduction International and the World Coalition Against the Death Penalty, "countries which often apply the death penalty" describes the countries which have made death sentences or executions for people recognised as guilty of drug trafficking a regular practice in their criminal justice systems.

⁸⁴ The Anti-Death Penalty Asia Network is an independent inter-regional network committed to working to bringing an end to the death penalty in the Asia Pacific region. It was founded in Hong Kong on the World Day Against the Death Penalty in 2006.



enforcement units, prosecutors or courts within the criminal justice system. Whether support technically amounts to aid or assistance to the human rights violation will depend upon the nature of technical assistance provided and the exact role of the counterpart in arrest, prosecutions and convictions that result in application of the death penalty.⁸⁵ Even training of border guards who are responsible for arrest of drug traffickers ultimately sentenced to death may be considered sufficiently proximate to the violation to engage international responsibility.”

However, this position has never been implemented⁸⁶ and UNODC’s programmes against drug trafficking are essentially funded by the Member States of the European Union, all abolitionist, but without them asking UNODC to respect its own directives on human rights.

Reprieve and other abolitionist NGOs have been leading a campaign for a few years, both with the European authorities to ask them to publish information on the UNODC programmes they finance, and with UNODC on the implementation of its 2012 position document.

The work led by Reprieve and others with UNODC does seem to be bearing fruit. In October 2015, the European Parliament adopted a Resolution⁸⁷ declaring that abolition of the death penalty for drug-related offences should be a prior condition to financial and technical assistance from the EU to third countries. Donors are progressively disengaging themselves from UNODC programmes in countries which still execute people for drug trafficking. According to the UNODC Annual Appeal 2016, 5, 410,000 US dollars⁸⁸ are needed to complete the programme in Iran. UNODC indicated that it had not yet received any funding for this programme at the start of 2016.

Impact in Iran

The international campaigns led by ECPM, Iran Human Rights (both members of the Impact-Iran Network⁸⁹), Harm Reduction International, Reprieve and others have highlighted the issue of the death penalty for drug trafficking in Iran. Abolitionist demands previously centred on political prisoners and juveniles; now it is drug trafficking. Iran uses drug trafficking as a pretext for executing people. Confessions are often obtained after the accused have been subjected to poor treatment and people are judged by

- 85 See the UNODC position note on the promotion and protection of human rights, 2012, page 10, available at: https://www.unodc.org/documents/justice-and-prison-reform/UNODC_Human_rights_position_paper_2012.pdf.
- 86 See, for example, the independent assessment half-way through the UNODC country programme on the Islamic Republic of Iran, November 2013, page 34, available at: https://www.unodc.org/documents/evaluation/indepth-evaluations/2014/Mid-term_In-Depth_Evaluation_CP_Iran_September_2014.pdf
- 87 European Parliament, Resolution (2015/2879(RSP)) on the death penalty, 8 October 2015, paragraph N. available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2015-0348+0+DOC+XML+V0//EN>
- 88 See the UNODC Annual Appeal 2016, page 24, available at: https://www.unodc.org/documents/about-unodc/Annual_appeal/Annual_Appeal_2016_LORES.pdf
- 89 Impact Iran brings together 13 organisations involved in human rights in Iran: <http://impactiran.org/>





Revolutionary Courts behind closed doors. Moreover, these sentences involve a marginalised part of Iranian society which has little or no access to lawyers and which is subjected to poor treatment.

Numerous Iranians in senior positions have recently spoken about the failure of use of the death penalty to combat drug trafficking with an increase in the number of drug-related crimes, drug trafficking and deaths linked to the use of drugs. A new law is under discussion to abolish the death penalty for non-violent crimes related to drug trafficking⁹⁰. The authorities have started to seize upon the issue and it is no longer a red line not to be crossed for activists in Iran, particularly because the question of drug trafficking is not related to religious arguments.

However, it is difficult to know whether this is just rhetoric for the benefit of the international community or real political desire.

RECOMMENDATIONS

STATES:

- Faced with UNODC's reluctance or inability to implement its own directives on human rights, the Member States of the UNODC Drugs Commission are themselves obliged to take steps to ensure that the activities it finances conform to human rights. Consequently, they must conform to the European Parliament 2015 Resolution, according to which: "abolition of the death penalty for drug-related offences should be made a precondition for financial assistance, technical assistance, capacity-building and other support for drug enforcement policy."
- Although States and now the European institutions seem to be taking a more prudent approach as regards funding for programmes in the struggle against drug trafficking in countries which apply the death penalty, some go further and have decided to make their aid conditional on abolition of the death penalty for drug trafficking. In any case, abolitionist States should publish their contributions to programmes in the struggle against drug trafficking and their bilateral agreements in this area to prevent any potential violation of human rights in these countries.

CIVIL SOCIETY:

- Make States take responsibility for the work of UNODC and their funding by asking them how they ensure that UNODC respects its own directives;

⁹⁰ See the article "Iranian to mull plan ending death penalty for drug offences" from the press agency Iranian Labour News Agency, 23 November 2016, available at: <http://www.ilna.ir/Section-politics-3/431767-iranian-to-mull-plan-ending-death-penalty-for-drug-offences>



- Work with the UN High Commissioner for Human Rights on this issue, not only with UNODC;
- Denounce those few countries which execute people for drug-related offences;
- Work more with abolitionist countries to move towards a punitive approach to drug-related policies which do not deal with the profound causes of the problem, only the symptoms.

ALL STAKEHOLDERS:

- Continue to address UNODC directly to ask for more transparency and research based on the facts in the countries concerned. For too long, UNODC has worked in the shadows, obscuring the details of its support for anti-drug programmes overseas;
- Donor States and civil society should insist that UNODC provide a comprehensive annual report on the way in which human rights policy is implemented in countries which apply the death penalty for drug trafficking.









DEATH PENALTY WO

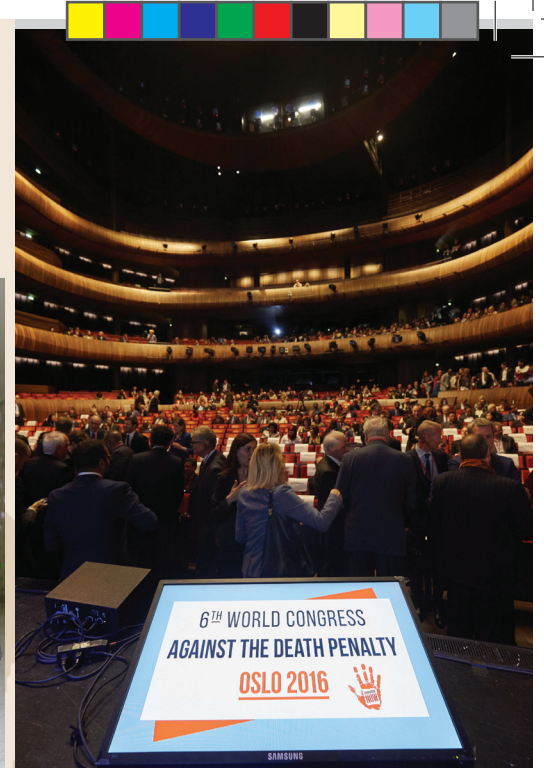
















THE ACTORS FOR CHANGE

How can the work of the abolitionist movement be best adapted with regard to the actors involved? The central issue of the role of actors for change and political decision-makers was discussed during several sessions.

For the first time at a World Congress Against the Death Penalty, participants were able to consider the essential and yet neglected role of National Human Rights Institutions. The place of young people and the importance of their mobilisation in support of universal abolition of the death penalty were the subject of a workshop which presented some educational tools.

The Congress was an opportunity to share tools and good practices in order to draw the media's attention to the inhumanity of the death penalty and encourage it to make abolition a priority issue.

Good practices for advocating with political decision-makers, members of the executive and parliamentarians were also at the heart of discussions in Oslo.



1 THE IMPORTANCE OF NRHIS IN THE ABOLITIONIST CAUSE

National Human Rights Institutions (NHRIs) are mandated to protect and promote human rights. The question of abolition and related issues such as the right to a fair trial and conditions of detention are entirely relevant to their work. While several NHRIs play a key role in the fight against the death penalty, others hardly engage with the issue at all. Through positive examples but also a critical evaluation of their work on the death penalty, this Plenary was a question of the importance of engaging with this often neglected actor and rallying new or reluctant NHRIs to the abolitionist cause.

Speakers

- **Justin G. K. Dzonzi**, Chairman of the Malawi Human Rights Commission - **Malawi**
- **Angela Uwandu**, Head of the Nigeria Office, Avocats sans frontières France - **Nigeria**
- **Y. S. R. Murthy**, Professor and Registrar, O.P. Jindal Global University, former Director of the National Human Rights Commission of India - **India**
- **Driss El Yazami**, Chairman, National Human Rights Council - **Morocco**

Moderator

- **Gillian Triggs**, President of the Australian Human Rights Commission - **Australia**

A number of States were behind the creation of National Human Rights Institutions (NHRIs) which follow extremely varied models. They are hybrid institutions, somewhere between the State and civil society, and are not always easy to understand. Although no one NHRI is like another and although their independence vis-à-vis the authorities varies, one thing is clear: by working with these actors too, abolition can make progress across the world.

During this plenary session, the first to tackle the role of NHRIs within the framework of the World Congress Against the Death Penalty, several examples were evoked, demonstrating the importance of working with this actor which is still too often neglected by the abolitionist movement.

NHRIs can make an important contribution to the work of the abolitionist community. For example, in the case of Malawi, which has been *de facto* abolitionist since 1994, the Human Rights Commission has participated in several abolition-related initiatives.

In particular, the Malawi Commission participated as an *amicus curiae* (friend of the court⁹¹) in a judicial review on the constitutionality of mandatory application of the death

91 *Amicus curiae* is a procedural mechanism through which a court invites or authorises a person or an entity to participate with an existing body between the parties in order for it to provide information which could clarify its reasoning.



penalty in the case of **Kafantayeni and others vs. the Malawi Public Prosecutor**. In its judgement made in 2007, the High Court of Malawi declared mandatory application of the death penalty to be unconstitutional. Following this decision, anyone sentenced to a mandatory death penalty, 192 people in total, had their sentences cancelled and new hearings were arranged to determine their sentences.⁹² The Commission took part in the project to re-examine sentences (*Kafantayeni Sentence Rehearing Project*). Between the start of the new hearings in February 2015 and June 2016 (Oslo Congress), 73 prisoners previously sentenced to death were released, either because the Court considered that they had been wrongly sentenced or because they had already served their sentences.

The Malawi Commission has also participated in a number of initiatives demanding abolition of the death penalty. In particular, it used the opportunity of the examination of Malawi's initial report by the UN Human Rights Commission in 2014 to recommend that the Malawi authorities abolish the death penalty. It also initiated and participated in training for judges, lawyers and social workers on abolition of the death penalty, in collaboration with non-governmental organisations (NGOs). These examples of direct commitment by the Commission illustrate the key role which a NHRI can play in the struggle against the death penalty. It reminds us that abolition is a process; in other words, a series of actions into which it is important to integrate different actors in order to maximise the possibility of definitively doing away with this inhuman and degrading punishment.

This positive example should not be seen as an exception by abolitionist NGOs. Other initiatives illustrate the added value of work with NHRIs, even those which are least active on the issue of the death penalty. In those instances, the approach of NGOs should be more pragmatic and NHRIs should be solicited more often, something borne out by the case of the Nigerian NHRI which was not very active on the issue of abolition before. Within the framework of its SALI project (*Saving Lives project*)⁹³, the Lawyers Without Borders office in Nigeria decided to involve the National Human Rights Commission in order to encourage it to support abolition. This decision was a result of, amongst other things, the fact that the NHRI's statutes had just been revised by the Nigerian Parliament in order to extend its mandate and reinforce its independence⁹⁴. Between 17 January 2011 and 16 July 2014, this collaboration led to the release of 35 prisoners charged with offences punishable by death and seven pardons by state governments thanks to the introduction of free legal aid in seven states (Nigeria is a federal republic). These

92 See the presentation by Justin Dzonzi, available at: http://congres.abolition.fr/wp-content/uploads/2016/06/NHRI-Presentation-J-Dzonzi-Malawi-Human-Rights-Commission_230616.pdf.

93 The SALI project was implemented from 17 January 2011 to 16 July 2014 by ASF France, Nigeria Office, in partnership with the Nigerian NHRI, the Nigeria Bar Association and the NGO Access to Justice. It aimed to strengthen the moratorium on the death penalty and reveal new jurisprudence on the rights of people who risk the death penalty on the basis of international standards. For more information, see the website of ASF France: <http://avocatssansfrontieres-france.org/web/fr/29-lutte-contre-la-peine-de-mort-au-nigeria.php> (in French)

94 National Human Rights Commission (Amendment) Act 2010, 16 December 2010, available at: http://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=87609&p_country=NGA&p_count=255.





They are hybrid institutions, somewhere between the State and civil society, and are not always easy to understand.



releases and pardons would not have been possible without the assistance of the Nigerian NHRI which facilitated the field work carried out by the legal aid team trained by ASF and contact with the authorities on the cases in question. As a real stakeholder in this project, the NHRI essentially ensured better acceptance of the project by the authorities, including at state level. During the period under consideration, the NHRI also took a position by calling on the Governor of the state of Edo not to carry out four executions. It then condemned the hasty executions approved by the Governor even though the prisoners had applied

to the Federal High Court for a reprieve⁹⁵.

This example illustrates the fact that closer collaboration between civil society and NHRIs is an opportunity to change the course of any dialogue, to change the dynamics of the NGO/authorities relationship into an NGO/authorities/NHRI format. By collaborating with NHRIs, NGOs can benefit from the strengths and influence of these key actors in order to advocate more effectively against the death penalty. Finally, in Nigeria the project has led to more effective advocacy with the authorities of the target states through the presence of NHRI offices in several states and by bringing the abolition message to regions where the issue remains controversial, such as the North of the country. The project also enabled NHRI staff to receive training in mobilisation and capacity strengthening both in the capital, Abuja, and the Institution's offices across the whole country.

As regards Asia, although the question of the independence of NHRIs was evoked as an obstacle to collaboration on the subject of abolition, a pragmatic approach must be envisaged⁹⁶. To this end, a 3-point strategy was proposed:

- In retentionist States without an NHRI, NGOs should strengthen their advocacy in favour of the establishment of independent national institutions, such as for example in Japan, Taiwan, Singapore and Vietnam;
- In retentionist States with NHRIs which are passive on the issue of the death penalty, their ability to work on abolition could and should be developed, such as for example in Sri Lanka and Indonesia;
- In retentionist States with active NHRIs, the latter, if they are supported by NGOs, could act as a catalyst for reforms, including abolition. This is the case, for example, of Suhakam (NHRI) in Malaysia or Komnas-Ham in Indonesia which collaborate with NGOs (ECPM, DPP, etc.).

⁹⁵ See <http://www.nigerdeltanews.com/edo-officials-nhrc-in-war-of-words-over-death-sentencing/>

⁹⁶ Advocacy with the Global Alliance of National Human Rights Institutions was proposed so that the NHRI accreditation process can include a clear position by the candidate institutions on the right to life and abolition of the death penalty. The Global Alliance of NHRIs (formerly the International Committee for the Coordination of National Human Rights Institutions or CIC) helps with establishing and strengthening independent and efficient national institutions which meet the requirements of the Paris Principles.





The process for reform in the Maghreb-Middle East region was also highlighted. In Morocco, where the draft Criminal Code reduces the scope of capital crimes, this process is steered through close collaboration between the various actors, such as the National Human Rights Council, parliamentarians, civil society grouped around the Moroccan Coalition Against the Death Penalty and international actors such as ECPM. In the months to come, there will therefore be an opportunity to take action. The Chairman of the National Human Rights Council of Morocco also emphasised the need to broaden alliances between actors for abolition in the region. These alliances should integrate the following factors in order to refine advocacy against the death penalty:

- Political changes which should be taken into account by the abolitionist movement. For example, the effects of terrorism on public opinion should not be put to one side;
- The need not to underestimate the religious argument;
- The issue of priorities as, for some NHRIs, it is not easy to connect the fundamental battle of abolition with other issues which are just as fundamental;
- The importance of connecting abolition and an underestimated social dimension related to poverty.

RECOMMENDATIONS

CIVIL SOCIETY

- **Collaborate more systematically with NHRIs in order for them to prioritise the issue of abolition, for example at events such as the World Day Against the Death Penalty celebrated annually on 10 October, and for all activities or advocacy where NHRIs can have added value;**
- **Give NHRIs the opportunity to take a position by providing them with advocacy tools and proposing training in order to strengthen their capacity to work actively on abolition of the death penalty;**
- **Be pragmatic by involving the more passive NHRIs on the issue of abolition;**
- **Use opportunities such as the establishment of new NHRIs or revision of the statutes of existing NHRIs as entry points to associate them with mobilisation and advocacy for abolition of the death penalty;**
- **Integrate retentionist actors into discussions for the next World Congresses Against the Death Penalty.**

NHRIS

- **Advocate for abolition of the death penalty for all crimes;**
- **Advocate for ratification of the 1989 Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to abolish the death penalty in States which have not yet ratified it;**
- **Promote awareness by the public and contribute to education about abolition;**
- **Initiate and lead research on the issue of the death penalty, including the phenomenon of death row syndrome, by carrying out regular visits to prisoners**



sentenced to death (in the event that a national body to prevent torture independent of the NHRI is in place, collaborate with it to this end);

- Establish Death Penalty Observatories to provide the public with information about the number of executions, amongst other things;
- Act as a “friend of the court” (*amicus curiae*) in certain trials and particularly those which could have a strategic impact on progress towards abolition;
- Take a position on abolition, particularly within the framework of State periodic reporting processes with regional and international bodies monitoring human rights;
- Ensure follow-up of their recommendations as regards abolition, for example in Sri Lanka and Indonesia;
- Strengthen ties between passive and active NHRIs in order to draw up strategies to advocate against the death penalty;
- For NHRIs in abolitionist countries, continue their work and support NHRIs in retentionist countries to advocate for abolition of the death penalty for all crimes.

For more information

- YSR Murthy, ‘The Role of National Human Rights Institutions in Abolishing Capital Punishment: A Critical Evaluation’, in Roger Hood and Surya Deva (eds.), *Confronting Capital Punishment in Asia: Human Rights, Politics and Public Opinion* (2013)
- Mwiza Jo Nkhata, ‘Bidding Farewell to Mandatory Capital Punishment: Francis Kafantayeni and Others v. Attorney General’ in *Malawi Law Journal* 103 (2007)
- Sandra Babcock and Ellen Wight McLaughlin, ‘Reconciling Human Rights and the Application of the Death Penalty in Malawi: The Unfulfilled Promise of Kafantayeni v. Attorney General’, in *Capital Punishments: New Perspectives*, Peter Hodgkinson, 2013.
- Final report of the SALI project, LWB Nigeria office:
<http://fr.slideshare.net/AliceLeMn/saving-lives-project-final-report-asf>

Jurisprudence

- Kafantayeni and Others vs. Attorney General, Constitutional Case No. 12 of 2005, High Court, 2007.
- Jacob vs. the Republic, MSCA Crim. App. No. 18 of 2006, Sup. Ct. of App. at Blantyre, 2007

The presentations of some of the speakers are also available on the Congress website:

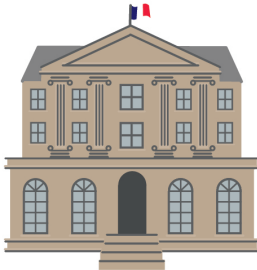
www.congres.abolition.fr:

- Justin K. Dzonzi, The work of the Malawi human rights commission on the death penalty
- YSR Murthy, Areas of concern and the need for greater engagement of NHRIs in Asia Pacific
- Angela Uwandu, Positive collaboration and the advantages of NGO working with NHRIs



INDH

WHAT IS A NATIONAL HUMAN RIGHTS INSTITUTE?



