

5th
World Congress
Against the Death Penalty

Madrid 2013

Reports



Thanks to the sponsor States of the 5th World Congress,
the speakers, the witnesses, the volunteers, the participants and the writers of these reports.

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CAHIERS DE L'ABOLITION
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5th
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Against the
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Madrid 2013

Reports

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- #2 Iran: the death penalty in question, (2014)
- #3 5th World Congress Against the Death Penalty • Madrid 2013 • Reports (2014)

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DITES NON
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À LA PEINE
TO THE DEATH
DE MORT
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Opening

*la peine
de mort*

DITES NON
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Without the World Congress, where would universal abolition be today?

By Emmanuel Maistre,

General secretary, Ensemble contre la peine de mort, ECPM

"We, the participants of the 5th World Congress Against the Death Penalty (...), adopt this Declaration at the end of three days of intense debates, conversations, experiences, personal accounts and commitments from a number of States (...). We are delighted that the abolitionist movement is growing stronger in a world where 70% of States have renounced the application of capital punishment either in law or in fact (...) but we regret that 93 countries retain the death penalty in their legal arsenal and 58 countries still apply it. We call on inter-governmental organisations and international organisations to continue and intensify their cooperation with States and civil society (...) and we call on retentionist¹ States to undertake to reduce the number of crimes punishable by death in their legislation, to follow the path of abolition of capital punishment by establishing a moratorium on sentences and executions (...)".

On 15 June 2014, after three days of meetings, debates, roundtables, workshops and other side events, hundreds of abolitionists (more than 1,500 of them at the lowest estimate) came together for a Congress for the 5th time in 15 years under the leadership of *Ensemble contre la peine de mort* (ECPM) and the World Coalition Against the Death Penalty and adopted their final declaration.

Via this statement, activists, politicians, diplomats, players in the judicial systems and victims of the death penalty from every continent wanted to tell the whole world, States and people, once again how unjust, cruel, inhuman and fruitless the death penalty actually is; basically, how useless and prejudicial it is to any criminal justice system and democracy. This final statement – which you will find in full at the beginning of these reports – is only the tip of the iceberg of the abolitionist community's work. The invisible part of this community includes several thousand citizens making a daily commitment - including some in Iran, Saudi Arabia and China potentially endangering their own lives - to subside the

¹ Countries which still apply the death penalty

death penalty in their own States and across the world.

Congress after congress, abolitionist activism is growing across the world. More than an event recalling the stakes of abolition, the World Congress Against the Death Penalty has its place alongside the movement. Today, it is an indispensable rendezvous for all abolitionists to draw up a concerted strategy with a view to universal abolition. Every three years, these meetings are an opportunity for civil society, the judicial world, diplomats and national and international political representatives to come together to discuss how they take action and to create new alliances. Without the World Congress, how many national and regional coalitions (the basis for efficient abolitionist activism) would have been created? Without the World Congress, how many States would be working alongside the abolitionist community today? Without the World Congress where would universal abolition be today?

The proof of the importance of these meetings can be seen in the official presence of representatives from retentionist States at the Madrid Congress. For the first time in 15 years, the World Congress welcomed ministers from States which still apply the death penalty. That shows the importance of this event. For me, one of the most striking images of the three days came at the Opening Ceremony when the Iraqi Justice Minister spoke in favour of the right to apply capital punishment because of the state of war in his country, explaining that use of this supreme punishment was reserved for the most extreme cases. Certainly, his speech was far from abolitionist in tone but it is remarkable that a politician from a retentionist country felt the need to come and justify himself before the abolitionist community; because it was indeed a justification. A justification which is a first step towards dialogue which always leads to abolition in the end...

As well as the political success of the Madrid Congress, these reports bear witness to the technical depth of the conversations people had over the three days. They are an opportunity to review the situation of the death penalty across the world with sustained consideration of the Arab world. As this region has not experienced abolition but includes a significant number of States with an established moratorium (something which could turn into abolition in the short or medium-term), the organisers of the World Congress decided to organise a Regional Congress in Rabat (Morocco) the year before the World Congress. The results of the first Regional Congress on the Death Penalty had particular influence on conversations in Madrid. Madrid was also an opportunity to denounce, once again, the situation in Iran (the country which executes the most people in proportion to its population), Iranian abolitionists having been prevented from participating in these meetings. Beyond the situation in States themselves, speakers and participants particularly emphasised how counterproductive the death penalty is in drug prevention programmes (and their support by international organisations and States) as well as those fighting terrorism. Finally, these reports bear witness to the importance of teaching abolition and culture. Abolition will only become definitive when citizens from all countries are convinced of the harm it does to all societies.