NHRI

It is a **State mechanism** with a constitutional and/or legislative mandate to **protect and promote human rights**.

The Paris Principles set out **six main criteria** to which NHRIs must respond.



PARIS
PRINCIPLES

- I. COMPETENCE
- II. AUTONOMY
- III. INDÉPENDENCE
- IV. PLURALISM
- V. RESOURCES
- VI. POWERS

The **status** of NHRIs within the **Global Alliance** depends on their application of these principles.



GLOBAL
ALLIANCE
(GANHRI)



STATUS A

Fully compliant with
the Paris Principles
Voting Member

74
NHRIs*



STATUS B

Partially
compliant
**Observer
Member**

33
NHRIs*



STATUS C

Non-compliant
Non-member

10
NHRIs*

*Data correct as of 14 October 2016.

For more information, see: UN High Commissioner for Human Rights, National Human Rights Institutions, history, principles, functions and remit, 2010.





The role of NHRIs in the abolitionist cause

NHRIs are mandated to protect and promote human rights. Abolition, and related issues such as the right to a fair trial and conditions of detention, are therefore entirely relevant to their work.

More precisely, NHRIs can play a key role in the fight against the death penalty by:

- Advocating and recommending abolition of the death penalty/limiting use of the death penalty, and supporting the legislative reform process to that effect;
- Monitoring trials in capital cases (including investigating allegations of torture and other violations of Article 6 of the International Covenant on Civil and Political Rights);
- Protecting the human rights of children of parents sentenced to death by facilitating their visits to prisons and receiving complaints from such children or from their relatives;
- Documenting and reporting use of the death penalty, including collecting and sharing data on the number of executions/ individuals on death row;
- And developing relationships with non-governmental organisations devoted to the abolitionist cause and collaborating with them.



2 MOBILISING YOUNG PEOPLE AROUND THE ABOLITIONIST CAUSE

“Convincing students of the need to take a position against the death penalty is not easy, particularly at an age when the notion of justice is confused with that of vengeance.”

Marianne Rossi,
Teaching Abolition Coordinator, ECPM, France

Speakers

- **Maya Ben Khaled**, Programme officer, Arab Institute for Human Rights - **Tunisia**
- **Marianne Rossi**, Teaching Abolition Coordinator, ECPM - **France**
- **Tanya Awad Ghorra**, Coordinator, Education on Abolition, Lebanese Association for Civil Rights - **Lebanon**
- **Jiazhen Wu**, Deputy Director, Taiwan Alliance to End the Death Penalty - **Taiwan**
- **Halima Sasi**, Board member and Paralegal of the Children Education Society- **Tanzania**
- **Mustapha Mezroui**, Teaching Abolition Project officer, Organisation marocaine des droits humains [Moroccan Organisation for Human Rights] - **Morocco**

Moderator

- **Alain Morvan**, Journalist - **France**

In order to move towards universal abolition, it is essential to teach younger generations about the meaning of the death penalty and the absolute necessity of ending it. That is why human rights organisations are developing advocacy for education about abolition within the Teaching Abolition International Network, and working to develop appropriate and innovative pedagogy aimed at young people, presented in this workshop. The participants discovered a variety of teaching tools which can be used in a formal or informal context. An example of successful mobilisation in Tunisia was also presented.

At a time when numerous States bear witness to great violence, discussion of abolition of the death penalty is not, or is no longer, obvious to everyone, particularly young people, even in abolitionist States. We must bear in mind the fact that the young people of today are the activists, magistrates and politicians of tomorrow. It is therefore important that they become aware of the reality of the death penalty, the importance of abolishing it and, for countries where it has already been abolished, the importance of preventing its return.

It is from this perspective that educational initiatives run by human rights organisations for children and young people aged 5 to 18 have appeared in various countries, including



France, Taiwan, Lebanon, Tunisia, Morocco and Tanzania. They are being developed in both formal contexts (schools) and informal ones (citizenship clubs, youth clubs). This workshop was an opportunity for members of the Teaching Abolition International Network (ECPM, IADH, LACR and the Moroccan Coalition), as well as the Children Education Society and Taiwan Alliance to End the Death Penalty, to present their tools and methodologies aimed at raising awareness and mobilising young people around abolition of the death penalty.

As regards work in more formal situations, the organisations meet young people in schools and cooperate with teachers by providing them with lesson modules adapted to the school curriculum (ECPM and CHESO), or encouraging them to create teaching tools themselves (TAEDP). Within that framework, the work with young people is diverse and varied: debates with pupils from middle and high schools as well as participation by “abolition witnesses”, particularly prisoners previously sentenced and exonerated or pardoned the families of prisoners, enabling young people to give the death penalty a human face (ECPM, Moroccan and Tunisian Coalitions); the creation of citizenship clubs in primary and secondary schools where young people lead action themselves to learn about issues and sensitive subjects such as the death penalty (IADH). In Lebanon, Tanzania and Morocco, activities mix education with fun through discussion about the death penalty followed by role play, such as the hot air balloon presented at the workshop.

These awareness-raising activities take place in schools but they can also overflow into informal areas thanks to the creation of specific educational tools. In Morocco for example, the cartoon “Sentenced to Die”, designed by the Moroccan Organisation for Human Rights, was presented in schools but it is a tool that young people can read at home and give to their friends and families. Similarly, ECPM has developed a bilingual (French/English) collaborative board game called Abolition Now! It allows young people to learn about a variety of strategies to abolish the death penalty in 10 countries across the world, while taking on the roles of all the institutional, voluntary sector and media actors committed to universal abolition of the death penalty.

Creating these teaching tools could be full of pitfalls: the level of design, their distribution and their use. It is not just about creating such tools but working with the teachers who are inclined to use them with their pupils.

Jiazhen Wu, Deputy Director of *Taiwan Alliance to End the Death Penalty*, shares her experience of mobilising young people and working with teachers in Taiwan (see sidebar: Jiazhen Wu’s story).



List of methodologies and tools presented at the workshop

Name	Type of tool	Country	Age group	For more information
Abolition Now	Board game	France	12+	Contact: ecpm@abolition.fr http://www.abolition.fr/abolition-now-le-nouveau-jeu-abolitionniste/
NiuNiu gets into trouble	Role play	Taiwan	5+	http://congres.abolition.fr/wp-content/uploads/2016/06/Wu_Niuniu-TAEDP_230616.pdf TAEDP contact: taedp.tw@gmail.com
The hot air balloon	Game	Lebanon	15 to 18	Contact at the Lebanese Organisation for Civil Rights: info@houkoulmadania.org
Sentenced to die	Cartoon	Morocco		The cartoon can be downloaded at: http://tudert.ma/fr/bibliotheque/ouils-pedagogiques
Guide for awareness of young people on the issue of the death penalty	Guide for teachers	Tanzania	Teaching	Contact at the Children Education Society: chesociety@yahoo.com
Understanding the death penalty	Text book for young people		14 +	
Developing human rights clubs within schools	Methodological information sheet	Tunisia	Primary and secondary school	See the information sheet on the website of the World Congress: http://congres.abolition.fr/les-presentations-des-intervenants Contact at the Arab Human Rights Institute: aihr.iadh@gmail.com





RECOMMENDATIONS

- Identify possible partners in the informal sector and organise citizenship clubs in this context;
- Organise partnerships between schools from various regions around the world and create exchanges between pupils based on the Teaching Abolition theme;
- On the basis of these partnerships, organise assemblies of young people along the lines of the model of the UN Youth Assembly on the theme of the death penalty;
- Develop informal tools with young people themselves.

For more information

- See too the presentations of the speakers on the Congress website: <http://congres.abolition.fr>

INTERVIEW

- **Jiazhen Wu**, Deputy Director - Taiwan Alliance to End the Death Penalty

Why did you choose to work in schools with your organisation, Taiwan Alliance to End the Death Penalty?

There was an unofficial moratorium in Taiwan from 2006 to 2009 but executions resumed in 2010. The subject of the death penalty is therefore still very much alive in the public arena and we felt that more and more teachers wanted to find a way to raise this subject with their pupils. By meeting a few teachers, it was as if we had discovered several holes in an enormous dam. That encouraged us to develop action in the school environment. It is an important way to make progress on the issue of the death penalty.

How did you develop your project?

In 2009, we wanted to use the tools developed by the World Coalition Against the Death Penalty. So we translated them but then we realised that we could not use them in the Taiwanese school system. In 2013, with the help of activists and academics specialising in the death penalty, we started to design teaching tools. However, the new obstacle this time was that we didn't have either the resources to publish them or the teachers to work with. However, little by little we were able to meet teachers from primary and secondary schools who wanted to know more about the death penalty and we therefore managed to test the tools in a few schools. A year later, we organised a workshop open to all teachers to find out about these tools and about 30 teachers answered the call. That allowed us to better understand the restrictions of their profession, particularly the little time they have available to work on subjects which are not in the curriculum. We therefore adapted our tools to specific school contexts.

Did you present a specific tool at the Congress?

This tool is aimed at children aged 8 to 11. It involves an illustrated book called Niuniu Gets Into Trouble. Niuniu is a stray dog who is adopted by a class of children. This happens quite a lot in Taiwan. One day, Niuniu is found with the body of a little rabbit in his



mouth; the rabbit is looked after by another class. We ask the children: “do you think Niuniu killed the rabbit?” and the first debate is held. The question of whether the dog is guilty is posed very quickly and no answer is provided; there is information missing, as is often the case in criminal cases. From the book, we organise a role play where small groups of children each play a character: Niuniu, the suspect, the rabbit who is the victim, and also the class which looked after the rabbit and who are in some way its family. The head teacher of the school acts as the judge and a dialogue begins. Together, they must tackle at least two questions: what should happen to Niuniu after this incident? And what should be done to prevent incidents like this happening again? Often, other questions follow: what should be done for the rabbit’s class, the victim’s family? That gives very interesting results. Some pupils suggest giving Niuniu to another school to give him a second chance. Others suggest shutting him up but letting him out so they can play with him or train him so he doesn’t do it again...and some suggest sending him to the pound. In Taiwan, that means that if no one claims Niuniu within 12 days, he will be killed. What is interesting is that relatively few children vote for the last solution at the end of the debate. In the end, it is the head teacher who calls a meeting to decide the fate of the animal. There again, the children must decide which parties to involve, who to invite to the meeting. The last page of the book shows a truck from the pound parked outside the school and a man holding a net to catch the animal but that’s all. We don’t know if the dog has been caught; the ending is open for the children to imagine the next part.

We are very proud of this tool. Now we’re working on developing lesson modules for high school pupils aged 16 to 18. At that age, there is a lot of information to get across and, above all, other ways of communicating it. Earlier this year, we organised a workshop to refine new tools and we are planning another in a few months.





3 HOW TO COMMUNICATE EFFICIENTLY WITH THE MEDIA?

The media are an indispensable ally for the abolitionist movement and can dramatically influence public opinion in favour of abolition. However, accessing and working with the media can be a daunting task. In his workshop were exchanged good practices and experiences were exchanged between journalists and abolitionists as regards how to better convey the abolitionist message to the media.

Speakers

- **Iwan Santosa**, Journalist – **Indonesia**
- **Jessica Corredor Villamil**, Press Coordinator, ECPM – **France**
- **Zainab Malik**, Lawyer, The Justice Project Pakistan) – **Pakistan**
- **Aroon Arthur**, journalist – **Pakistan**

Moderator

- **Maya Foa**, Director, Death Penalty Team, Reprieve – **United Kingdom**

For abolition actors, journalism is an important way of revealing a reality about which most of the population is unaware. By covering death penalty cases, conditions on death row and executions, journalists can act as a connection with the public, setting out the arguments (particularly utilitarian ones) against the death penalty and better describing the judicial and security realities involved. How can abolitionist actors work with journalists? Below are some aspects of the answer.

In order to raise awareness among the media about the death penalty, all abolitionist actors/organisations must define a strategy to target the right media outlet and the right audience. An abolitionist organisation must ask itself the following questions in particular:

- Who would it like to reach with its message? What is the aim of it?
- Is it targeting public opinion, abolitionist activists, those working in the justice system?

Once the aim of the message has been defined, the organisation must then identify:

- The most relevant kind of media outlet. How will the message best reach its target audience? (Radio, television, electronic media or written press?) and
- When is the best time to broadcast this information?⁹⁷

97 Presentation by Aroon Arthur, Workshop: How to work with the media effectively, 6th World Congress Against the Death Penalty, 21-23 June 2016, Oslo, Norway, ECPM,



In some countries, such as China, social networks are used by journalists/communicators and by public opinion itself to express their opinions on the death penalty, particularly through blogs.



Once this strategy has been defined, it is essential for the organisation to know what the media outlet targeted is actually like. If it is a question of raising awareness within the written press, for example, it must find out about the kinds of newspapers present in the country in question. As the journalist Iwan Santosa explained, there are two kinds of press: those which support abolition of the death penalty and those which do not.

The organisation will obviously want to work with the first kind of media outlet. In order to choose the most relevant newspaper, the organisation must then follow the advice below:

- Study the level of censorship in the country
- Study the newspaper's editorial line to assess the risks the newspaper is ready to take in defence of human rights;
- Assess the government's influence on the newspaper.

If the country in question has a significant level of censorship, the organisation cannot work with journalists without putting them in danger. Moreover, if possible it should focus on the media of a country in the region where censorship is not so high.

It is no less important for journalists working in retentionist countries to find ways to communicate their messages. In some countries, such as China, social networks are used by journalists/communicators and by public opinion itself to express their opinions on the death penalty, particularly through blogs. The comments made enable users of the internet to debate the issue of capital punishment. They can also, in turn, call upon organisations or overseas media to broadcast their message and their articles.

The Pakistani journalist, Aroon Arthur, talked about the difficulty of publishing in Pakistan (see the sidebar: Aaron Arthur's story).

RECOMMENDATIONS

- Train directors of abolitionist organisations to communicate with the media. Train journalists about the issue of the death penalty in retentionist countries in order for them to be better able to document the issue, assess research and public opinion surveys, and question political decision-makers;
- Create a network of abolitionist journalists/communicators at national and regional level in order to facilitate the exchange of information and experiences;
- Organise meetings specifically dedicated to the media and abolitionist organisations in order to define new strategies and strengthen the partnership between these two actors;



- Integrate a journalistic approach into projects educating young people about abolition;
- Use regional and international bodies protecting human rights to create opportunities for communication with the media on the subject of abolition (for example the Universal Periodic Review, the examination of a periodic report by the UN Human Rights Committee or the visit of an independent expert to the country concerned).

For more information

- Penal Reform International, training resources: 2011 report on the death penalty, available at: <https://www.penalreform.org/resource/reporting-death-penalty/>, also available in Arabic, French and Russian.
- Bandes, Susan A., Fear Factor: The Role of Media in Covering and Shaping the Death Penalty. Ohio State Journal of Criminal Law, 2004, Vol. 1, p. 585, available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=413385.
- ECPM project My Pencil for Abolition, introduction to journalism for middle and high school pupils committed to abolition of the death penalty and freedom of expression, <http://www.abolition.fr/mon-crayon-pour-labolition-un-succes-pedagogique/>

The story of Aroon Arthur, a journalist in Pakistan

“As a part of the World Congress Against the Death Penalty in Oslo this year as a journalist from Pakistan and a resource person to the workshop “How to communicate effectively with the media in death penalty cases” I found a wonderful opportunity to share my experiences as a journalist working in Pakistan on death penalty cases, which is itself always a life threatening work. I happened to work on the two most controversial juvenile cases of Shafqat Hussain and Aftab Bahadur.

Shafqat Hussain was convicted of death penalty for the murder and rape of 7 year old boy in Karachi. In this case, Shafqat’s lawyer claimed that he was a juvenile at the time of his arrest and due to police torture he forced to confess to that crime. However Government formed a commission to investigate Shafqat’s case. (...)

I travelled to Karachi in order to find the investigation officer of that case. After a search that lasted three days and nights, I got my hands on that investigation officer who, after reminding him of the case, testified and stated that he took a bribe and made a false case upon Shafqat as he was under great pressure from the victim’s family.

I got that evidence recorded and came back to Lahore with an exclusive development in the case (...) but, unfortunately, due to the complete black out of the media and government pressure we were unable to save Sahafqat.

The same thing happened to Aftab Bahadur, who was a juvenile at the time of arrest. Police tortured him to force him to confess the murder of two children and a mother. Aftab spent over 23 years on death row and still got executed in 2015. When I investigated his case, the only eye witness (...) clearly said that he never saw anything in Aftab





Bahadur's case and that he gave a false statement under the brutal torture of police. I got his statement signed and recorded on camera. (...)

The magistrate satisfied me that as soon as the news was aired he would be granted a stay of execution. (...) Unfortunately the news was never played and Aftab got executed. This incident broke me to the core but gave me more strength to fight against the death penalty. (...)

So working with the media on death penalty issue requires a strong strategy, power, strength and motivation when the whole world is against you. When I reached out to different organizations to hold protests after these executions, I was again blacked out and received life-threatening calls from some Taliban who advised me to stay quiet for some time.

Finally, there have been a number of cases which we were successful in getting the person out of death row even eight hours before the execution through the media. Media does play a vital role in death penalty related cases.

In the end, it is up to Pakistan's people to decide in which society they want to live in. I am very happy that I got the opportunity to participate in the World Congress Against Death Penalty to learn, make a network with other abolitionists and get more strength to campaign against the death penalty in Pakistan."





4 ADVOCATING FOR ABOLITION WITH PARLIAMENTARIANS AND THE EXECUTIVE

“As elected officials with legislative power, we have the power to protect the primacy of the law and human rights. Today, we are committed to continuing to use our position to put pressure for abolition of the death penalty with our government and with regional and international organisations.”

Ms Kasthuri Patto, Parliamentarian (Malaysia) –
on behalf of parliamentarians and the PGA – 23 June 2016, Oslo,
closing ceremony of the 6th World Congress Against the Death Penalty

Speakers

- **Marion Chahuneau**, Programme Officer, Parliamentarians for Global Action (PGA) – **Netherlands**
- **Nicolas Perron**, Programme Director, ECPM – **France**
- **Leonardo Tranggono**, Coordinator, Sant'Egidio – **Italy**
- **Altantuya Batdorj**, Executive Director, Amnesty International Mongolia – **Mongolia**

Moderator

- **Aurélie Plaçais**, Director, World Coalition Against the Death Penalty – **France**

In order to create a conducive environment for abolition of the death penalty, the abolitionist movement needs to develop strong advocacy strategies to reach out to parliamentarians and the executive. This workshop was about exchanging tools and best practices on how to lobby for abolition at national level with these key stakeholders. Advocacy with parliamentarians and the executive is not an easy exercise. In both cases, the crucial aim is to be able to reach parliamentarians or the executive to advocate for abolition of the death penalty and obtain the support of these two actors who are key to achieving abolition of the death penalty in retentionist countries. This dialogue must be done realistically, requesting a step-by-step approach to abolition. For example, a first step could be to abolish the mandatory death penalty for those countries practicing it, to reduce the field of application of capital punishment or to advocate the signing of a moratorium on executions.

Advocating with the executive

In December 2015, Mongolia adopted a new Criminal Code abolishing capital punishment. This was partly due to the advocacy carried out with the executive by Amnesty



Advocacy with
parliamentarians
can be performed
in two ways:
parliamentarian
to parliamentarian
(peer-to-peer)
and the creation
of parliamentarian
networks.



International Mongolia. The methodology used was to carry out an advocacy strategy on three complementary fronts⁹⁸:

- **With the Mongolian authorities**, by identifying the relevant figures from government such as the Justice and Foreign Affairs Ministers, the President and his team, as well as members of the working group on penal reform;
- **Raising awareness with various actors** (lawyers, law professors and students, civil society and the Mongolian public) particularly through training of lawyers and the media on the issue of the death penalty and international treaties; and
- **Mobilising the necessary resources** in order to reinforce the advocacy activities carried out with

the Mongolian authorities. In this instance: meetings with the President, public action (films, exhibitions) to which the President was invited, and the mobilisation of parliamentarians and ambassadors from the European Union who were invited to use their networks to put pressure on the Mongolian Executive.

The role of parliamentarians is an asset for advocacy with the executive and advocacy with parliamentarians themselves. In particular, advocacy with parliamentarians can be performed in two ways: parliamentarian to parliamentarian (peer-to-peer) and the creation of parliamentarian networks.

Advocating with parliamentarians using the peer-to-peer method⁹⁹.

The peer-to-peer advocacy technique creates commitment among parliamentarians, independent of their political identity, vis-à-vis the interested parties in support of their understanding of received ideas on the death penalty and its ineffectiveness in terms of justice and deterrence. This technique is widely used, particularly by Parliamentarians for Global Action (PGA).

By way of an example, PGA organised two parliamentary consultations in Malaysia in 2015 during which three ministers, including the Ministers for Justice and Tourism, publicly committed to abolishing the mandatory death penalty for drug-related crimes and introducing legal reforms in this regard.

Another advocacy method with parliamentarians is the creation of parliamentarian networks, such as the one initiated in Morocco by ECPM (Ensemble contre la peine de mort).¹⁰⁰ Thanks to the work of Moroccan civil society, in particular the Moroccan

98 Presentation by Altantuya Batdorj, Workshop: Advocating for abolition with parliamentarians and the executive, 6th World Congress Against the Death Penalty, 21-23 June 2016, Oslo, Norway, ECPM, available at: http://congres.abolition.fr/wp-content/uploads/2016/06/Batdorj_Advocating-with-the-Executive_230616.pdf

99 Extract from the presentation by Marion Chahuneau, Workshop: Advocating for abolition with parliamentarians and the executive, 6th World Congress Against the Death Penalty, 21-23 June 2016, Oslo, Norway, available at: http://congres.abolition.fr/wp-content/uploads/2016/06/Chahuneau_PGA_Campagne-pour-labolition_230616.pdf.

100 See in particular the 6-point process presented by ECPM and set out in the sidebar at the end of the article.





Coalition Against the Death Penalty, in partnership with ECPM, the Network of Moroccan Parliamentarians Against the Death Penalty¹⁰¹ was created within the Moroccan Parliament, bringing together 250 parliamentarians from the Chamber of Representatives and the Chamber of Councillors, from all political parties with the exception of the party currently in power, the Justice and Development Party. After the success of the creation of this network and the mobilisation of parliamentarians, which put abolition of the death penalty back at the heart of parliamentary debates, ECPM launched a number of similar initiatives in other countries, such as for example Lebanon, Tunisia and the Democratic Republic of Congo¹⁰².

RECOMMENDATIONS

ORGANISATIONS SPECIALISING IN ADVOCACY WITH PARLIAMENTARIANS AND THE EXECUTIVE:

- Create national and regional parliamentary networks;
- Train organisations from civil society to create advocacy strategies with parliamentarians and the executive;
- Identify key people able to act as representatives in parliament.

CIVIL SOCIETY ORGANISATIONS IN RETENTIONIST COUNTRIES:

- Organise workshops for the public to inform it about the national judicial system and the death penalty;
- Create national and regional coalitions against the death penalty in retentionist countries where they do not exist;
- Strengthen any networks created and initiate partnerships between networks at sub-regional level;
- Work with the media to inform the public about the reality of the death penalty and the necessity of abolition;
- Organise PR campaigns on the decisions taken by parliamentarians and the executive concerning abolition of the death penalty.

For more information

- Warburton, Francis H., *Les parlementaires et l'abolition de la peine de mort*, World Coalition Against the Death Penalty, 2014, available at: http://www.worldcoalition.org/media/resourcecenter/parlementaires_FR_en_ligne.pdf (in French)

¹⁰¹ For more information: ECPM, The Network of Moroccan Parliamentarians Against the Death Penalty is launched, 5 March 2013, available at: <http://www.abolition.fr/le-reseau-des-parlementaires-marocains-contre-la-peine-de-mort-est-lance> (in French)

¹⁰² In abolitionist countries, initiatives have also been developed, such as the set of research studies on universal abolition of the death penalty, created at the instigation of ECPM at the French National Assembly in April 2015 (http://www2.assemblee-nationale.fr/instances/fiche/OMC_PO711617), and the All Party Parliamentary Group on the Abolition of the Death Penalty in the United Kingdom (<http://appgdeathpenaltyabolition.uk/activities>).





- PGA and the World Coalition Against the Death Penalty, The Death Penalty and Terrorism: information sheet for parliamentarians, 2016, available at:
<http://www.worldcoalition.org/en/worldday.html>

See too the presentations of the speakers on the Congress website:

<http://congres.abolition.fr/>

- Marion Chahuneau, *Global platform of parliamentarians for abolition of the death penalty* (in French)
- Altantuya Batdorj, *Advocating with the Executive*

Establishment of a Network of National Parliamentarians Against the Death Penalty

6 Key Points

Presented by ECPM

Prerequisite: Existence of a dynamic and well-organised local civil society able to mobilise parliamentarians and carry out administrative duties.

Example: in Morocco, the Moroccan Coalition Against the Death Penalty mobilised parliamentarians and assisted them with organising the network.

1. Identify parliamentarians able to act as representatives within parliament

Identifying parliamentarians from different parties who have held senior posts within parliament would be ideal. These members must be able to mobilise parliamentarians from other parties and defend the main abolitionist arguments.

Example: in Morocco, the parliamentarians mobilised included Khadija Rouissi, Vice-President of the Chamber of Representatives, Nouzha Skalli, a former minister and the first MP to ask an oral question on the issue of the death penalty, and Mohamed Ameer, a former minister.

2. Launch the network at a large event organised in Parliament in partnership with abolitionist civil society.

Example: in Morocco, the Moroccan Coalition and abolitionist MPs organised the Network's constitutive general assembly on 26 February 2013 in Parliament, an event attended by nearly 150 parliamentarians.

3. Draft a system of governance able to ensure the sustainability of the network.

It is essential that the network's governance system respects parliament's internal regulations and also the fundamental principles of the network. It must provide for regular meetings to be held, an action plan to be drafted and individuals able to speak on behalf of the network to be elected.

Example: in Morocco, the Moroccan Network is organised around a Management



Team composed of eight people, including in particular a coordinator and a spokesperson. With the support of the Moroccan Coalition Against the Death Penalty, monthly meetings of the Management Team are organised in order to monitor action.

4. In partnership with civil society, draw up advocacy tools adapted to the local context. These tools will enable the network to reach different categories of actors such as members of government, the press and national human rights institutions.

Example: in Morocco, the Moroccan Coalition and parliamentarians drafted a number of brochures setting out the abolitionist argument adapted to Morocco.

5. Organise several working sessions open uniquely to parliamentarians in order to promote the network and spread the argument. These sessions attract new members from different political parties.

Example: In Morocco, the Moroccan Coalition and the network of parliamentarians organised several training sessions in Parliament aiming to set out the various tools created and the main areas of progress on the issue of the death penalty in the region.

6. Develop an action plan adapted to the local context. This might mean drawing up a calendar of oral questions, visits to death row, advocacy campaigns in support of international instruments or the presentation of a draft law.





IV THE TOOLS

What tools should be used to advocate for universal abolition of the death penalty? Workshops discussed some of them such as documentation and legal tools. Although the latter are already widely used by the abolitionist movement, better documentation of use of the death penalty appears necessary.

The cultural programme organised ahead of the Oslo Congress and on its fringe was also an opportunity to recall the role of art to advance abolition.



1 DOCUMENTING USE OF THE DEATH PENALTY

Documenting use of the death penalty is an essential part of advocating for abolition. This workshop presented tools on how you can collect reliable information in countries where it is not easily accessible. It also highlighted the importance of documentation through interviews with prisoners and their entourage in order to demonstrate the social and human aspects of this punishment, and open new fronts for discussion and advocacy.

Speakers

- **Delphine Lourtau**, Research Director, Death Penalty Worldwide, Cornell University Law School - **United States**
- **Sophie Fotiadi**, Founder of the website peinedemort.org - **France**
- **Amy Bergquist**, Staff Attorney, The Advocates for Human Rights - **United States**
- **Anup Surendranath**, Assistant Professor of Law and Director of the Centre on the Death Penalty, National Law University, Delhi - **India**

Moderator

- **Ariane Grésillon**, Deputy Director, ECPM - **France**

Today more than ever, information is an essential element in the struggle against the death penalty. In order to work towards its abolition, it is essential to possess credible and verified information which might, in particular, focus on the number of sentences, executions, conditions of detention and the impact of death sentences on prisoners' families and friends. This information is used to document various mediums such as campaigns for abolition of the death penalty, to strengthen advocacy with parliamentarians or the executive, and for the media and the wider public.

Information comes from a variety of sources – voluntary sector, legal, official or factual amongst others – which complement one another. This complementarity of sources means that more comprehensive information can be obtained and corroborated in order to verify it and measure its credibility.

The methods used to find and obtain information are varied and can, for the purposes of this article, be separated into two sub-groups:

- Information obtained on the ground, such as interviews with prisoners sentenced to death, their family and friends, lawyers or prison guards for example;
- Information obtained through documentary research, such as reports from specialised organisations, national institutions, the UN, judicial decisions, research, studies or press articles, to name but a few, which can be found in libraries, on the internet or by using social networks, specialised search engines or information bulletins, amongst



other things. Suggestions for where to find information were provided by Delphine Lourttau and Sophie Fotiadi (see the sidebar at the end of the article).

Access to information on the death penalty can prove to be particularly difficult in certain countries. Information can be non-existent in countries where the statistics on the death penalty are a State secret; in others, it exists but it is not easy to access. In India, for example, as Anup Surendranath, Director of the Death Penalty Centre, explained, there are no official figures on the number of prisoners sentenced to death. In order to obtain them, the Death Penalty Centre, which launched a research project in 2013 based on interviews with prisoners sentenced to death and their family and friends¹⁰³, had to develop three research strategies: with prisons, with the appeal courts and by using the Indian law on the right to information¹⁰⁴ in order to define the number of prisoners sentenced to death in India. This shows that even when information does not exist as such, a good research strategy can find it, even if more time and access to a greater number of sources are required. The principle always has to be respect for a certain number of rules, particularly verification of sources, respect for confidentiality, where applicable, and the security of the information and its source.

Once information has been collected, whatever the source, the first rule to respect is to verify the information and the source: assess their credibility and reliability, check that the author did not seek to give a particular slant to the information, check its topicality and, finally, ensure that complete information has been provided.

It is also essential to keep in mind issues surrounding ethics and security with regard to information. It is important to verify if information is confidential and, where applicable, establish with which audience, what the consequences are of divulging it, if it puts the source in danger, as well as any other ethical question which could be asked depending on the type of information. The answers to these questions will ensure safe and relevant use of the information by the user.

Rules relating to ethics and security are particularly relevant when it comes to interviews with prisoners sentenced to death, for example, where it is essential to follow strict rules to avoid the person interviewed being placed in danger and so as not to damage the credibility of the person/organisation carrying out the interview. For example, prison authorities could prevent meetings with a prisoner for an interview. In that case, the person carrying out the interview must convince the authorities to give him/her access to the prisoner without breaking the law and ensuring that the safety of the prisoner is not compromised. Several principles have been developed, particularly by the UN High Commissioner for Human Rights in 2001¹⁰⁵, to show how the human rights situation can be documented

103 Research project of the Death Penalty Centre (National Law University, Delhi, India) carried out between June 2013 and May 2016 with the aim of determining the socio-economic profile of prisoners on death row in India and their family and friends, and their experience with in the criminal justice system.

104 The Right to Information Act, 2005 no. 22 of 2005 aims to give Indian citizens access to information held by public authorities. For more information, see the website of the Right to Information Act: <http://rti.gov.in/webactrti.htm>.

105 These principles were explained in Chapter 5 of the *Training Manual on Human Rights Monitoring* (United Nations, 2001). This publication is currently being revised and is no longer available online. Chapter 7 of the revised manual covers the collection of information. It is available at: <http://www.ohchr.org/EN/PublicationsResources/Pages/MethodologicalMaterials.aspx>. Chapter 10 of the revised manual covering methods for verifying information gathered had not yet been published as of the date of publication of the these Reports.





ethically. The UN principles are used by numerous NGOs. The principles proposed by the NGO The Advocates for Human Rights at the workshop and set out in detail below allow for the collection of information in respect of precise rules in order to protect the user of the information, the source and the information itself:

Principles for monitoring the human rights situation¹⁰⁶

- Principle 1: Do not cause harm
- Principle 2: Respect your mandate
- Principle 3: Know the standards
- Principle 4: Keep a cool head
- Principle 5: Seek consultation
- Principle 6: Respect the authorities
- Principle 7: Credibility
- Principle 8: Transparency
- Principle 9: Confidentiality
- Principle 10: Security
- Principle 11: Understand the country
- Principle 12: Coherency, perseverance and patience
- Principle 13: Detail and precision
- Principle 14: Impartiality
- Principle 15: Sensitivity
- Principle 16: Integrity and professionalism
- Principle 17: Visibility

RECOMMENDATIONS

- Organise training on documentation of the death penalty with NGOs, mainly in countries where access to information is limited;
- Create national networks between various sources, particularly between lawyers, universities and researchers, to create a database for quick and comprehensive access to information about the death penalty;
- Create an international network for people carrying out research into the death penalty in order to support mutual assistance in the search for information;
- Carry out activities to raise awareness with retentionist States on the importance of publishing statistics and information about the death penalty;
- Establish internationally recognised principles on the definitions of retentionist, abolitionist and *de facto* abolitionist States in order to facilitate and homogenise documentation.

¹⁰⁶ The Advocates for Human Rights, Chapter 3, Monitoring in *A practitioner's guide to Human Rights monitoring, documenting, and advocacy*, January 2011, pages 15 – 17, available at: http://www.theadvocatesforhumanrights.org/uploads/practitioners_guide_final_report.pdf



For more information

- Death Penalty Centre, National Law University, Delhi: www.deathpenaltyindia.com
- ECPM, interactive map of the international status of the death penalty:
<http://www.abolition.fr/la-peine-de-mort-dans-le-monde/>
- Website peinedemort.org: <http://www.peinedemort.org>
- Website of Death Penalty Worldwide including in particular a database:
<https://www.deathpenaltyworldwide.org/search.cfm?language=fr>
- The Advocates for Human Rights, Chapter 3, Monitoring in A practitioner's guide to Human Rights monitoring, documenting, and advocacy, January 2011, pages 15 to 17, available at:
http://www.theadvocatesforhumanrights.org/uploads/practitioners_guide_final_report.pdf
- Events Standard Formats - A Tool for Documenting Human Rights Violations (HURIDOCs 2010). Available at:
http://www.huridocs.org/wp-content/uploads/2010/07/HURIDOCs_ESF_English1.pdf
- Death Penalty Information Centre - reports, thematic research, latest executions in the USA. Available at: <http://www.deathpenaltyinfo.org/>

List of Resources

I. INTERGOVERNMENTAL ORGANIZATIONS

Binding or not?

United Nations

- **Treaties: Texts, signatures and ratifications:** Treaty Collection
https://treaties.un.org/Pages/Home.aspx?clang=_fr
- **Reports of the Secretary General**
Quinquennial reports, Reports on the question of the death penalty, Reports on moratorium on the use of the death penalty. See an updated list:
<http://www.deathpenaltyworldwide.org/bibliography.cfm>
- **Treaty bodies**
National reports, alternative reports, Concluding Observations.
 - Universal Periodic Report
 - OHCHR: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>
 - UPR Info: <http://www.upr-info.org/en>
 - Human Rights Committee
 - Center for Civil and Political Rights: <http://ccprcentre.org/>
 - Committee on the Rights of the Child
 - Committee on the Elimination of Discrimination Against Women
- **Special procedures**
Reports, country visits, urgent appeals, communications
 - Special Rapporteur on extrajudicial, summary or arbitrary executions
<http://www.ohchr.org/FR/Issues/Executions/Pages/SRExecutionsIndex.aspx>





- Special Rapporteur on torture and other cruel, inhuman or degrading treatment
<http://www.ohchr.org/EN/Issues/Torture/SRTorture/Pages/SRTortureIndex.aspx>

- Press releases: <http://www.un.org/press/fr/content/press-release>
Country search: <http://www.ohchr.org/EN/>: Choose tab “Human Rights by Country”.

African Union – African Commission on Human and Peoples’ Rights

- Treaties in the African Charter system: <http://www.achpr.org/en/instruments/>
- Case law of the African Commission:
Communications, (<http://www.achpr.org/en/communications/>),
Periodic reports (<http://www.achpr.org/en/search/>)
- Press releases: <https://au.int/web/fr/happening>

Organization of American States – OAS:

Inter-American Commission on Human Rights

- Treaties: http://www.oas.org/en/sla/dil/inter_american_treaties.asp
- Case law of the Inter-American Commission on Human Rights:
http://www.oas.org/en/iachr/decisions/cases_reports.asp
- Reports: Annual reports, country reports, thematic reports, reports on petitions and cases:
<http://www.oas.org/en/iachr/>: Choose tab “Reports”.

Council of Europe and European Union

- Council of Europe
 - Treaties: <http://www.coe.int/en/web/conventions/home>
 - Case law of the European Court of Human Rights:
<http://www.echr.coe.int/Pages/home.aspx?p=caselaw&c=>
 - Press releases: <http://www.coe.int/en/web/portal/newsroom>
 - Parliamentary Assembly of the Council of Europe (press releases, reports, resolutions and recommendations): <http://www.assembly.coe.int/>
- European Union
 - European Parliament (reports, answers to written questions...):
<http://www.europarl.europa.eu/RegistreWeb/search/simpleSearchHome.htm>
 - European Commission (press releases):
<http://europa.eu/rapid/search.htm?locale=EN>

II. NATIONAL INSTITUTIONS

Control of information?

- Official documents: Ministry of justice, prison administration, etc.
- National human rights commissions
- Press releases or statements to the press





- **Court decisions**

- International and regional
 - Website of relevant court/body or international/regional organization
 - Death Penalty Project, Authorities Database:
<http://www.deathpenaltyproject.org/legalresources/authorities-database/>
- National
 - Website of national courts, Ministry of Justice
 - Preliminary research on GlobalLex, Foreign Law Research:
<http://www.nyulawglobal.org/globalex/index.html#>
 - WorldLII: <http://www.worldlii.org>

- **Domestic legislation**

Current?

- Constitutions. Constitute Project: <https://www.constituteproject.org>
- Website of Parliament, Ministry of Justice, law schools
- Databases: WorldLII: <http://www.worldlii.org>; Lexadin: <http://www.lexadin.nl/>
- Secondary sources: Death Penalty Worldwide: <http://www.deathpenaltyworldwide.org>

III. HUMAN RIGHTS NON-GOVERNMENTAL ORGANIZATIONS (NGOS)

Bias?