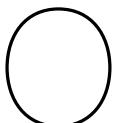
The 5th World Congress Against the Death Penalty was as successful as it was thanks to the exceptional activism of teams from *Ensemble contre la peine de mort* and the World

Coalition Against the Death Penalty, and the unprecedented financial and diplomatic support of the four sponsor States of the Congress: Spain, Norway, France and the Swiss Confederation. On behalf of universal abolition, we thank them.

I hope you enjoy reading these reports.

Introduction

By **Florence Bellivier**,
President of the World Coalition against the Death Penalty, France

 In March 14, 2014, Pascal Simbikangwa, the ex-Police Captain close to the Rwandan President Habyarimana – whose assassination triggered the Rwandan genocide – was sentenced by the Paris Criminal Court to 25 years in prison for genocide and for complicity in crimes against humanity. Pascal Simbikangwa could not have been sentenced to death in France or before the International Criminal Court for Rwanda or before a Rwandan court of law. Why? Aren't the crimes for which he was found guilty among the most serious? Are French jurors known for being particularly lenient or lax? No. It is simply because France, Rwanda and the United Nations, when establishing the International Criminal Tribunal for Rwanda, decided that they could punish without killing. Did they do it spontaneously out of good will? Not in the least. France abolished the death penalty in 1981 after a hundred years of heated debates, failed attempts and without consensus. But, under the influence of the European Human Rights law and the influence of courageous politicians, in 2007, with the vivid memories of the genocide of part of its population, Rwanda abolished the death penalty, which acts as a sort of gateway so for the International Criminal Court for Rwanda – which, like its counterparts, does not allow capital punishment – to transfer its defendants. An embodied political determination, a structured civil society and an international community that respects international human rights is the recipe for abolition, apart from cultural, societal, political and religious contexts.

To reach a new mixture, always inventive, that one event after another, the organiser of the World Congress against the Death Penalty, the NGO Ensemble contre la peine de mort (ECPM), succeeds. In June 2013, under the wonderful and bright Madrid sun, veterans as well as newly converted abolitionists from all over the world joined together. The World Congress against the Death Penalty is particularly interesting for the members of the World Coalition against the Death Penalty, which currently has 157 members who meet around the very busy associations' stands, share first-hand with each other after attending plenary sessions or contributing to the workshops and make predictions in the corridors about which country will be the next to abolish the death penalty. However, it is quite difficult to predict the future in this respect because capital punishment, which still exists in 58 out of 198 countries or territories, is a hydra with a thousand heads and iron must be held in all directions: from the Parliament members who have the huge power of voting in favour of a simple law "on the abolition of the death penalty;" from the authors of the constitutions who can remove capital punishment from these texts; from the judges

who can always abstain from handing down a death sentence (except in the rare case of the States where the death penalty is obligatory for certain crimes); from the prison staff who can make the days spent on death row either more or less unbearable; from the executive power who can abstain from signing death warrants; from the President of the Republic or the King who can exercise their right to grant clemency; from law enforcement who can abstain from coerced confessions; from the lawyers who can learn to defend this kind of particularly vulnerable client who risks the ultimate punishment; from the doctors who can abstain from participating in executions or the laboratories from exporting the deadly product.

The death penalty is not a fatality. Its use is a free choice of the unscrupulous States who use their public opinion as a pretext for defying the right to life. They will encounter along the way, for as long as it is necessary, the abolitionist community that refuses the fake dilemma between security and the right to life, between sovereignty of the States and the respect of international human rights law.

Political Activism at the 5th World Congress in Madrid

By Raphaël Chenuil-Hazan,
Director, Ensemble contre la peine de mort, ECPM

The political challenge of abolition

Today, the abolition of the death penalty is the new universal frontline of human rights. It affects all societies, continents and civilisations. Just like slavery and torture before it, the death penalty will be irreversibly removed from the practices of justice systems of our modern societies. Abolition as an intellectual concept expanded rapidly in the 18th century, carried initially by the thinkers of the enlightenment such as Beccaria in Italy, Voltaire and later Victor Hugo in France, and Dostoevsky in Russia.

And yet it was the politicians, men and women, who took abolition through the centuries to the reality of legislation and law in each country. Without going all the way back to the Constituent Assembly of Pelletier de St Fargeau and Robespierre in 1791, who initiated the first draft abolition law in France, or the tireless political struggle of Hugo, Jaurès, Briand or Fallières, it was two men, Robert Badinter and François Mitterrand² who made abolition possible in France, becoming a model for political abolition despite public opinion which was said to be hostile. The first abolition of the death penalty in China (currently the country which executes the most people in the world) took place in 747 under the Tang dynasty³ is also of note, even if other corporal punishments were maintained. Even before then, the Emperor of China was the only person authorised to pass a death sentence across the Chinese territory. In 1786, Leopold Grand Duke of Tuscany abolished the death penalty, two hundred years before everyone else. In 1863 Venezuela became

2 On 16 March 1981 François Mitterrand, a candidate for the Presidency, declared his opposition to the death penalty during a television programme Cards on the Table: <http://www.ina.fr/video/100004518>

"In the depths of my conscience, which aligns itself with that of the churches: the Catholic Church and the Reformed churches, the Jewish religion, all the big humanitarian, international and national organisations, in my conscience, in the depths of my conscience, I am against the death penalty. And I don't need to read polls which say, on the contrary, majority opinion is in favour of the death penalty. Well, I am a candidate for the Presidency of the Republic and I am asking for a majority of votes from the French people and I am not doing so with any secrets in my thoughts. I say what I think, what I believe, what I accept, what is part of my spiritual makeup, my belief, my concern for civilisation: I do not support the death penalty."

3 Charles Benn, *China's Golden Age: Everyday Life in the Tang Dynasty*, Oxford University Press, 2002

the first abolitionist country in the world but some American states had already abolished capital punishment such as Michigan (1846) and Wisconsin (1853), showing the way for political abolitionism. Since then, most abolitions have been achieved thanks to a strong and courageous political decision.

Is it not the role of statesmen and politicians to be leaders of thought to open the way to new directions and a new way of doing politics? It is notable that, having abolished the death penalty, no country has experienced a large-scale popular movement demanding its return. So far, no country has gone backwards. Societies fully accept this decision and show, if it were necessary, the irrelevance of government reticence faced with the choice of abolition.

Politics is also about being able to change things, events and our societies. The great politicians of our universal history are those who were makers of history and not subjected to it, sometimes against the opinions of their own people. New Zealand gave women the right to vote by decree in 1881 against a majority of men, while Switzerland, with its democratic practices founded on popular consultation, waited until 1971 to achieve this for all its counties. Abraham Lincoln was able to move humanity forward by imposing abolition of slavery in the United States, at the cost of a civil war.

For all these reasons, the World Congress Against the Death Penalty must target all politicians, whatever their position: executive, Members of Parliaments, majority and opposition parties, civil servants and diplomats.

The role of the World Congress:

- a place to accelerate abolitionist initiatives whatever they may be, providing space for the necessary visibility of politicians who often attend international events in order to provide global visibility;
- a place for meetings, informal and formal conversation;
- a symbol: through the presence and affirmation of the major abolitionist political players present;
- debates: just being contacted ahead of the Congress is in itself a way of bringing abolition to such or such a chancellery

The challenge of political activism for the Madrid Congress, organised for the first time under the sponsorship of four European States (Spain, Norway, France and the Swiss Confederation), was to achieve high-level representation representative of the various regions in the world with emphasis on representation from retentionist countries and the Middle East and North Africa.

It is essential during world congresses to make space for the political aspect of the abolition of the death penalty. The Congresses must be a venue for debate, meeting and lobbying. To achieve this, it is essential that the political and diplomatic players be present, one way or another.

ECPM's approach: unifying the lobbying players

- For high-level political activism, the establishment of a support group for political activism known as the Core Group

Based on the experience of previous Congresses and the need to work as part of a network, and at the initiative of the Norwegian Government, ECPM established an informal support group for political activism known as the Core Group, launched within the framework of the preparation of the Regional Congress and the 5th World Congress.