- **Reports, press releases and activities:**

- Amnesty International: Annual world report, thematic, country or regional reports, annual report on the death penalty, press releases
- Human Rights Watch: Annual world report, thematic, country or regional reports
- Hands Off Cain: media reports
- Fédération internationale des droits de l'Homme (International Federation of Human Rights)
- FIACAT
- Regional networks. Eg: ADPAN
- National NGOs. How to identify them? Eg: members of the World Coalition Against the Death Penalty, members of FIACAT
- National NGOs focused on research and data collection. Eg:
 - Japan: Innocence and Death Penalty Information Center <http://www.jiade.org>
 - India: National Law University Delhi, Center on the Death Penalty
<http://www.deathpenaltyindia.com/>
 - United States: Death Penalty Information Center <http://www.deathpenaltyinfo.org>



IV. EXPERTS

Scope of expertise? Bias?

- How to identify experts?
 - Members of the World Coalition (list and contact information on Death Penalty Worldwide)
 - Academics: books, journal articles
 - Media reports: names of lawyers, organizations, government officials
- Death penalty databases:
 - La peine de mort dans le monde. <http://www.peinedemort.org>
 - Death Penalty Worldwide. <http://www.deathpenaltyworldwide.org>
 - World Coalition Against the Death Penalty, Resource Center: <http://www.worldcoalition.org/resource-center.html>

V. MEDIA

Reliability?

- Articles
- News briefs
- Interviews (radio, press, TV).

VI. HOW TO ACCESS RESOURCES

- Internet
 - Social media: Facebook, Twitter, blogs (eg: <http://deathpenaltynews.blogspot.fr>), etc.
 - Search engines and databases, specialized search engines.
 - Electronic resources, free or subscription based
 - Subscription to specialized mailing lists or newsletters
- Libraries (paper or online research): affiliated with State, university, law school, court, Ministry of Justice
- Professional contacts

Compiled by Delphine Lourtou (Death Penalty Worldwide)
and Sophie Fotiadi (www.peinedemort.org)



2 NATIONAL PATHWAYS TO ABOLITION OF THE DEATH PENALTY

By

- **Delphine Lourtou**, Executive Director, Cornell Center on the Death Penalty Worldwide, Cornell University Law School – **United States**
- **Sandra Babcock**, Clinical Professor of Law, Faculty Director, Cornell Center on the Death Penalty Worldwide, Cornell University Law School – **United States**

The Cornell Center on the Death Penalty Worldwide recently published its research on “Pathways to Abolition of the Death Penalty,”¹⁰⁷ a comparative study of the factors leading states to repeal capital punishment. Expanding upon the 2013 report of the International Commission Against the Death Penalty (ICDP),¹⁰⁸ the study covers 15 new jurisdictions across a range of geographical regions and periods¹⁰⁹ with an emphasis on the most recent abolition success stories. **The goal of this publication is to share strategies and experiences to illuminate the work of groups currently working towards abolition.**

Examining the impact of both state and non-state actors on the abolition process, the study concluded that, especially in recent times, lawmakers played a critical role. In two-thirds of the case studies, abolition took the form of a parliamentary vote.¹¹⁰ Moreover, almost every abolition process after 2000 was spearheaded by parliamentarians. Human rights non-governmental organisations (NGOs) also participated actively in every abolition process studied after 2000. Two other groups contributed in less measurable but equally significant ways. The first, composed of stakeholders in the criminal justice system (judges, legal professionals, prison administration officials) were key to developing a human rights culture. Judicial decisions, for instance, prepare reform by narrowing allowable death penalty practices in light of constitutional and international norms. The other group, which includes journalists, academics, artists, and some wrongfully convicted individuals, laid the groundwork for abolition by debunking myths (such as deterrence) and relaying

107 The report can be found online at: www.deathpenaltyworldwide.org/pdf/Pathways%20to%20Abolition%20Death%20Penalty%20Worldwide%202016-07%20FINAL.pdf. A French version will be made available in 2017.

108 International Commission Against the Death Penalty, *How States Abolish the Death Penalty*, 2013 : <http://www.icomdp.org/cms/wp-content/uploads/2013/04/Report-How-States-abolition-the-death-penalty.pdf>

109 The report considers abolition in Benin, Burundi, Canada, Republic of Congo, Côte d'Ivoire, Djibouti, Fiji, Germany (East and West), Latvia, Madagascar, Maryland, Nepal, Suriname and Venezuela. It strove for diversity on several axes in order to look for meaningful similarities and patterns. Geographically, it covers a wide range of regions, legal systems, and cultural approaches to capital punishment. In terms of the historical context, it includes a broad range of eras from the 19th century to the present day with an emphasis more recent abolitions, including the five states that abolished in 2015.

110 In Suriname, one lawmaker mobilized and led a group of MPs to a unanimous abolition vote. In Madagascar, the country's first private member's bill abolished capital punishment. Campaigns targeting parliamentarians for one-on-one meetings in the run-up to abolition votes proved effective in Benin and Canada.





Popular support
for capital
punishment did
not generally
derail abolition
efforts.



accurate information on capital punishment. Reporting on wrongful capital convictions, in particular, offered powerful arguments in death penalty debates.

Popular support for capital punishment did not generally derail abolition efforts. While reliable public opinion polls were often lacking, in-country experts frequently described their understanding that abolition was achieved despite the public's preferences. In many states, politicians acted as trailblazers. No unrest, how-

ever, followed any abolition announcement in our study, and no political careers were damaged by abolitionist activity. In several countries, public support for capital punishment slowly dwindled after, and possibly as a result of, abolition.

The study also considered the debated issue of whether moratoriums hasten abolition or delay it.¹¹¹ Supporters of moratoriums argue that execution-free periods allow states to experiment with the reality of abolition while weakening the perception that capital punishment is a necessary component of criminal justice. Others believe moratoriums delay abolition by anchoring a status quo that appears to meet international human rights standards without engaging with abolition. This study suggests that legislated moratoriums can be effective precursors to abolition, especially in conjunction with empirical analysis on its impact on criminal justice.¹¹² Gradual decreases in the use or scope of capital punishment played similar roles.¹¹³ Examining recent abolitions that followed long moratoriums¹¹⁴ (cases embodying the idea that moratoriums delay abolition), **the report concluded that three current developments favor abolition in long-standing *de facto* abolitionist states:**

- First, international human rights review procedures provide sustained encouragement to take the final step towards abolition.¹¹⁵
- Second, international abolition treaties offer a new pathway to abolition, connecting a stalled national abolition process with the momentum of the global trend towards abolition.¹¹⁶

111 Among the cases studies, the delay between the state's last execution and abolition varied widely, from very long moratoriums (87 years in Suriname, 54 years in Madagascar, 49 years in Fiji), to long moratoriums (25 years in Benin, 16 years in Latvia, 12 years in Burundi), and no moratoriums (West Germany and Venezuela abolished the same year they carried out their last execution).

112 In Canada and Nepal, legislated suspensions of capital punishment were implemented specifically to assess the effect of abolition on the incidence of serious crime. In both cases, the evidence showed that violent crime did not increase, and legal abolition soon followed.

113 Fiji and Canada incrementally reduced the types of ordinary crimes punishable by death until only capital murder was left at the time of final abolition. Fiji also abandoned mandatory capital punishment and instead granted courts the discretion to impose lighter sentences. The Maryland legislature limited eligibility for capital punishment to cases involving certain types of evidence (biological and video evidence) deemed less likely to result in judicial error.

114 Suriname, Madagascar and Fiji all abolished the death penalty in 2015 after 87 years, 54 years, and 49 years respectively without executions.

115 Fiji's first two Universal Periodic Reviews provided an opportunity for the country to realize that it retained the military death penalty in its laws, although it had fallen into disuse and was forgotten by political. One former judge we spoke to, a human rights expert, had not until then been aware of its retention.

116 See e.g.: Benin's abolition law did not amend the Penal Code, which is undergoing a lengthy reform, but authorized the country to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights.





- Finally, national abolition processes benefit from unprecedented levels of material and technical support by international and local organizations.¹¹⁷

The research therefore suggests that recent successful strategies rely on a combination of restricting / suspending the death penalty, engaging parliamentary allies, making use of advocacy opportunities provided by human rights bodies' prioritization of abolition, and harnessing the momentum of the global movement towards abolition.

RECOMMENDATIONS

- Campaign for a moratorium on restriction of the scope of capital punishment, especially to study the moratorium's impact on criminal justice.
- Develop parliamentary support for abolition, particularly by engaging in evidence-based, one-on-one advocacy on death penalty issues.
- Promote the study and dissemination of accurate information on capital punishment, particularly the lack of a proven deterrent effect and the inevitability of wrongful capital convictions.
- Bring death penalty practices to the attention of regional and international human rights bodies.
- Promote the study and circulation of precise information on capital punishment, particularly the absence of a proven dissuasive effect and the inevitability of death sentences for innocent people;
- Bring death penalty practices to the attention of regional and international bodies.

¹¹⁷ Execution-free periods are not, however, essential to abolition, especially in the context of momentous political transformation. West Germany abolished the death penalty to mark a radical break with its Nazi past; Venezuela abolished in the aftermath of the country's bloodiest civil war and after decades of summary executions of political opponents.





3 LEGAL TOOLS TO MOVE TOWARDS ABOLITION OF THE DEATH PENALTY

WORKSHOP DEVELOPING LEGAL STRATEGIES TO MOVE TOWARDS ABOLITION OF THE DEATH PENALTY

Speakers

- **Tendai Biti**, Lawyer and former Finance Minister - **Zimbabwe**
- **Nedra Ben Hamida**, Lawyer - **Tunisia**

Moderator

- **Mariana Nogales Molinelli**, Attorney at Law, Secretary of the Greater Caribbean for Life - **Puerto Rico**

WORKSHOP EFFECTIVE LEGAL REPRESENTATION FOR PEOPLE FACING THE DEATH PENALTY

Speakers

- **Julian McMahon**, Barrister and President of Reprieve - **Australia**
- **Rafic Zakharia**, Lawyer - LACR - **Lebanon**

Moderator

- **Richard Sédillot**, Lawyer, ECPM board member - **France**

By sharing their experiences at the two workshops, four lawyers specialising in civil and Common Law demonstrated the major role of jurists in abolition of the death penalty. The representation of someone facing capital punishment largely rests on the creation of a good legal strategy. When this legal strategy bears fruit and prevents a death sentence, it can also lead to a reassessment of the death penalty nationally and even regionally.

Over the course of these two workshops, numerous strategies were discussed, among them use of internal law and international law, the theory of “death row syndrome” and a reassessment of the responsibility of the accused.

Tendai Biti, a Zimbabwean lawyer, recommended use of internal law above all. Use of the constitution, for example, can be a good strategy. It generally includes the right to life and the right to a fair trial. It also protects people from any form of discrimination and often prohibits torture and cruel, inhuman or degrading treatment. Such constitutional provisions can also be used to denounce the unconstitutional nature of the death penalty,



mandatory application of the death penalty and long waits on death row. The decision of the Ugandan Constitutional Court in the case of Susan Kigula and 416 others vs. the Attorney General has become an example in this respect. The judges declared that mandatory application of the death penalty was unconstitutional because it is discriminatory and violated the right to a fair trial¹¹⁸ as the compulsory aspect of the sentence prevented the judge from taking into account attenuating circumstances. They established that, although the death penalty itself did not constitute cruel, inhuman and degrading treatment, the 3-year timeframe for execution did.

This legal strategy, denouncing a long wait on death row after sentencing before execution, is also known as “death row syndrome”¹¹⁹. This expression is reputed to have been used for the first time¹²⁰ in a decision by the European Court of Human Rights (ECHR) in the case of Soering vs. United Kingdom in 1989¹²¹.

On that occasion, the European Court had refused the extradition of Jens Soering to the United States, considering that there was a very strong probability that he would be sentenced to capital punishment and that, given the complex procedures following a death sentence in Virginia, the particularly harsh prison conditions and the tension experienced while awaiting execution would engender “death row syndrome”, a cruel, inhuman and degrading treatment¹²².

The Privy Council¹²³ took up the theory of “death row syndrome” in the case of Pratt vs. the Public Prosecutor of Jamaica, a decision handed down on 2 November 1993, citing that, although various submissions enabled the prisoner to appeal the decision, he was not responsible for the length of the procedures which are established by the State. Consequently, the wait on death row imposed on the prisoner, which exceeded a certain number of years, in this instance at least 5 years, could be labelled cruel, inhuman and degrading treatment. Although this theory did not bear fruit in the United States (even though it has been mentioned by the Supreme Court judges in dissenting opinions),¹²⁴ it has prospered in Jamaica¹²⁵ and Canada where it is used within the framework of extradition hearings¹²⁶.

The use of sources from international law is a strategy which has also often proved to be useful. The Law of Treaties¹²⁷, is applied when States are signatories to the relevant

118 Uganda, Constitutional Court, *Susan Kigula and 416 others vs. the Attorney General*, pages 29-30, Constitutional Request No. 69 of 2003, 10 June 2005, available at: <http://www.ulli.org/ug/judgment/constitutional-court/2005/8/>

119 Amnesty International Canada francophone, *La santé mentale relativement à l'application de la peine de mort*, available at: <http://amnistiepdcm.org/santeacute-mentale.html> (in French)

120 Death Penalty Information Center, *Time on death row*, available at: <http://www.deathpenaltyinfo.org/time-death-row>

121 European Court of Human Rights, *Soering vs.. United Kingdom*, 11 EUR. HUM. RTS. REP. 439 (1989)

122 Ibid.

123 Jurisdiction of last resort for overseas territories of the United Kingdom and dependencies of the crown.

124 See in particular the United States, Supreme Court, *Knight vs. Florida*, 120 S. Ct. 459 (1999), dissenting opinion of Judge Breyer

125 Zimbabwe, Supreme Court, *Catholic Commission for Justice and Peace in Zimbabwe v Attorney-General and Others* (2001) AHRLR 248 (1993)

126 See in particular Canada, Supreme Court - *Minister of Justice vs. Burns and Rafay*, 2001 SCC 7, paragraph 122

127 The Law of Treaties is governed by the Vienna Convention on the Law of Treaties, dating from 23 May 1969, which codifies legal treaties and international relations between States, available at: <https://treaties.un.org/doc/Publication/UNTS/Volume%201155/volume-1155-I-18232-English.pdf>.





The use of
sources from
international law
is a strategy
which has also
often proved
to be useful.



international treaties such as for example the International Covenant on Civil and Political Rights (ICCPR), the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming to abolish the death penalty, and the Vienna Convention on Consular Relations.

For countries which have not ratified the Second Optional Protocol, the ICCPR can be applied, particularly Article 6, paragraph 2, on the right to life, according to which “in countries which have not abolished

the death penalty, sentence of death may be imposed only for the most serious crimes.” This notion of the “most serious crimes” was used in the 1984 safeguards to protect the rights of people facing the death penalty which defines them as intentional crimes with mortal or extremely serious consequences¹²⁸.

In India for example, since the decision in the case of Bachan Singh vs. the State of Punjab in 1980, the Supreme Court has applied a principle according to which the death penalty should only be applied in cases of extreme rarity (the ‘rarest of rare principle’) when “an alternative option is incontestably excluded.”¹²⁹ The same Court clarified this principle in a decision in 1983¹³⁰, indicating that the death penalty should only be applied in the most serious cases of extreme guilt¹³¹. The criteria for the “most serious crimes” can therefore be used as a legal strategy to avoid a sentence. However, as no threshold has been defined to frame “the most serious” crimes, the success of this legal strategy is subject to the discretion of the national judge who will consider, arbitrarily, if the threshold has been reached or not.

A clear, objective and internationally recognised definition could lead to a reduction in the scope of application of the death penalty in a number of countries and, consequently, represent another step towards universal abolition of the death penalty. For example, this definition could be adopted through an additional resolution to the safeguards for the protection of the rights of those facing the death penalty adopted by the UN General Assembly. That said, and as Julian McMahon, a lawyer and President of Reprieve Australia, recalled, some international provisions codified in treaties can also be applied by virtue of ordinary international law. It is therefore advised that all the strategies on offer be tried.

The lawyers attending the workshop also shared legal strategies for when the person charged is overseas. In particular, Ms Nedra Ben Hamida, a Tunisian lawyer, shared the strategy used for the defence of the Mauritanian national, Mohamed Cheikh Ould Mohamed, sentenced to death in Mauritania for apostasy¹³². It is interesting to see in this

128 UN Economic and Social Council, *Safeguards guaranteeing the protection of the rights of those facing the death penalty*, Resolution 1984/50 adopted on 24 May 1984, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/DeathPenalty.aspx>.

129 India, Supreme Court, *Bachan Singh vs. State of Punjab*, 9 May 1980, paragraph 207.

130 India, Supreme Court, *Machhi Singh vs. State of Punjab*, 20 July 1983, paragraph 1.1

131 Death Penalty Worldwide, *Most Serious Crimes*. In *Death Penalty Worldwide*, available at: <http://www.deathpenaltyworldwide.org/most-serious-crimes.cfm>

132 At the time of the 6th World Congress Against the Death Penalty, the Mauritanian Supreme Court had not yet handed down its decision concerning the fate of Mohamed Cheikh Ould Mohamed.





specific case that the legal strategy can rest in part on the understanding of the society where the alleged crime has taken place, as well as on the psychology of the judges. This can determine the most relevant legal strategy. International law can be an option, positioning oneself for example on the defence of particular rights such as freedom of expression and freedom of opinion and conviction. However, the defence actually opted for a strategy based on the internal law of the country, particularly appealing to the religion, repentance and lack of criminal intention of the accused, a strategy which would have a faster impact on the judges and Mauritanian society given the urgent nature of the case. Finally, as Rafik Zakharia, a Lebanese lawyer, clarified, it is relevant to reassess the responsibility of the accused by highlighting any attenuating circumstances surrounding the crime committed. It is also important to consider the age and mental health of the accused. People who are under 18 at the time of the crime or those suffering from a mental illness are protected by safeguards for the protection of the rights of those facing the death penalty, prohibiting application of the death penalty for people suffering from a mental illness¹³³.

In Lebanon, for example, proven insanity at the time of committing the alleged crime can exclude criminal responsibility. It is therefore essential to demonstrate the mental illness or age of the person accused, where applicable, to avoid a death sentence. In practice, proving the mental health of the accused is not always self-evident due, in particular, to the lack of a correct diagnosis¹³⁴ or the lack of consideration by the court of the information proving the mental illness. Determining age can also be difficult when the accused does not have either a birth certificate or any other information proving his/her age¹³⁵.

It is important to bear in mind that, although these strategies are effective in some cases, that is not so on every occasion. Death Row Syndrome is not necessarily taken into account and the same is true for application of international texts or recognition of mental illness in the accused.

Moreover, the death penalty is discriminatory in that very often people charged with a crime subject to capital punishment and sentenced to death have very low incomes. Very often, they find themselves unable to obtain the services of an experienced lawyer and are therefore defended by young court-appointed lawyers whose lack of experience might not help the prisoner.

In the light of this injustice and the need to work on legal strategies to save prisoners and move towards abolition of the death penalty, it was decided during the workshop on “Legal representation of people facing the death penalty” to create an international network of lawyers specialising in the death penalty, providing global mutual assistance and offering support to the youngest of them as well. This network would work for more effective defence and progress towards universal abolition of the death penalty.

133 As was set out in more detail at the roundtable “Protection from the death penalty for people suffering from mental disorders: legal, social and medical perspectives” – see the article in the Reports.

134 See the United States Court of Appeal, *Arboleda A. Ortiz, Movant–Appellant, vs. United States of America*, 19 December 2011.

135 Tanzania, Court of Appeal, *Emmanuel Kibona and Others Vs. Republic (1995) 241*. In this instance, the Court of Appeal had rejected a decision by the High Court which had judged the three accused as adults following erroneous medical examinations, even though other information proving that they were juveniles had been provided.





RECOMMENDATIONS

- Advocate for an objective and internationally recognised definition of “the most serious crimes”;
 - Create an international network of lawyers specialising in the death penalty; create a circulation list and an online platform for exchange;
 - Create regional training sessions for young lawyers on the defence of prisoners sentenced to death in English, French and Arabic.
-
- For lawyers seeking training, the Center on the Death Penalty Worldwide at Cornell University is now organising summer training sessions on capital trials within the framework of its training institute – the Makwayane Institute, named in honour of the historic decision of the Constitutional Court of South Africa which abolished the death penalty – from June 2017. For more information, please contact info@deathpenaltyworldwide.org.

For more information:

- Death Penalty Worldwide, The Defence of Prisoners Sentenced to Death: Guide to good practice for use by lawyers, April 2013, available at:
http://www.worldcoalition.org/media/resourcecenter/FR_Death_Penalty_Manual-05_06_13.pdf (in French);
- Website of Death Penalty Worldwide on issues surrounding international law and particularly death row syndrome and the most serious crimes:
<https://www.deathpenaltyworldwide.org/issues.cfm?language=en>
- Human Rights Advocates, Death Row Phenomenon Violates Human Rights, 2012, available at:
<http://www.humanrightsadvocates.org/wp-content/uploads/2010/05/Death-Row-Phenomenon-2012.pdf>
- See too the presentation of Ms Nedra Ben Hamida on the strategies used in the case of Mohamed Cheikh Ould Mohamed: <http://congres.abolition.fr>



4 ART AT THE SERVICE OF ABOLITION

A rich and varied cultural programme was organised ahead of the Congress and on the fringes of the debates. It was an opportunity to recall that art can also be a tool at the service of abolition.

Will Francome, documentary filmmaker behind the feature documentary *In Prison My Whole Life*, the documentary series *One For Ten*, shared his impressions.¹³⁶

The role of story: The media and the death penalty.

Storytelling has the power to capture imaginations and reach people in a way that opens them up to questioning, learning and ultimately making change. Go out and think about what stories you can tell, whether in the media or in person, but try to make it a good one.

As people who are currently reading this article, you are likely working towards the abolition of the death penalty in some capacity. You are involved in a community that is working to that end and you are arming yourself with as many tools as possible. You may be fighting legal battles, lobbying politicians, communicating with the public or engaging in a multitude of other ways to help bring an end to the death penalty worldwide. As a documentary filmmaker, the death penalty in the United States has been the focus of three separate projects over the years. I would like to take some time to consider the role of a story well told in helping you achieve those ends, and how the media may be engaged in certain ways to help you to do that.

I was lucky enough to be a part of the cultural program of the 6th World Congress against the Death Penalty in Oslo earlier this year. I was able to show a rough cut of my new feature-length documentary on the US death penalty, but also to host an evening with survivors and witnesses to the death penalty. These were only 2 events of a packed cultural program of films, art and music that reflected on the death penalty. The quality of what was on show was brilliant and for me the highlight was hearing the personal stories of those who have been affected from all around the world, a truly touching experience. It is in these different ways of telling stories that I want to try to reflect on how best they can be used to try and bring about some substantial change.

We find ourselves in a particularly interesting time in the media. True crime is having a bumper period of popularity, with the podcast *Serial* and the Netflix series *Making a*

¹³⁶ He is currently finishing a feature-length documentary, *The Penalty*. He can be reached at will@reelnice.co.uk





It is in this boom
in true crime
that we have the
opportunity to
get the stories
of injustice in our
criminal justice
systems out in to
the world in a way
that connects
with audiences as
much as possible.



Murderer being the stand out successes. Suddenly the public are willing to take on long form, serialised and very complex stories of criminal justice in a way that the traditional media outlets never thought they would be interested in. 5 years ago, no TV commissioner would have taken Making A Murderer and it was the success of the Serial podcast that led the way. Now every media outlet is trying to find their own version of this success: just last week Netflix released the Amanda Knox film while MTV wrapped a series looking to exonerate inmates, and even People Magazine is launching its own investigative series. It is in this boom in true crime that we have the opportunity to get the stories of injustice in our criminal justice systems out in to the world in a way that connects with audiences as much as possible.

In the world of documentary, whether it is TV, film

or radio/podcasts there is currently a backlash against the storytelling that explains the world through facts and figures. There's the belief that these types of films don't connect to an audience in the same way. I think that understanding this difference is important for those of us that are wanting to use the media to help make a difference.

SPOILER ALERT FOR THE NETFLIX SERIES MAKING A MURDERER

Take for example false confessions. I made a short film in which we say that 25 percent of people exonerated by DNA have falsely confessed, it's an incredible fact. I think that people who watched the film will have been shocked by the statistic, but I don't believe their understanding of that statistic is as great as if they had 'felt' it happen and that is where good story telling comes in. In the Netflix series Making A Murderer, we watch the police interrogation of a young man with a low IQ as he is eventually pressured into confessing to a murder. The confession is incredibly uncomfortable to watch as the police plant bits of information for him and guide him through the confession and he is clearly guessing at the bits of information that he needs to give them. The audience have SEEN the process happen and FELT its reality, they no longer need to be told that someone might confess to something they didn't do, it's a reality that has unfolded in front of them. The series could have had 10 different experts talking about how much this happens, The Reid Technique or the Supreme Courts assertion that it's ok to lie to prisoners, and I don't think that it would have had the same impact as the audience seeing it unfold. The reason is that we're completely compelled by the story, we can't look away at what is happening to him and we are totally pulled in by his experience. The directors of Making A Murderer intercut interviews with the lawyers giving some background information to give context to the story: to me this is a perfect example of how the media can be extremely effective when trying to inspire change.





Media such as *Making a Murderer* or *Serial* would never have been as popular if it weren't for the strength of their characters and their ability to pull you in through the intimate, and personal. Through individual experience, we can tell a much larger story. Both of those series include larger facts and put the story in context, but only once they have made the audience willing to listen because they cared about the smaller story. This is the holy grail of media when trying to use it to affect change, if we don't focus on what the audience can connect with, we can't expect them to be open to the bigger story.

Everyone has a story to tell: whether it's lawyers, their clients, the families of the victims or the perpetrators, the executioners, the politicians, the public. In these experiences lie the truth of the death penalty and its effect on the world, and if we can connect people to that truth, then they will be willing to think about how it could change.





5 THE CULTURAL PROGRAMME OF THE CONGRESS

SCREENINGS

— *Last Day of Freedom* by **Dee Hibbert-Jones** and **Nomi Talisman**

Nominee, Best Short Documentary Subject, The 88th Academy Awards, 2016. When Bill Babbitt realizes his brother Manny has committed a crime, he agonizes over his decision- should he call the police? *Last Day of Freedom*, a richly animated personal narrative, tells the story of Bill's decision to stand by his brother in the face of war, crime and capital punishment. The film is a portrait of a man at the nexus of the most pressing social issues of our day – veterans' care, mental health access and criminal justice. Original music by Fred Fritha.

— *Bloodsworth. An Innocent Man* by **Gregory Bayne**

Documentary memoir recounting Kirk Noble Bloodsworth's remarkable journey through the criminal justice system. Kirk is an innocent man, convicted and sentenced to death for a crime he did not commit. He became the first death row inmate exonerated by DNA evidence in the United States. Set against the backdrop of his 2013 battle for the repeal of the death penalty in the State that sentenced him to death, *BLOODSWORTH – An Innocent Man* offers an intimate glimpse into what it is to wake up to a living nightmare; an innocent man caught in the perfect storm of injustice.

— *The Wavering Public? The Death Penalty, Justice, and Public Opinion* by **Yo Nagatsuka**

The Wavering Public? The Death Penalty, Justice and Public Opinion provides a rare insight into public perceptions of this controversial topic in Japan. 135 ordinary citizens gather for two days in one room where they listen, discuss, and deliberate on crime and punishment. The film explores what the death penalty means to ordinary citizens living in a retentionist state – one in which much of the practice surrounding the death penalty remains secretive and discreet. The project and the documentary was led by Dr Mai Sato (Lecturer, University of Reading, UK) and made possible by grants from the United Kingdom Foreign and Commonwealth Office, the German Federal Foreign Office, the Norwegian Foreign Office, the Swiss Federal Department of Foreign Affairs, the European Commission and the Daiwa Anglo-Japanese Foundation. **A debate with Dr Mai Sato followed the screening**

— *The Penalty* by **Will Francome** and **Mark Pizzey**

From the team behind *One For Ten* comes a feature documentary to lift the lid on the human cost of the death penalty in the United States. *The Penalty* follows three people caught in the crosshairs of capital punishment, and the political landscape that could



decide their fate. Going behind the scenes of some of the biggest headlines in the history of America's death penalty, the film follows the lethal injection protocol crisis that resulted in a botched execution, the rehabilitation of a man who spent 15 years on death row for a crime he didn't commit, and the family of a young woman – brutally murdered – split by the state's pursuit of the ultimate punishment.

PERFORMANCE

— « Final Sentence 2003-2016 » by **Michael O'Donnell**,
music from **Luigi Dallapiccola**, « Ciaccona », *Intermezzo e Adagio for cello solo* (1945)
performed by **Jan Koop**

Michael O'Donnell is associated with a generation of British sculptors who, in the 80s, established a new approach to the medium of sculpture. He is currently Professor and formerly Dean of the Academy of Fine Art in Oslo. His work, *FINAL SENTENCE 2003-16*, is a memorial based on the final words of death row inmates in Texas, right before their execution.

EXHIBITIONS

— Windows on Death Row, Art From Inside and Outside the Prison Walls
Windows on Death Row is a unique collaborative exhibition, produced by cartoonists and death row prisoners. It was created by journalist **Anne-Frédérique Widmann** and editorial cartoonist **Patrick Chappatte**, with Los Angeles curator Anne Hromadka and the help of the Swiss Federal Department of Foreign Affairs.

— Cartoons Against the Death Penalty by **Mana Neyestani**
Mana Neyestani is an Iranian cartoonist. He was imprisoned in 2006 following the publication of one of his cartoons. Released on bail, he left Iran with his wife and now lives in Paris. Mana is a former guest author of ICORN (International Cities of Refuge Network). He currently works for several Iranian websites such as Rooz Online, Mardomak and Radio Zamaneh.





V

FACING THE CHALLENGE OF ALTERNATIVES TO THE DEATH PENALTY

This roundtable attempted to answer the following question: what are the alternatives to the death penalty? The issue of alternative sentences was raised but the debate went further, proposing that the abolitionist movement reflect on other models of justice which retentionist States could consider to replace the death penalty.

Speakers

- **Ajit Prakash Shah**, Former Chairperson of Law Commission of India - **India**
- **William A. Schabas**, Professor of International Law, Middlesex University - **United Kingdom**
- **Sumeet Verma**, Advocate at the Supreme Court of India and the Delhi High Court – **India**
- **George F. Kain**, Police Commissioner, Ridgefield, Connecticut; Professor of Justice and Law Administration, Western Connecticut State University - **United States**
- **James Scott**, Founding Coordinator of the Collaborative Justice Project at the Ottawa Courthouse - **Canada**

Moderator

- **Andrea Huber**, Policy Director, Penal Reform International – **United Kingdom**



James Scott, Founding Coordinator of the Collaborative Justice Project at the Ottawa Courthouse returns to one of these models: **restorative justice**.

What led you to work on the death penalty?

It all began in 1985 for me. The Canadian Government of the time wanted to return to the death penalty which had been abolished in 1976. I acted as Project Director on a campaign to influence the debate. For two years, we worked on educating the public, lobbying MPs, involving churches, NGOs, etc. Any organisation interested in issues related to justice. In the end, and despite the hard line of that Government, we won. The vote on 8 June 1987 ended that attempt to re-establish the death penalty. After that, I began to be interested in restorative justice.

Can you explain what restorative justice is?

I was invited to the World Congress to talk about alternatives to the death penalty. You can't really say that restorative justice is an alternative to the death penalty because it can't replace that punishment. However, the death penalty incarnates an extreme example of a punishment applied by a punitive justice system. A system in which one creates suffering, in which one ends a life in response to a crime committed. Now, even in abolitionist countries the logic behind the justice system remains the same: dedicating most of its energy to catching, sentencing and punishing the guilty. It is an inefficient system insofar as it is not really dissuasive; it doesn't allow the people sentenced to be rehabilitated; it doesn't take into account the other people affected by the crime. Punitive justice is sort of one dimensional in the way it works. Why do we render justice in this way? That is the question which is the starting point for any consideration of another kind of justice. Today, we know more than ever before about the causes of crimes: alcohol, drugs, mental illness, misery, racism, etc. We understand a lot more than a couple of centuries ago when the current justice system was created. Globally, our idea is to put forward a justice system which would carry out more complex analyses and which would include all the people who have been affected by the crime.

So, the idea would be to give more space to the victims?

To the victims yes, but also to communities. In its simplest form, punitive justice sees a crime as a violation of the law. You break the law so you must pay. Restorative justice considers a crime as a wrong committed. Someone has suffered prejudice. Of course, it is also a breach of the law but that is not the heart of it; that is not the only important element. The most important thing is that people have been affected - the victims of course, but also the families of the victims, the neighbours, the community and even the family of the accused. It is a much more holistic approach. So the central question is no longer "what punishment for the accused?" but "what wrongs have been committed and how can they be repaired?" By asking these questions, restorative justice can restore broken relationships.

Relations between the guilty party and the victim?

Even in the case of someone who burgles the house of someone they don't know, a relationship is created. And generally speaking, we are all connected because we try to live



together as a community. In the burglary example, something is broken in the community. The neighbours of the victims can be frightened, the people who have been victims directly, even if they had good insurance, can be afraid of living at home or going out... There are all kinds of wrongs which the current system does not take into account at all. We suggest a healthier and more comprehensive answer which takes into account all the parties and which holds the accused responsible but not only through punishment. Of course, there can be a punishment, incarceration etc. but there must also be efforts for restoration: what can the accused do to make things better? To repair the wrongs committed? To reassure the community that he will no longer be a danger in the future?

Is there not a risk that the victims and the community demand the death penalty?

It is true that, whatever the country or the culture, victims are inclined to want the other party to suffer. Not all, of course. But sometimes, victims can have a hard line and say "I want this person to suffer because I have suffered, because my child has suffered", etc. And we understand that. But it is also because victims find themselves in a system which only proposes that solution...In Canada, victims can only make a victim impact statement to allow the judge to see how much they have suffered, how it has had an impact on their lives. But, they do not say anything about the punishment because that is seen as inappropriate. "They can't be objective" right? In the current system, only the State can decide who is objective and appropriate.

I personally am working on two projects. One of them tackles the period prior to sentencing. We establish a dialogue between the accused and the victim, if both parties are favourable. After the meetings, the actors can draw up a resolution plan which will be submitted to the judge. And very often, I have seen that, if the victims see that the accused really is remorseful and really wants to assume his or her responsibilities, they are less interested in imprisonment - and more interested in the fact that the accused can make up for his or her act, sort things out, either concretely, for example financially, or symbolically...or the victim is interested in the fact that the accused is making an effort to stop the crime happening again by trying to get help for example. If the victims see that the accused is remorseful and he or she wants to make up for their actions, they are less interested in the number of years they will spend in prison - because these things are more important to them. In the current system, where these things are not suggested to the victims, the victim can only measure how much society is taking their pain seriously according to the number of years in prison the person must serve. But this is not constructive if they have other possibilities. Many people would choose other options if they had the choice.

Where is this applied currently?

In Canada, we still have a punitive justice system, although we have abolished the death penalty. However, there are discussions underway, as well as several pilot projects which are trying to demonstrate that a new approach is possible. I have talked about my "pre-sentencing" experiment which is applied at the Ottawa Court. Some people find this project indulgent towards the guilty but that is not my position. For the accused, it is very hard to face the victims, to take direct responsibility for one's actions. In a way, it is





easier to stay in prison, claiming to be innocent. The punishments are possibly lighter but the responsibilities are taken more seriously. Above all, there is more satisfaction for the victims because they have played a role in the process. Someone has taken their pain seriously; someone has taken responsibility vis-à-vis their suffering; someone has made an effort to sort things out.

We also have a “post-sentencing” programme, for murder cases for example. Cases which are so serious that people generally do not want to meet for a long time. But 10 or 15 years later, when the guilty party is still in prison, the victim’s family and friends can feel the need to meet the person sentenced to ask them certain questions. About what happened; about what the guilty person has been doing in prison. Are they working on their problem, are they assuming responsibility for what they’ve done, are they going to do it again when they get out, are they going to try and find the family and hurt them when they get out? Again, a broken relationship can be repaired.

- The presentations of Sumeet Verma, George F. Kain and James Scott are available on the Congress website: <http://congres.abolition.fr>



VI SIDE EVENTS

A number of events were held before and on the fringe of the Congress. They brought the debate to life in the city of Oslo and made it possible to meet actors working on the ground and in Norway, to compare points of view, to talk to peers from across the world...

20TH JUNE

— Network Day

The World Coalition Against the Death Penalty, 140 members strong, held an extraordinary General Assembly in order to encourage meetings and conversation between members and better communication in a network around the Coalition's work and that of steering committee meetings.

The Anti-Death Penalty Asia Network (more than 30 members of ADPAN present), **FIACAT** (more than 20 members of ACAT present), and **the Central African Coalition Against the Death Penalty** also held their steering committee meetings..

— Oslo pride - Solidarity with the LGBTIQ community living in countries where homosexuality is punishable by death.

Organised by Oslo Pride in partnership with ECPM and attended by Arnaud Gauthier-Fawas, Head of International Relations at Inter LGBT France, Sabine Jansen, COC Netherlands – a Dutch LGBTIQ organisation which initiated the Fleeing Homophobia project –, and Marianne Rossi, Head of the Educating About Abolition project at ECPM.

— University Network - Oslo International Symposium on Capital Punishment

Attended by academics known for their work on the death penalty. Organised by the Universities Against the Death Penalty and Academics Against the Death Penalty networks at the Norwegian Centre for Human Rights (NCHR), University of Oslo and Academics Against the Death Penalty (Repecap), funded by the Royal Norwegian Ministry of Foreign Affairs. This Side Event was opened by Knut Storberget, Norwegian Minister of Justice during the terrorist attacks in Oslo and Utoya, in the presence of John Bessler (Baltimore Law School), Borge Bakken (China specialist at NCHR), Giao Vu Cong (Institute of Public Policy and Law, Vietnam National University Hanoi), Parvais Jabbar (DPP), Luis Arroyo Zapatero (Repecap) and Bharat Malkani (Birmingham Law School).





21ST JUNE

— Prohibition of the Death Penalty: an emerging *jus cogens* norm

Organised by the Italian Embassy and attended by Giorgio Novello, the Italian Ambassador to Norway and Iceland, Antonio Stango, Coordinator of the 6th World Congress Against the Death Penalty, Mads Andenases, Professor of International Law at the University of Oslo and UN Special Rapporteur on arbitrary detention, and Ludovica Chiussi, a doctoral candidate at the University of Oslo.

The seminar addressed whether there is an emerging *jus cogens* prohibition of the death penalty according to international law. While only the Second Optional Protocol to the ICCPR and the ECHR provide for a ban on executions and abolition of the death penalty within the jurisdiction of State parties, Article 6 of the ICCPR itself not only establishes several limitations, but with its wording indicates that abolition may be an ultimate goal for the international community.