This new body addresses two necessities:

- Ensuring the representation of abolitionist States at the Congresses and benefiting from their support to encourage the participation of retentionist States and thus integrate the latter into international dialogue on universal abolition;
- Beyond the Congresses, for abolitionist States it is a question of integrating the struggle against the death penalty into the agenda of bilateral human rights meetings with abolitionist States (to encourage them to commit to support of abolition) and also with retentionist States (to encourage them to commit to the path of abolition).

What is the main objective of the Core Group?

To encourage high-level political participation at the Regional Congress and the World Congress, but also to ensure, beyond those two crucial events, the sustainability of integration of the struggle against the death penalty into political affairs on a national, regional and international scale

Who are the members of the Core Group?

Targeting countries on every continent, thus far the Core Group is composed of: Argentina, France, Mexico, Norway, Spain, Switzerland, Rwanda, Turkey and the Principality of Monaco. The International Commission Against the Death Penalty (ICDP) is also part of the group. ECPM, as organiser of the Congresses, coordinates it and provides its secretariat.

Which political players are targeted by the World Congresses?

- Senior members of the Executive branch: president, prime minister, foreign affairs minister, justice minister, human rights minister if the post exists;

- Senior members of inter-governmental organisations (IGOs);
- Members of the legislative body: MPs and Senators;
- Members of the diplomatic corps: high-ranking embassy staff;
- Diplomatic staff at the permanent delegations of their countries in Geneva or New York;
- Members of foreign affairs ministries in their capital cities such as human rights ambassadors or high-ranking civil servants;
- For the United States: elected state representatives: governors, judges and prosecutors;
- Members of the working groups of death penalty or human rights commissions from inter-regional IGOs or organisations.

A particular effort must also be made to integrate retentionist countries from the Maghreb, apart from Morocco, such as Algeria and Tunisia. Without officially declining the numerous invitations sent to them, these two countries never agreed to join the Core Group. However, ECPM's work in these two countries and the presence of delegations at the Regional Congress confirm their desire to be players in the debate on abolition.

Assessment of political activism during the 5th World Congress Against the Death Penalty project

A first step: the Regional Congress in Rabat in November 2012:

Political activism within the framework of the 1st Regional Congress in the Arab world aimed to be both a challenge and a bet. The bet on regional political awareness with regard to the need for democratic change following the revolutions and upsets in the region. The abolition of the death penalty remains and is still the result of the choice of a government and the political courage of the latter. The presence of politicians from countries in the Middle East and North Africa region was essential. The challenge was therefore to push governments and coalition from the Islamist movements (the PJD in Morocco, Ennahda in Tunisia, the Muslim Brotherhood in Egypt) to participate in a debate which had been taboo until then.

Not so long ago it would have been impossible to organise such an event on Arab ground and achieve any kind of political activism. The Rabat Congress guaranteed high-level representation: former ministers (including Mr Bedjaoui, former Algerian Foreign Affairs Minister, and Mr Youssoufi, former Moroccan Prime Minister), three human rights ambassadors (Spain, Switzerland and France), several ambassadors present (including the EU, Norway, Sweden, the Netherlands and Belgium) and also a number of MPs from the region including a member of the Tunisian Parliament's Human Rights Commission and affiliated to the party in power, Ennahda, and a Senator, President of the Legislative and Constitutional Committee and an influential member of the Muslim Brotherhood. The presence of MPs from Islamist movements and parties (i.e. far from converted to the underlying principles of abolition) was in itself a major progress because it proved that the abolitionist movement could reach influential but unconvinced figures.

This political activism has already resulted in a few assets. Firstly, the official commitment of the Moroccan National Human Rights Council (CNDH) via its Chairman, Mr El Yazami. He reaffirmed the ineluctability of the abolition of the death penalty in Morocco, referring to the positions already taken by the Equality and Reconciliation Body (IER) in favour of

the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights⁴ aimed at abolishing the death penalty. The presence of a representative from the Jordanian Ministry of Justice, as well as a special representative from the Tunisian Ministry for Human Rights and Transitional Justice, are also strong signs as, for the first time, an official representative from these countries talked publicly on behalf of their countries at an event of this nature.

The Regional Congress also welcomed two members from the Algerian National Consultation on the Promotion and Protection of Human Rights (CNCPPDH), representing President Bouteflika. The Chairman of the Iraqi Parliament Human Rights Committee, Mr El Jabouri, had confirmed his participation but was unable to obtain a visa in time. He reiterated his desire to work on the issue of abolition.