— The Role of Parliamentarians in the Battle Against the Death Penalty

Hosted by the Parliament of Norway in cooperation with Ensemble contre la peine de mort (ECPM) and Parliamentarians for Global Action (PGA), this event was an opportunity for parliamentarians from around the world to share their experiences in favour of abolition and create bridges with European abolitionist parliamentarians, particularly from Norway, France, Great Britain and Switzerland.

22ND JUNE

— The Death Penalty in Belarus

Organisers FIDH, Norwegian Helsinki Committee, Viasna Human Rights Center
Belarus is the only European country where the death penalty is still practiced. However, there are some signs that give reason to hope that it may at last be willing to make a change and, if not abolish it, at least impose a moratorium on the death penalty. This conference featured several prominent actors in the campaign against the death penalty in Belarus, alongside an exhibition of items, video materials and the presentation of a book.

Speakers

- **Valentin Stefanovitch**, Vice President of Viasna Human Rights Center
- **Andrei Paluda**, Head of the Human Rights Defenders against Death Penalty campaign, Belarus and in charge of Viasna's death penalty project
- **Ljubov Kovalova**, mother of Vlad Kovalov, a young man executed in Belarus

Closing remarks by

- **Bjørn Engesland**, Secretary General of the Norwegian Helsinki Committee



— Drug Crime and the Death Penalty in China

Organisers The Rights Practice

Chinese and international lawyers raised the issue of drug crime and the death penalty, and explored strategies to end capital punishment for these offences. They lent towards fair trial issues and the impact on the poor and foreigners.

— Iran Out of Isolation: Impact on the death penalty

Organisers ECPM, Impact Iran, Iran Human Rights, KMMK-G

Following the election of Hassan Rouhani and the nuclear agreement between Iran and the 5+1 group¹³⁷, Iran has emerged from isolation, many foreign firms (especially Europeans) are preparing to do business in the country and Iran is considered an ally in the fight against ISIS. But what about the death penalty? The focus of this event concentrated on Iran after the nuclear deal and the role of the UN and the international community in the fight against the death penalty.

Speakers

- **Mahmood Amiry-Moghaddam**, Spokesperson, Iran Human Rights
- **Roya Boroumand**, Executive Director at the Abdorrahman Boroumand Foundation
- **Taimoor Aliassi**, UN Representative of the Association for Human Rights in Kurdistan of Iran-Geneva (KMMK-G)
- **Sedigheh Vasmaghi**, Dr. in Islamic laws, Representative of LEGAM GROUP

— The 6th UNGA Resolution for a Moratorium on Use of the Death Penalty

Organisers Hands off Cain, World Coalition Against the Death Penalty, Amnesty International

On 18 December 2014, the UN General Assembly (UNGA) reaffirmed its broad support for the Moratorium on Use of the Death Penalty resolution for the fifth time since 2007. Resolution A/RES/69/186 was passed with a record 117 votes in favour, 38 against, 34 abstentions and 4 absences. In December 2016, a new resolution will be put to the vote and the abolitionist movement faces a major challenge to ensure that more countries vote in favour. This event aimed to discuss strategies in order to increase the number of countries which support it.

Speakers

- **S. E. Bayartsetseg Jigmiddash**, Secretary of State for Justice of Mongolia
- **Elisabetta Zamparutti**, Member of the Committee for the Prevention of Torture of the Council of Europe, Treasurer of Hands Off Cain.
- **Chiara Sangiorgio**, International Secretariat, Death Penalty Adviser, Amnesty International

Moderator

- **Guillaume Colin**, FIACAT, member of the Executive Board of the World Coalition Against the Death Penalty

¹³⁷ Group of six major powers, which in 2006 shared their diplomatic efforts with regard to the Iranian nuclear program (China, France, Russia, United Kingdom, United States and Germany).





— The Death Penalty for Drugs in 2016, a follow up to UNGASS on Drugs and the World Day?

Organisers World Coalition Against the Death Penalty, Harm Reduction International, Reprieve, Amnesty International

On 10 October 2015, the World Day Against the Death Penalty was dedicated to the death penalty for drug-related offences and the United Nations' General Assembly Special Session on Drugs took place in New York between 19th and 21st April 2016. This side event updated participants about the impact of the World Day, the conclusions of UNGASS and the strategy for the coming years.

Speakers

- **Rick Lines**, Executive Director, Harm Reduction International
- **Maya Foa**, Director, Death Penalty Section, Reprieve
- **Mahmood Amiry-Moghaddam**, Spokesperson, Iran Human Rights
- **Shamini Darshni**, Executive Director, Amnesty International Malaysia

Moderator

- **Aurélie Plaçais**, Director, World Coalition Against the Death Penalty

— National Pathways Towards Abolition

Organiser Death Penalty Worldwide

During this event, a presentation of a comparative study on the pathways to abolition of the death penalty taken by different countries, with the support of the Swiss Ministry of Foreign Affairs, was presented. The goal was to collect experiences and strategies which could be helpful for individuals and organisations currently working towards abolition of the death penalty.

Speakers

- **S. E. Rudolph Knoblauch**, Swiss Ambassador to Norway
- **Sandra Babcock**, Clinical Professor and Director of the International Human Rights Clinic, Cornell Law School
- **Delphine Lourtay**, Research Director at Death Penalty Worldwide which is affiliated with Cornell University

— Sharia Law and the Death Penalty: an open debate

Organiser Penal Reform International (PRI)

This event presented PRI's publication on Sharia law and the death penalty which highlights the jurisprudence, arguments and interpretations surrounding Sharia law and the death penalty in different Islamic schools. Additionally, participants were able to discuss advocacy tactics, strategies and arguments which are based on interpretation of Sharia and how these can be used with governments.

Speakers

- **Dr. Abd Al Samad Al-Dailami**, Islamic Scholar
- **Abderrahim Jamaï**, Coordinator of the Moroccan Coalition against the Death Penalty

Moderator

- **Taghreed Jaber**, PRI MENA Director





— **Diplomacy and Universal Abolition: Meet the Friends of the Protocol**

Organisers World Coalition Against the Death Penalty in collaboration with Belgium, Chile, France, Norway, Spain and Switzerland

During this event, diplomats from Australia, Canada, Niger, New Zealand, the Netherlands and others were able to learn more about the work and functioning of the group of countries which officially supports the campaign for ratification of international and regional protocols for abolition of the death penalty (Belgium, Chile, France, Norway, Spain and Switzerland).

— **Children of Parents Sentenced to Death or Executed:**

Understanding the wider impacts and limiting use of the death penalty

The impact of a death sentence on the children of parents sentenced to death or executed represents a powerful argument against the death penalty, one that is applicable in all countries, at all stages of the process (from arrest to post-execution). As well as the humanizing effect of talking about death row prisoners as parents, it is hard to argue against the profound and unintended impacts of the death penalty on children. Understanding the wider impacts of the death penalty can be used to advocate for limiting its use.

Speakers

- **Laurel Townhead**, Representative, Human Rights and Refugees, Quaker United Nations Office
- **Daniel Cullen**, Programme Assistant, Human Rights and Refugees, Quaker United Nations Office

— **Protect Human Dignity: re-introduction of the death penalty in the Maldives**

Organiser The Maldivian Democracy Network

The Maldives legal system comprises a admixture of Sharia and English Common Law. Laws have been codified to avoid strict interpretations of Shari'a, which only explicitly apply to Hudud offences – including fornication – under criminal law and for matters relating to family law. Since 1952, the country has practiced an unofficial moratorium on the death penalty. However, with the cultural increase in fundamentalist views and lifestyles coupled with a drastic rise in crime in the past decade, the new Government ratified a regulation in April 2014 to end the moratorium on capital punishment despite local and foreign grave concerns regarding the highly politicised and corrupt Maldivian criminal justice system. According to Amnesty International, around 20 people are currently on death row, including minors.

Speakers

- **Ahmed Mohamed**, MDN's advocacy consultant
- **Mushfiq Mohamed**, human rights lawyer working in the Maldives







C

AFTER THE DEBATES

ABOLITION
NOW





1 FINAL DECLARATION OF THE 6TH WORLD CONGRESS AGAINST THE DEATH PENALTY OSLO - 23RD JUNE 2016

We,

The participants of the 6th World Congress Against the Death Penalty, organised in Oslo (Norway) from 21st to 23rd June 2016 by Ensemble contre la peine de mort (ECPM) with sponsorship from Norway, Australia and France, and in partnership with the World Coalition Against the Death Penalty;

ADOPT

this Declaration after three days of intense debate, exchanges of experience, personal accounts and film screenings;

WE CELEBRATE THE FACT THAT

- the abolitionist movement is developing in a world where nearly ¾ of States have renounced application of capital punishment, be it in law or in fact;
- numerous abolitionist States and intergovernmental organisations are committed to supporting the world abolitionist movement, and non-abolitionist States, which attended the Congress, have also demonstrated their interest in the movement;
- since the World Congress in Madrid in 2013, six States have abolished the death penalty for all crimes: Madagascar, Mongolia, Nauru, Fiji, the Republic of Congo and Suriname; the trend for abolition in the United States is becoming established;
- the abolitionist movement continues to grow and diversify to include, alongside the World Coalition Against the Death Penalty, 158 members: States, organisations and actors from civil society, networks of parliamentarians and academics, national human rights institutions, companies, unions and journalists, pooling its strengths to promote abolition of the death penalty;
- certain abolitionist States are integrating the challenge of universal abolition into their international relations;
- ties are being developed between actors from civil society and States and intergovernmental, regional and international organisations with a view to establishing or reinforcing the State of law;
- major economic actors such as Pfizer and Richard Branson (founder of the Virgin Group) are publicly taking a position against the death penalty;





- positive announcements have been made, such as those by the Deputy Justice Minister of the Democratic Republic of Congo and Mongolia to vote for the UN moratorium in December next year;
- the scope and seriousness of the damage caused by the death penalty to the family and friends of prisoners sentenced to death and the victims, as well as other members of society, is being realised.

BUT WE OBSERVE THAT

- the revival of terrorist violence globally is being used by certain governments, such as Egypt, to justify retaining the death penalty and using it to criminalise opposition movements;
- according to Amnesty International, 58 countries and territories retain the death penalty and often apply it arbitrarily;
- in 2015, 1,634 people were executed across the world, particularly in Iran, Pakistan, Saudi Arabia, Iraq and the United States. This statistic does not take into account the unknown number of executions in China;
- maintaining the death penalty for drug-related crimes is in total opposition to the recommendations of the UN Office on Drugs and Crime, and the observations drawn up at the special session of the UN General Assembly in April 2016 in New York. The UN Member States recorded the failure of the policies of the “war on drugs” based uniquely on a repressive vision;
- certain countries have resumed executions after several years of a moratorium, such as Indonesia, Chad and Pakistan;
- the death penalty still affects juveniles and those with a mental illness;
- the death penalty is practiced in a discriminatory manner according to ethnic, national, social or religious origin, skin colour and sexual orientation;
- most of the time, prisoners sentenced to death are subjected to conditions of detention which often constitute inhuman and degrading treatment because of their status.

UNDERLINING THE NEED TO TAKE NEW SIGNIFICANT STEPS TOWARDS TOTAL AND UNIVERSAL ABOLITION OF THE DEATH PENALTY, WE CALL ON

International and regional intergovernmental organisations to:

- continue and intensify their cooperation with States and civil society to promote universal abolition of the death penalty;
- integrate into UN discussions with stakeholders on the fight against drugs and crime the problems connected to retaining the death penalty;
- integrate the issue of the death penalty into the mandate of the UN special rapporteurs, particularly those covering terrorism, extrajudicial executions, torture, migrants and extreme poverty;





- adopt regional instruments as quickly as possible, including the Additional Protocol to the African Charter on Human and Peoples' Rights on abolition of the death penalty in Africa.

The States attending the Congress in Oslo to:

- keep the commitments made at the Congress, for example Guinea's commitment to promulgate a criminal code which does not include capital punishment on 1 July 2016.

Retentionist States to commit to:

- drastically reducing the number of crimes punishable by the death penalty in their legislation and immediately removing the mandatory death penalty where it exists, and reflecting on alternative solutions which respect the ability of individuals to make amends;
- respecting the International Convention on the Rights of the Child by renouncing the execution of juveniles and people aged under 18 at the time the crime was committed;
- collecting and publishing regular, scientifically reliable, independently produced information on application of the death penalty and the status of public opinion in this respect, as well as on alternative sentences;
- taking the route towards abolition of capital punishment by establishing a moratorium on sentences and executions, in conformity with the resolution for a moratorium on application of the death penalty voted on by the UN General Assembly since 2007, and ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, as 81 States have done;
- guaranteeing an efficient system of legal aid for prisoners sentenced to death who cannot pay for a lawyer.

Abolitionist States to:

- commit, over and beyond discussion, to concrete and more visible action in support of universal abolition of the death penalty, particularly by requiring guarantees for the resumption or continuation of their diplomatic and economic relations with retentionist States;
- support and then ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights of the UN;
- require, within the framework of the financial assistance they provide to the international fight against drug trafficking, the States concerned to renounce capital punishment for these crimes;
- promote and guarantee respect for fundamental rights in the fight against terrorism, including by not resorting to the death penalty;
- support actors from civil society working in support of abolition of the death penalty;
- vote in favour of the UNGA resolution calling for a universal moratorium on capital executions in 2016.

Parliamentarians:

- from across the world: to come together in regional, national and international networks, and take the abolition debate to the heart of retentionist parliaments;



- from abolitionist States: to help their peers in retentionist States to put forward projects for abolition.

National Human Rights Institutions (NHRIS) to:

- systematically integrate issues relating to the death penalty into their action plans and to encourage their States to abolish the death penalty and vote in favour of the UN General Assembly resolution calling for a universal moratorium on the death penalty.

In retentionist countries:

- lawyers to be trained in order to better defend their clients facing the death penalty;
- prosecutors not to request application of the death penalty;
- judges to use their power of the individualisation of punishments so as not to pass capital punishment and to encourage untrained juries to do the same.

Actors from economic and cultural life:

- increasingly commit to saying loudly and proudly that maintaining an archaic and degrading punishment does not encourage a harmonious development of the economy, tourism and cultural exchanges.

Abolitionist actors from civil society to:

- take action together, particularly by joining the World Coalition Against the Death Penalty to strengthen abolitionist synergies, or other organisations such as the International Academic Network for the Abolition of Capital Punishment;
- carry out action to raise awareness and educate the public, political decision-makers, pupils and students about abolition by joining the international education network and participating in the annual World Day against the Death Penalty on 10 October and Cities for Life on 30 November every year.

Done in Oslo,
23rd June 2016



2 AFTERWORD



BØRGE BRENDE
Norwegian Minister of Justice

It was a great honour for Norway to host the 6th World Congress Against the Death Penalty. From 21st to 23rd June 2016, the World Congress gathered together nearly 1,500 people from civil society, academia, governments, media, parliaments and human rights institutions, including Nobel Prize winners and some very brave witnesses who were there to share their stories.

The Congress was an inspiring and challenging event. Participants crossed political and regional divides, shared knowledge, strategies and personal experiences, and deepened networks and professional partnerships.

I am confident that it has contributed to positive changes in policies and practices.

The heart of diplomacy is dialogue. I strongly believe that the most effective way of reducing the number of States that make active use of the death penalty is to bring people together and encourage debate based on respect, supported by facts, and free of judgement and prejudice. The World Congress is an arena where retentionist and abolitionist States can meet in an open dialogue and work together towards global abolition. The 6th World Congress was organised by civil society organisations in partnership with the Norwegian Government and the Core Group of countries working towards abolition of the death penalty.

A strong and pluralistic civil society can be a driving force in efforts to promote democratic development, the rule of law and human rights. Both in Norway and in other countries, civil society plays an important role by evaluating and challenging the activities of the authorities. Civil society organisations can act as a catalyst for change and play a part as a watchdog by holding the authorities to account, and are also a key source of information.



The Norwegian Constitution now includes a provision stating that every person has a right to life and that nobody may be sentenced to death. The commitment to global abolition of the death penalty is deeply rooted in Norwegian society and public opinion. Norway opposes the death penalty in all circumstances as a matter of principle.

Research shows that capital punishment is not a more effective deterrent than long prison sentences. The use of the death penalty is a global problem, and not limited to particular regions, traditions, cultures or religions. Norway is working actively at national, regional and international level to achieve the long-term goal of global abolition. The United Nations is an important arena for combating the death penalty. Norway is a one of the Core Group countries involved in promoting the biennial UN General Assembly resolution calling for a moratorium on the use of the death penalty.

I welcome the fact that several of the countries that took part in the 6th World Congress made specific commitments to move forward on abolishing the death penalty.

The world has made a great deal of progress. Today, more than four out of five countries have either abolished the death penalty or no longer use capital punishment. This is encouraging.

However, we have also seen setbacks including processes aiming to reintroduce the death penalty in some countries. According to Amnesty International, there was a dramatic spike in the number of executions in 2015.

This demonstrates the importance of continuing to engage with stakeholders on the issue of the death penalty. We need to involve parliamentarians, the judiciary and law enforcement agencies, and promote workable alternatives to the use of death penalty. The Congress Declaration calls upon all of us to continue our joint efforts towards abolition.

The Norwegian Government is grateful to the conference organisers, *Ensemble contre la peine de mort* and the *World Coalition against the Death Penalty*, and to our fellow members of the Core Group of countries working against the death penalty. Your dedication and hard work made it a great pleasure for Norway to host the Congress. I am looking forward to continuing our partnerships.

I hope that when we reconvene at the 7th World Congress in three years' time, the list of abolitionist countries will have increased even further. It is no longer a question of *whether* we will achieve full abolition, but of *when*.





3 **ECPM** OUR HISTORY

Since 2000, we have been fighting against the death penalty by uniting and rallying abolitionist forces across the world. We advocate with international bodies. We encourage universal abolition through education and public awareness campaigns. We strengthen the capacities of abolitionist actors and act alongside them on a local scale.

2000 CREATION OF THE ORGANISATION Michel Taube and Benjamin Menasce write a book, *An Open Letter to Americans for the Abolition of the Death Penalty* published by L'écart. This is followed by a campaign, "Together Against the Death Penalty in the USA", which gathers 500,000 signatures in France. This show of strength leads to the creation of the ECPM organisation.

2001 1ST WORLD CONGRESS AGAINST THE DEATH PENALTY, STRASBOURG ECPM positions itself as the organisation for all abolitionist forces from across the world and organises the 1st World Congress Against the Death Penalty in Strasbourg. The event has since been organized every 3 years: in Montreal (2004), Paris (2007), Geneva (2010) and Madrid (2013).

2002 FORMATION OF THE WORLD COALITION AGAINST THE DEATH PENALTY At the initiative of ECPM, the 1st World Congress leads to the formation of the World Coalition Against the Death Penalty in Rome on 13 May 2002. Today, it boasts over 150 members.

2005 HUMAN RIGHTS PRIZE FOR THE FACT-FINDING MISSION IN DRC For its first legal fact-finding mission in the Democratic Republic of the Congo (DRC), the organisation is awarded the Human Rights Prize from French Prime Minister Dominique de Villepin. Further missions will then be carried out in Burundi and in Rwanda; these countries have gone on to abolish the death penalty.

2007 THE CASE OF THE BULGARIAN NURSES ECPM lobbies presidential candidates to save 5 Bulgarian nurses and a Palestinian doctor sentenced to death in Libya for allegedly inoculating children with the AIDS virus.

2009 OUR BODY EXHIBITION IS BANNED After ECPM is granted motion for summary judgement, a banning order is imposed on the *Our Body* exhibition in which the bodies of Chinese death row prisoners are exhibited. The Court of Appeal goes on to confirm the relevance of this ban in a decree which sets a legal precedent.



2010 CAMPAIGN FOR HANK SKINNER ECPM lobbies to prevent the execution of Hank Skinner. After a 15-year legal battle, the judge orders DNA analysis of the crime scene evidence, 19 years after the facts occurred.

2012 1ST REGIONAL CONGRESS IN RABAT ECPM organises the 1st Regional Congress in Rabat to lobby the highest echelons of power in a region of the world where the death penalty remains a major issue in society. As the largest anti-death penalty event ever to be held in the Arab world, the Congress brings together over 500 people and is attended by a number of high-ranking political figures.

2013 LAUNCH OF THE 1ST NATIONAL NETWORK OF PARLIAMENTARIANS AGAINST THE DEATH PENALTY IN MOROCCO Following the Regional Congress, Moroccan parliamentarians create the 1st National Network of Parliamentarians Against the Death Penalty, bringing together 250 parliamentarians from both chambers of Parliament. In the wake of this unique initiative, ECPM backs the creation of more networks in Tunisia, Lebanon, and DRC.

2015 CAMPAIGN FOR SERGE ATLAOUI AND ALL DEATH ROW PRISONERS IN INDONESIA When Indonesia resumes executions, ECPM lobbies to prevent the execution of Serge Atlaoui, a French citizen sentenced to death. Following weeks of campaigning and the execution of 8 more people, he narrowly avoids death.

2015 1ST ASIAN REGIONAL SUMMIT IN KUALA LUMPUR Asia is the world's leading retentionist region. The number of people executed in Asia remains higher than the total number of executions in the rest of the world. Oslo's World Summit aims to build on the Regional Congress of Kuala Lumpur in order to bring the continent's challenges to the fore.

2016 ECPM IS GRANTED CONSULTATIVE STATUS WITH ECOSOC ECPM reaches a major milestone by obtaining consultative status with the United Nations Economic and Social Council (ECOSOC), granting it access to UN institutions in Geneva (Human Rights Council), New York (United Nations Headquarters and Security Council), and Vienna (UNODC-United Nations Office on Drugs and Crime).



4 ECPM OUR TEAM

Raphaël Chenuil-Hazan - Executive Director
Ariane Grésillon - Deputy Manager
Nadège Poulain - Head of Finance
Nicolas Perron - Programmes Director
Bérangère Portalier - Communications Manager
Marianne Rossi - Project Officer "Teach and Raise Awareness about Abolition"
Charlène Martin - Head of Mission "Teach and Raise Awareness about Abolition"
Nicolas Salvi - Community Manager
Camille Ballouhey - Administrative and Financial Assistant
Lilian Moreira - Assistant

Oslo World Congress Team

Antonio Stango - Coordinator
Eleonora Mongelli - General Coordinator Assistant
Marie De França - Political Mobilisation Assistant
Seynabou Benga - Academic Programme Coordinator
Marie-Lina Samuel - Academic Programme Assistant
Karina Ivanova - Academic Programme Assistant
Ramla Liatouji - Logistics Manager
Lucie Héliès - Logistics Assistant
Mathilde Millier - Logistics Assistant
Solène Lépinay - Volunteer Coordinator
Jessica Corredor - Media Relations

Board of directors

Olivier Déchaud - President
Véronique Mary - Treasurer
Emmanuel Maistre - Secretary General
Emmanuel Oudar - Deputy Treasurer
Fabrice Piètre-Cambacédès - Deputy Secretary General
Richard Sédillot
Daniel Verger



5 CONGRESS PARTNERS

IN PARTNERSHIP WITH



An alliance of more than 150 NGOs, bar associations, local authorities and unions, it was created in Rome on 13 May 2002. It was founded as a result of the commitment made by the signatories of the Final Declaration of the First World Congress Against the Death Penalty organised by the French NGO Together Against the Death Penalty (ECPM) in

Strasbourg in June 2001. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty by lobbying international organisations and States, by organising international campaigns, including the World Day Against the Death Penalty, and by supporting national and regional abolitionist forces.

CONGRESS SPONSOR STATES



NORWEGIAN MINISTRY
OF FOREIGN AFFAIRS

It is a great honour for Norway to host the 6th World Congress Against the Death Penalty and to welcome more than 1,000 participants to Oslo. Norway attaches great importance to the abolitionist fight and opposes the death penalty under all circumstances. The death penalty is a global problem, not limited

to particular regions, traditions, cultures or religions. To make progress towards abolition, we must have a global focus. Norway strongly believes in multi-stakeholder initiatives where States, the UN, NGOs, academic experts and committed individuals join forces. It is also why Norway decided to host the 6th World Congress Against the Death Penalty.



Australian Government
Department of Foreign Affairs and Trade

Australia is a longstanding opponent of the death penalty. Our support for abolition is based on the view that the death penalty is an inhumane form of

punishment that violates the inherent human right to life. Australia has been an active voice over many years in support of abolition, both at the United Nations and bilaterally. We welcome the strong positive movement over the past two decades, with over 40 countries abolishing the death penalty in that time. Australia is pleased to be a co-sponsor of the 6th World Congress Against the Death Penalty and to have supported the 2nd Asian Regional Congress in 2015. We commend the Congress on its important role in bringing together stakeholders from a wide range of fields and countries, both retentionist and abolitionist. Our aim should be a world without the death penalty.





By sponsoring and participating in the 6th World Congress Against the Death Penalty in Oslo, the Minister of Foreign Affairs has sought to renew France's commitment against this cruel and inhuman punishment, making it a priority in its work for human rights. The entire diplomatic network is mobilised to encourage all States to move towards abolition, demand that death sentences not be carried out and fund work to raise awareness. At the UN, France promotes the adoption of the General Assembly's biennial resolution in favour of a universal moratorium and resolutions at the Human Rights Council.



WITH THE FINANCIAL SUPPORT OF



GRAND-DUCHÉ DE LUXEMBOURG
Ministère des Affaires étrangères



PRINCIPAUTÉ DE MONACO
DÉPARTEMENT DES RELATIONS
EXTÉRIEURES



Ministero degli Affari Esteri
e della Cooperazione Internazionale

Avec le soutien
de l'Organisation internationale
de la Francophonie

ORGANISATION
INTERNATIONALE DE
la francophonie



GOBIERNO
DE ESPAÑA



MINISTERIO
DE ASUNTOS EXTERIORES
Y DE COOPERACIÓN



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Département fédéral des affaires étrangères DFAE



af
AGENCE FRANÇAISE
DE DÉVELOPPEMENT



KINGDOM OF BELGIUM
Federal Public Service
Foreign Affairs,
Foreign Trade and
Development Cooperation



BARREAU
DE PARIS
Fonds de dotation

With the financial
support of



PARTNERS



SRE
SECRETARÍA DE
RELACIONES EXTERIORES



Ministerio de
Relaciones Exteriores y Culto
República Argentina

INSTITUT
FRANÇAIS
NORVÈGE



OSLO
PRIDE



OSLO DOKUMENTARKINO

DEN
NORSKE
OPERA
&
BALLET



ASIA PACIFIC FORUM
ADVANCING HUMAN RIGHTS IN OUR REGION



UiO : Norwegian Centre for Human Rights
University of Oslo



Parliamentarians for Global Action
Acción Mundial de Parlamentarios
Action Mondiale des Parlementaires





D

APPENDICES





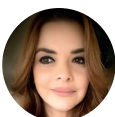
1 LIST OF SPEAKERS



— Aroon ARTHUR

Journalist - Pakistan

He is a human rights activist and a journalist. He is the director at Redemption Pakistan, an initiative for the welfare of prisoners. He especially works through the media to advocate on behalf of prisoners on death row.



— Tanya Awad Ghorra

Coordinator, Education on Abolition, Lebanese Association for Civil Rights - Lebanon

International and regional instructor in non-violent communication and peacebuilding. She coordinates the educational training for the Lebanese National Campaign to Abolish Death Penalty in collaboration with the Lebanese Association for Civil Rights (LACR).



— Sandra BABCOCK

Clinical Professor and Director of the International Human Rights Clinic, Cornell Law School - USA

She has represented capital defendants since 1991. She founded and directs Death Penalty Worldwide (www.deathpenaltyworldwide.org).



— Altantuya BATDORJ

Executive Director, Amnesty International Mongolia - Mongolia

Human rights activist who has worked extensively to promote and protect human rights in Mongolia. In 2000, she was appointed Executive Director of Amnesty International Mongolia and is a member of the Executive Committee of the Anti-Death Penalty Asia Network.



— Florence BELLIVIER

Professor at Paris Ouest Nanterre La Défense University and Deputy Secretary General of Fédération internationale des ligues des droits de l'homme (FIDH) - France

A specialist in civil law, bioethics and international criminal law, she has led the World Coalition Against the Death Penalty (2011-2015). She co-directs the Faculty of Law and Political Science at her university and is a substitute member of the National Consultative Human Rights Commission.



— **Nedra BEN HAMIDA**

Lawyer - Tunisia

Nedra Ben Hamida is a Tunisian lawyer and human rights activist. She, along with her team, was chosen to support, Mohamed Chick Ould Mkhitar, a young Mauritanian boy who was sentenced to death for apostasy in December 2015.



— **Maya BEN KHALED**

Programme Officer, Arab Institute for Human Rights - Tunisia

Head of the research and Education programmes at the Arab Institute for Human Rights (AIHR). She is a member of the International Network for the Abolition of Capital Punishment.



— **Amy BERGQUIST**

Staff Attorney, The Advocates for Human Rights - United States

Staff Attorney with The Advocates for Human Rights' International Justice Programme, she represents the organisation on the Steering Committee of the World Coalition Against the Death Penalty.



— **Tendai BITI**

Lawyer and former Finance Minister - Zimbabwe

A prominent human rights lawyer and politician in Zimbabwe, he is the founding partner of the law firm Tendai Biti Law that specialises, notably, in constitutional litigation and human rights.



— **Marion CHAHUNEAU**

Programme Officer, Parliamentarians for Global Action (PGA)

– Netherlands

She is the International Law and Human Rights Programme Officer at Parliamentarians for Global Action (PGA). She works on international justice and abolition of the death penalty.



— **Raphaël CHENUIL-HAZAN**

Executive Director, ECPM - France

Executive Director of ECPM and Vice-President of the World Coalition Against the Death Penalty, Raphaël Chenuil-Hazan represents the organisation at ECOSOC and is in constant dialogue with the diplomatic services of abolitionist and retentionist countries within the Core Group in particular to push forward abolitionist strategies.





— **Guillaume COLIN**

Fiacat representative at ACHPR, Fiacat – France

He has worked for the Fédération internationale de l'Action des chrétiens pour l'abolition de la torture (Fiacat) since 2006 and coordinates its programme on abolition of the death penalty in sub-Saharan Africa. He regularly works with the ACHPR Working Group on the Death Penalty in Africa.



— **Jessica CORREDOR VILLAMIL**

Press Coordinator, ECPM – France

Anthropologist and sociologist, she has done research work on different issues related to human rights. She has worked for the World Coalition Against the Death Penalty and ECPM on several occasions since 2009.



— **Inés de ARAOZ**

Legal Advisor, Plena Inclusion – Spain

A graduate of the University of Salamanca, she is an experienced legal adviser to NGOs working with people with disabilities, specifically intellectual or developmental disabilities.



— **Robert DUNHAM**

Executive Director, Death Penalty Information Center – USA

He has 25 years' experience representing Pennsylvania death row prisoners and teaching death penalty law.



— **Justin G.K. DZONZI**

Chairman of the Malawi Human Rights Commission – Malawi

Human rights attorney and licensed legal practitioner in Malawi. He is the Executive Director of Justice Link, Managing Partner of Kainja & Dzonzzi Law Firm as well as Chairperson of the Malawi Human Rights Commission.



— **Driss EL YAZAMI**

Chairman, National Human Rights Council – Morocco

Former Secretary General of the International Federation for Human Rights (FIDH), he is the President of the National Human Rights Council of Morocco and of the Euro-Mediterranean Foundation of Support to Human Rights Defenders (FEMDH).





— **Maya Sahli FADEL**

Commissioner and member of the Working group on Death Penalty, Extra-Judicial, Summary or Arbitrary killings in Africa, African Commission on Human and Peoples' Rights - Gambia

Member of the African Commission on Human and Peoples' Rights, she also is member of the working group on the death penalty and collaborated on the African Protocol on the Abolition of the Death Penalty in Africa project.



— **Jeffrey FAGAN**

Professor of Law and Public Health, Columbia University - United States

Jeffrey Fagan is an Isidor and Seville Sulzbacher Professor of Law at Columbia University. His research on the death penalty focuses on the non-dissuasive effect, the rate of judicial error and racial disparities. He is a member of the American Society of Criminology.



— **Mabassa FALL**

FIDH Permanent Representative at the African Union - Senegal

A human rights activist, he has collaborated with several African NGOs and organisations. Founder of the Inter-African Union of Human Rights and of the African Centre for Conflict Prevention, he initiated the creation of the working group on the death penalty at the African Commission on Human and Peoples' Rights.



— **Maya FOA**

Director, Death Penalty Team, Reprieve - United Kingdom

Maya oversees all of the organisation's casework and campaigns around the death penalty. Maya engages on a daily basis with media organisations around the world, both on individual cases and wider issues relating to capital punishment. Her work has been profiled by the *New Yorker*, the *Atlantic Magazine*, and *Radiolab*. She writes frequently for publications including the Guardian and the Independent.



— **Sophie FOTIADI**

Founder of the website peinedemort.org - France

She has been in charge of peinedemort.org, a French-language website specialised in news and in-depth information on the death penalty, ever since its creation in 1998. She is a law graduate and works as a librarian.



— **Ariane GRÉSILLON**

Deputy Director, ECPM - France

Deputy Director of ECPM, she is in charge of developing partnerships as well as monitoring and evaluating the organisation's projects carried out in France and abroad. In this role, she coordinates action to capitalise on good practices.





— **Ricky GUNAWAN**

Lawyer and Director of the Community Legal Aid Institute - Indonesia
Director of the Community Legal Aid Institute (LBH Masyarakat), he is a capital defense lawyer with more than 10 years' experience working on death penalty cases in Indonesia.



— **Andrea HUBER**

Policy Director, Penal Reform International (PRI) - United Kingdom
A lawyer by training, she held various posts at Amnesty International from 2003 to 2011 before joining PRI. She began her career as a legal advisor for asylum seekers before leading the Migration Department of Caritas Austria, amongst others.



— **Thorbjørn JAGLAND**

Secretary General of the Council of Europe



— **George F. KAIN**

Police Commissioner, Ridgefield, Connecticut; Professor of Justice and Law Administration, Western Connecticut State University - USA
He has worked on issues regarding capital punishment and on the need for alternatives. He works with the Community of Sant'Egidio in Rome, Asia and in the US.



— **Basma KHALFAOUI**

Lawyer - Tunisia



— **Dr Richard LATHAM**

Consultant Forensic Psychiatrist, National Health Service - United Kingdom
Forensic psychiatrist working in London. He has conducted psychiatric assessments on people sentenced to death. He is an author of the Handbook of Forensic Psychiatric Practice in Capital Cases.



— **Saul LEHRFREUND**

Co-Executive Director, The Death Penalty Project - United Kingdom
He has represented prisoners facing the death penalty before domestic courts in the Commonwealth and international tribunals since the organisation's inception in 1992.



— **Bin LIANG**

Associate Professor, Department of Sociology, Oklahoma State University
- USA

He is the author of *The Death Penalty in China: Policy, Practice and Reform* (2016) with Columbia University Press. His current research focuses on criminal defence and judicial sentencing in China's death penalty cases, Chinese citizens' opinion and reaction towards death sentencing.



— **Delphine LOURTAU**

Research Director, Death Penalty Worldwide, Cornell University Law
School - United States

Research Director of Death Penalty Worldwide, a research and advocacy center on capital punishment and international human rights law based at Cornell Law School, New York. She is a lawyer in the United States and Canada.



— **Zaved MAHMOOD**

Focal Point on the Abolition of the Death Penalty, Office of the United
Nations High Commissioner for Human Rights - Switzerland

He is currently working at the Office of the United Nations High Commissioner for Human Rights in Geneva. Since 2010, he has been responsible for drafting reports on death penalty issues for the UN Secretary General, the General Assembly and the Human Rights Council.



— **Zainab MALIK**

Lawyer, Justice Project Pakistan - Pakistan

Lawyer and Programme Manager for public advocacy at the Justice Project Pakistan (JPP). She conducts domestic and international advocacy on the rights of death row prisoners, migrant workers and victims of torture in Pakistan.



— **Julian MCMAHON**

Barrister and President of Reprieve Australia - Australia

A barrister in Melbourne, his practice is defence work in cases such as homicide and terrorism trials, and death penalty cases in numerous countries. He is President of Reprieve Australia.



— **Mustapha MEZROUI**

Teaching Abolition Project Officer, Organisation marocaine des droits
humains [Moroccan Organisation for Human Rights] - Morocco

Since 2013, this former English teacher has been working on the educational programme of the Moroccan Organisation for Human Rights (OMDH) and is an active member of the International Network for Teaching About Abolition. He is working on developing educational tools in Morocco.





— **Alain MORVAN**

Journalist - France

A reporter for the *Républicain Lorrain* newspaper, he has invested himself in the case of Serge Atlaoui, a French national from the Lorraine region sentenced to death in Indonesia. He has worked alongside ECPM in French schools on the project "My Pencil for Abolition".



— **Y.S.R MURTHY**

Professor and Registrar, O.P. Jindal Global University, former Director of the National Human Rights Commission of India - India

A former civil servant turned academic, Dr. Y.S.R. Murthy served the National Human Rights Commission of India in various capacities for over 12 years including as the Director of Research.



— **Ibrahim NAJJAR**

Former Minister of Justice of Lebanon, Member of the International Commission Against the Death Penalty - Lebanon

Ibrahim Najjar is a lawyer and a former Lebanese Minister of Justice. He was awarded the National Medal for Human Rights and was made Officer of the French Legion of Honour and Commander of the Spanish Order of Isabella the Catholic for his work against the death penalty. He is a Commissioner of the International Commission Against the Death Penalty.



— **Lucy Peace NANTUME**

Manager, Death Penalty Project, Foundation for Human Rights Initiative (FHRI) - Uganda

A human rights lawyer, she has handled several programs including the anti-torture project and the paralegal advisory services of FHRI. Currently, she manages the death penalty project.



— **Mariana NOGALES MOLINELLI**

Attorney at Law, Secretary of the Greater Caribbean for Life - Puerto Rico

She is an active member of the Puerto Rican Coalition Against the Death Penalty and is also a member of the Puerto Rico Bar Ad Hoc Commission on the Death Penalty.



— **S.E. Dr Seree NONTHASOOT**

Representative of Thailand to the ASEAN Intergovernmental Commission on Human Rights - Thailand

Dr. Seree Nonthasoot teaches at various institutions, including Mahidol and Thammasat University, on the subject of human rights and law. He is the Representative of Thailand at the Intergovernmental Commission on Human Rights (AICHR) of the Association of Southeast Asian Nations (ASEAN).



— **Anita NYANJONG**

International Commission of Jurists, Programme Manager, Access to Justice, ICJ Kenya

Kenya Advocate of the High Court of Kenya and Programme Manager for the Access to Justice Programme at the Kenyan Section of the International Commission of Jurists.



— **Nicolas PERRON**

Programme Director - ECPM - France

The Programmes Director at ECPM, he supervises all of the actions carried out by the organisation, especially in the MENA region and Sub-Saharan Africa. He coordinates ECPM's action with parliamentarians, in particular by supporting the creation of abolitionist networks.



— **Aurélie PLAÇAIS**

Director, World Coalition Against the Death Penalty - France

She has been working in support of universal abolition of the death penalty for over eight years. She has contributed to the promotion of the World Day Against the Death Penalty in particular.



— **M. RAVI**

Human Rights Lawyer - Singapore

He has taken courageous stands against the mandatory death penalty. He has notably argued for the right to free assembly, freedom of expression and equal rights for members of the LGBT community.



— **Bathara Ibnu REZA**

Principal Researcher, Imparsial - Indonesia

A lawyer, he joined Imparsial (The Indonesian Human Rights Monitor) in 2002. He is also a visiting professor at several universities in Indonesia where he teaches international law and human rights.





— **Kevin Miguel RIVERA-MEDINA**

Chair of the Puerto Rico Bar Association Committee on Death Penalty, Vice President of the World Coalition Against the Death Penalty - Puerto Rico
Commissioner of the Crime Victim's Rights Committee, he is the former legal advisor to the President of the Puerto Rico Senate. Deputy and interim Ombudsman of Puerto Rico.



— **Marianne Rossi**

Teaching Abolition Coordinator, ECPM- France
Specialising in the creation of educational tools, she coordinates all ECPM's educational activities destined for the younger generation and supervises the International Network for Teaching About Abolition.



— **Hon. Mangala SAMAREWEERA**

Minister of Foreign Affairs of Sri Lanka - Sri Lanka
Appointed Sri Lanka's Minister of Foreign Affairs on 12 January 2015, he is spearheading the current efforts in achieving national reconciliation through dialogue with internal and external stakeholders. A member of Parliament since 1989, he has also held the portfolios of telecommunications, ports, aviation, urban development and media.



— **Iwan SANTOSA**

Journalist - Indonesia
Iwan has been working in media since 1999, witnessing Indonesia's transition to democracy. His assignments in political sections as a journalist attach him to the military, law enforcement, human rights agencies and political parties.



— **Halima SASI**

Board Member and Paralegal of the Children Education Society - Tanzania
Secondary school teacher, she is also a paralegal and Executive Secretary of the Kisarawe Paralegals Organization founded by the Children Education Society (CHESO). Founding member of the Tanzania Coalition Against the Death Penalty, she develops educational tools for young people about abolition.



— **Mai SATO**

Lecturer in Criminal Law and Criminology, University of Reading - United Kingdom
Her book *The Death Penalty in Japan* (2014) was awarded the 2014 Young Criminologist Award from the Japanese Association of Sociological Criminology.





— **William A. SCHABAS**

Professor of International Law, Middlesex University - United Kingdom
Law professor at Middlesex University London and Leiden University. He prepared the 2015 report of the United Nations Secretary General on the status of capital punishment.



— **James SCOTT**

Founding Coordinator of the Collaborative Justice Project at the Ottawa Courthouse - Canada

A restorative justice advocate for 30 years, James Scott has worked against the return of the death penalty, founded the Collaborative Justice Project, and facilitates healing dialogues for Corrections Canada.



— **Richard SÉDILLOT**

Lawyer, ECPM board member - France

He has been a lawyer since 1988. Since 1998, he has committed himself to human rights, assisting accused persons facing capital punishment in Burundi, Mauritania and Indonesia. He is a Board member at ECPM and Vice-President of the Human Rights Commission of the National Council of Bar Associations. He regularly pleads cases overseas and carries out legal expertise missions for major international institutions.



— **Liliana SEGURA**

Senior Writer/ Editor at The Intercept and The Nation - USA

Award-winning reporter and editor in chief at *The Intercept*. She's on the board of the Campaign to End the Death Penalty and the racial justice think tank Race Forward.



— **Ajit Prakash SHAH**

Former Chairperson of the Law Commission of India - India

Chief Justice at the Delhi High Court until his retirement, Justice AP Shah is also the former Chairman of the Law Commission of India where he submitted reports to the Government including a report on the death penalty.



— **Monireh SHIRANI**

Balochistan Human Rights Group - Sweden

International representative of the Balochistan Human Rights Group with many years of experience in addressing minority issues in Iran, she has represented issues concerning the Baloch community at various international forums.





— **Virginia E. SLOAN**

President and Founder, the Constitution Project - USA

Founder and President of The Constitution Project, Washington, DC; Constitutional Rights Division Director, ABA Civil Rights and Social Justice Section; Boards, Southern Center for Human Rights and Mid-Atlantic Innocence Project.



— **Anup SURENDRANATH**

Assistant Professor of Law and Director of the Centre on the Death Penalty, National Law University, Delhi - India

Dr. Anup Surendranath heads the Centre on the Death Penalty at National Law University, Delhi. The Centre is involved in extensive death penalty litigation and research in India.



— **Azam Nazeer TARAR**

Advocate of the Supreme Court of Pakistan - Pakistan

Criminal lawyer at High Court and Supreme Court level in Pakistan. He is a renowned appellate stage lawyer in death sentence cases and also conducts pro bono cases of death row prisoners in Pakistan referred by local and international organisations.



— **Nestor TOKO MONKAM**

Lawyer and President of Droits et paix - Cameroon

Lawyer and member of the Cameroon Bar Association, he specialises in human rights. He chairs the organisation Droits et paix (Rights and Peace) and the Cameroonian Lawyers Against the Death Penalty Network.



— **Leonardo TRANGGONO**

Coordinator, Sant'Egidio - Italy

Coordinator of the initiatives of Sant'Egidio in Indonesia. He has promoted Sant'Egidio's worldwide Campaign Against the Death Penalty since 2007. He is the former Head the global movement "Cities for Life, Cities Against the Death Penalty".



— **Gillian TRIGGS**

President of the Australian Human Rights Commission - Australia

Emeritus Professor Gillian Triggs is the President of the Australian Human Rights Commission, with a five year appointment. She was Dean of the Faculty of Law and Challis Professor of International Law at the University of Sydney from 2007 to 2012 and Director of the British Institute of International and Comparative Law from 2005 to 2007. She is a former Barrister and a Governor of the College of Law.



— **Angela UWANDU**

Head of the Nigeria Office, Avocats sans frontières France - Nigeria

Nigerian lawyer and human rights activist. She is the Head of Office of Avocats sans frontières France in Nigeria and coordinates the Saving Lives project for abolition of the death penalty in Nigeria.



— **Celia VELOSO**

The Philippines

Mother of Mary Jane Veloso, a Philippine citizen arrested in Indonesia for drug trafficking and sentenced to death in October 2010. Together with the NGO Migrante International she has launched a campaign to save Mary Jane and is tirelessly working for her daughter's freedom.



— **Sumeet VERMA**

Advocate at the Supreme Court of India and the Delhi High Court - India

A leading criminal defense lawyer who has argued several landmark cases in India which have been reported by the media, he has argued a number of appeals in capital offences as *amicus curiae*.



— **Jiazhen WU**

Deputy Director, Taiwan Alliance to End the Death Penalty - Taiwan

Founding member and Deputy Director of the Taiwan Alliance to End the Death Penalty (TAEDP), she coordinates its Education Team. She works with school teachers to develop teaching materials for the purpose of abolition of the death penalty.



— **Rafic ZAKHARIA**

Lawyer- Lebanon

Attorney and member of the Beirut Bar Association since 1991, he represents people facing the death penalty or death row prisoners. He also works with the Lebanese Association for Civil Rights and the Lebanese Coalition for the Abolition of the Death Penalty.



2 DECLARATION BY HIS HOLINESS POPE FRANCISE

Message from His Holiness Pope Francis

Sixth World Congress Against the Death Penalty - Oslo, 21-23 June 2016

I greet the organisers of this World Congress Against the Death Penalty, the group of countries supporting it, particularly Norway as its host country, and all those representatives of governments, international organisations and civil society taking part in it. I likewise express my personal appreciation, along with that of men and women of good will, for your commitment to a world free of the death penalty.

One sign of hope is that public opinion is manifesting a growing opposition to the death penalty, even as a means of legitimate social defence. Indeed, nowadays the death penalty is unacceptable, however grave the crime of the convicted person. It is an offence to the inviolability of life and to the dignity of the human person; it likewise contradicts God's plan for individuals and society, and his merciful justice. Nor is it consonant with any just purpose of punishment. It does not render justice to victims, but instead fosters vengeance. The commandment "Thou shalt not kill" has absolute value and applies both to the innocent and to the guilty.

The Extraordinary Jubilee of Mercy is an auspicious occasion for promoting worldwide ever more evolved forms of respect for the life and dignity of each person. It must not be forgotten that the inviolable and God-given right to life also belongs to the criminal.

Today I would encourage all to work not only for the abolition of the death penalty, but also for the improvement of prison conditions, so that they fully respect the human dignity of those incarcerated. "Rendering justice" does not mean seeking punishment for its own sake, but ensuring that the basic purpose of all punishment is the rehabilitation of the offender. The question must be dealt with within the larger framework of a system of penal justice open to the possibility of the guilty party's reinsertion in society. There is no fitting punishment without hope! Punishment for its own sake, without room for hope, is a form of torture, not of punishment.

I trust that this Congress can give new impulse to the effort to abolish capital punishment. For this reason, I encourage all taking part to carry on this great initiative and I assure them of my prayers.



3 DECLARATION BY MRS BAYARTSETSEG JIGMIDDASH

Mrs Bayartsetseg Jigmiddash

State Secretary of the Ministry of justice of Mongolia

Closing ceremony of the 6th World Congress Against the Death Penalty

23 June 2016, Oslo

In the last three days of the 6th World Congress Against the Death Penalty, I see that we have had much to share and to discuss on the initiatives for ensuring greater impetus to the global campaign for abolition of death penalty. I would like to extend my gratitude to the organisers of the Congress for the opportunity to develop common strategies and mobilising public opinion to promote greater awareness.

Seeing the abolition process in Mongolia and the overview of the changes taking place around the world, I believe that the positive trend is taking up its pace and more countries are reconsidering their stance in relation to the ultimate cruel, inhuman and degrading punishment.

In our experience, starting from the declaration of moratorium up until the moment when the Parliament adopted the new Criminal Code abolishing death penalty, the cooperation and networking both at national and international level highly contributed towards effectiveness and to the end goal of the whole abolition process.

The outcome of this Congress undoubtedly provides clear guidance and updated strategy in fostering the abolitionist movement for the upcoming years. I would like to commend that this edition of the Congress placed a key focus on the importance of the Core Group. The establishment of a Core Group was a fundamental step towards more effective campaigning and strategy development. Its effectiveness and operativeness represents a powerful tool of diplomatic leverage towards universal abolition of the death penalty. It further highlights the significance of cooperation amongst all stakeholders, including politicians, representatives of civil society, campaigners, researchers, and legal practitioners.

In conclusion, I would like urge all the participants to support and to be part of this new form of political cooperation. Further, I hope that through this form of cooperation we will be able to effectively promote universal abolition in all the regions of the world.

Thank you for your kind attention.





4 RESOLUTION ON THE DEATH PENALTY AND TERRORISM ACTION BY THE PARIS BAR

We, the Paris Bar, founding member of the World Coalition Against the Death Penalty, and the Norwegian Bar, on the occasion of the 6th World Congress Against the Death Penalty, held from 21st to 23rd June in Oslo,

Noting that:

- A large number of death sentences have been handed down in connection with terrorist offences;
- The definition of acts of terrorism in the legislation of several States has been broadened, increasing the risk of the death penalty being applied in an arbitrary or discriminatory nature;

Recalling that:

- The role of the Bar is to protect the freedom to practise the legal profession and to help strengthen the rule of law;
- The Bar and professional organisations of lawyers have a major role to play to support abolition of the death penalty and the imposition of a moratorium;
- The need for States to combat terrorism, while observing human rights, and;
- The death penalty does not have a deterrent effect against crimes related to terrorism;

We call on the Bar and professional organisations of lawyers from countries which have abolished or retentionist countries:

- To be very careful that the fight against terrorism does not end up undermining the rule of law;
- To ensure that under the legislative framework of retentionist countries, capital punishment remains strictly reserved to the most serious crimes (culpable homicide);
- To defend compliance with legal guarantees granted to people subject to the death penalty in terrorism-related trials.



5 RESOLUTION BY THE INTERNATIONAL OBSERVATORY FOR LAWYERS IN DANGER

Support lawyers threatened because of their commitment against the death penalty

WELCOMING the 6th World Congress against the Death Penalty in Oslo, Norway, which again demonstrates the strength and determination of the global abolitionist movement; SHARING the conviction that the death penalty shall be prohibited in all places and in all circumstances;

RECALLING that the fight against the death penalty will not be won without the resolute involvement of all segments of our societies, including the representatives of civil society, parliamentarians, journalists and lawyers;

STRESSING that this fight is a particularly demanding battle which sometimes requires many sacrifices and carries significant risks;

The International Observatory for Lawyers in Danger, whose mission is to support lawyers threatened because of the legitimate exercise of their profession throughout the world,

RECALLS that the essential principles of the rule of law and equal justice require that all persons brought to justice, regardless of the nature of the crime charged, have access to a lawyer and that the rights of defence are fully respected;

UNDERLINES that the trials in which the death penalty is required acquire an intense emotional charge that affects both parties as well as national and international public opinion and that these passions can sometimes put defence lawyers in danger;

RECALLS that the freedom of expression of the lawyer permit and encourage him to participate in all public debates, especially those relating to the functioning of justice;

RECALLS that States are obliged to ensure the protection of lawyers under the Basic Principles on the Role of Lawyers adopted by the 8th United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Havana (Cuba) from 27th August to 7th September 1990 and Article 17 of which provides that “ *Where the security of lawyers is threatened as a result of discharging their functions, they shall be adequately safeguarded by the authorities*”;

DENOUNCES with strength the prosecution and law sentences against lawyers because of their commitment in favor of abolition or because of the exercise of their profession when they ensure the defence of a man facing the death penalty;

Done in Oslo, 23rd June 2016.





6 CONCLUSION BY MRS KASTHURI PATTO, MP (MALAYSIA) ON BEHALF OF PARLIAMENTARIANS AND PGA

Honourable Colleagues,

I am delighted and honoured to address you on behalf of all parliamentarians dedicated to the abolition of the death penalty. My name is Kasthuri Patto and I am a member of parliament in Malaysia, where the death penalty is still legal and carried out.

I also belong to Parliamentarians for Global Action (PGA), a network of more than 1,300 legislators from 143 elected parliaments around the globe. In our capacities as democratically elected legislators, we promote human rights, the rule of law, gender equality, non-discrimination, and peace and security.

As Parliamentarians, we can play a strong role towards abolition of the death penalty and PGA helps facilitate our efforts towards abolition. Through PGA, we support each other in raising awareness about the negative effects of the death penalty and persuading an often hostile public opinion towards abolition, using arguments that are tailored to each specific context.

Today, we take this opportunity to call upon our fellow Members of Parliament to work together to convince Governments of countries where the death penalty is still enshrined in law and enforced to restrict their use of the death penalty and eventually abolish it.

Specifically, we are committed to using our position as representatives of our people to ask States: To establish moratorium on executions with a view to abolishing the death penalty, including by supporting the moratorium resolution to be voted on in December at the United Nations General Assembly; To make available information with regard to the use of the death penalty and to disseminate this information, especially to MPs; and To respect international standards providing safeguards and guaranteeing the protection of the rights of those facing death penalty.

We need to promote a better understanding of global and regional trends on this issue in order to identify the legal and political opportunities for parliamentary involvement so that we as Parliamentarians can overcome the many challenges set against the universal abolition of the death penalty.



As elected officials with legislative power, we have a duty to protect the rule of law and human rights. Today, we pledge to continue to use our position to push for the abolition of the death penalty with our governments as well as regional and international organisations.

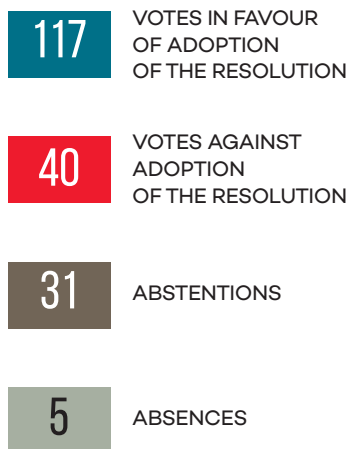
Thank you for your attention and I am wishing us all a fruitful outcome of this timely Congress.

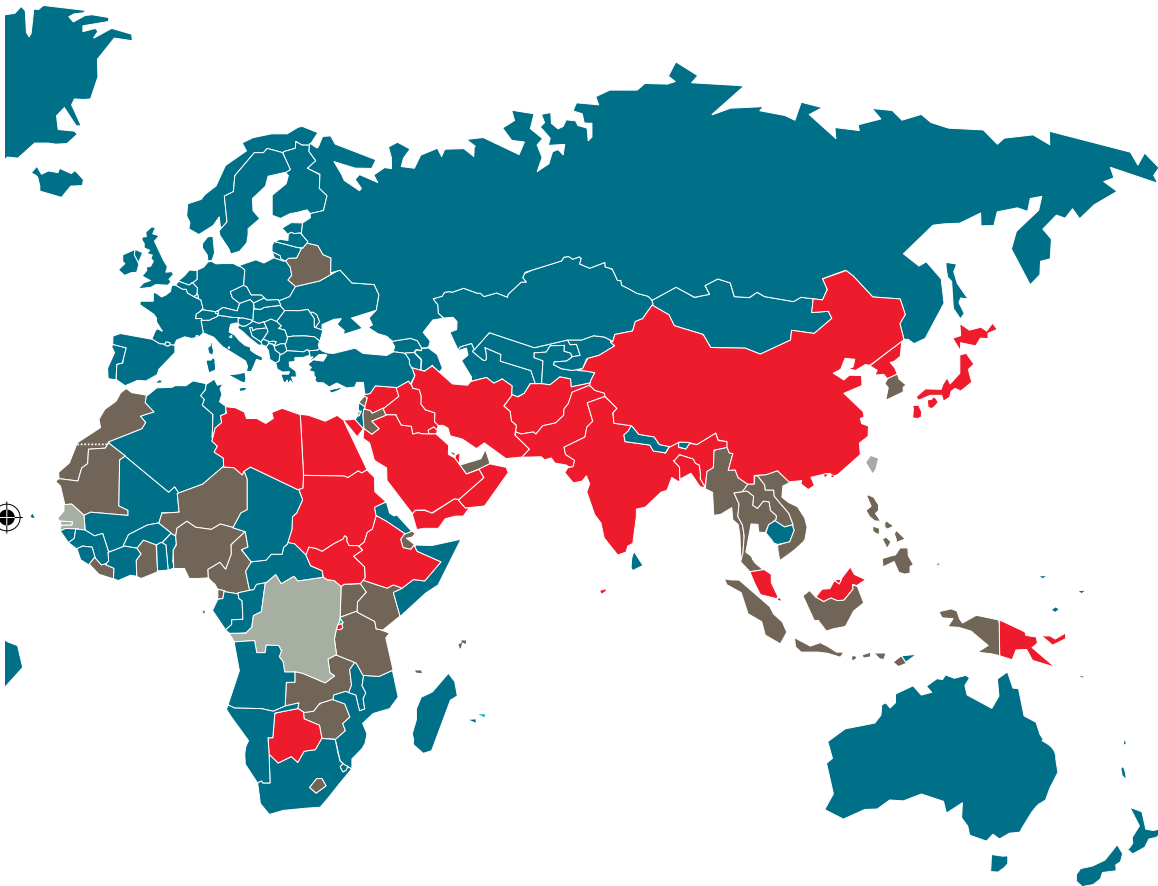




WORLD

VOTES ON THE RESOLUTION FOR A UNIVERSAL MORATORIUM ON APPLICATION OF THE DEATH PENALTY AT THE UN IN 2016







ECPM
Completed in February 2017