Second stage: the Madrid World Congress

Activism at the European level was unprecedented and the work in collaboration with the Core Group was very productive, resulting in official ceremonies with the exceptional presence of:

- 15 ministers of state: seven European ministers, eight ministers from *de facto* abolitionist or retentionist countries (Iraq, Benin, Philippines, Burkina Faso, Algeria, Chad, Tunisia);
- 4 high representatives from the major inter-governmental institutions (OHCHR, OIF, EU, Council of Europe);
- 300 diplomats present over the 4 days of the Congress;
- More than 70 delegations.

Very senior figures also participated in this unique event or had a statement read out on their behalf.

The major international organisations sent out a strong abolitionist message: Ban Ki-Moon (United Nations), Abdou Diouf (OIF), Thorbjorn Jagland (Council of Europe), Navanethem Pillay (UNHCHR) and Stavros Lambrinidis (EU-EEAS) recalling that abolition of the death penalty is seen as archaic and contrary to human rights on the big international stages.

Unprecedented political representation marked a global commitment against the death penalty and dialogue about the issue of the death penalty at the highest level. Among the ministers present were: Didier Reynders (Belgium), Nassirou Bako Arifari (Benin), Julie Prudence Nigna Somda (Burkina Faso), José Manuel García-Margallo y Marfil (Spain), Laurent Fabius (France), Mario Giro (Italy), Hassan Al-Shimari (Iraq) Gry Larsen (Norway), Leila Norma Eulalia Josefa Magistrado de Lima (Philippines), Johnstone Busingye (Rwanda) and Didier Burkhalter (Switzerland), etc.

4 <http://www.ohchr.org/EN/ProfessionalInterest/Pages/2ndOPCCPR.aspx>

For the first time, a major retentionist country, Iraq, came to participate in the debates and discuss the arguments which might push his country to move towards a moratorium and, why not, abolition. Even though the Iraqi Justice Minister recalled the sensitive situation in his country, particularly in relation to terrorism, he was reminded just how much the fight against terrorism requires first and foremost a state of law, a confident and fair justice system and non-violence.

Finally, important symbolic messages were received on this occasion: Pope Francis sent a strong statement (see the appendices) recalling the unambiguous commitment of the Church against the death penalty. The Nobel Peace Prize Laureates Shirin Ebadi, Mairead Maguire-Corrigan and Desmond Tutu made their very necessary contributions throughout the debates.

The Madrid Congress meant that the message has been carried to nations which, until now, were little inclined to participate in the international debate and that the initiatives undertaken during the Rabat Conference concerning national and regional parliamentary networks (work which is still currently growing in scale) can be consolidated. The call to Parliaments launched during the Closing Ceremony by Nouzha Skalli, spokesperson for the Moroccan Network of MPs Against the Death Penalty, is a demonstration of this new form of political activism which is not found solely at the executive level but also at the legislative level.

Finally, bar associations from across the world co-signed the call from the Paris Bar and Beirut Bar for a stronger commitment from bar associations in the abolitionist struggle. This undertaking marks the importance of the judicial authorities in this process of abolitionist commitment.

Challenges for future Congresses

- Maintain abolition at the heart of political debates and international agendas;
- Establish dialogue even with the most recalcitrant countries in terms of abolition: continue on the path of Madrid by mobilising difficult countries (such as Iraq);
- Unify and bring together abolitionist countries to use them as a symbol of the unity and universality of the abolition of the death penalty;
- Work to involve the United States in this international dialogue one way or the other;
- Provide even more space for the very many diplomats present during the debates;
- Work on the activism of regional bodies on the model of the ACHPR or OIF, targeting specifically the Arab League, ASEAN, the Commonwealth, CARICOM, etc.

Political activism therefore bore fruit beyond the Congress stage itself

- The Congress opened up dialogue with ministers and diplomats from retentionist countries (particularly Iraq), countries observing a moratorium (BF, Algeria, Morocco, Tunisia, Chad), countries moving towards abolition (Benin, Mongolia) and fully abolitionist countries which carry aloft the symbol of the universality of abolition.
- For the first time, Tunisia voted in favour of the UN General Assembly moratorium, joining Algeria as the only other Arab country voting yes to this resolution.
- Morocco cited the Moroccan Coalition, ECPM and the Regional Congress in its arguments for consideration of the death penalty when it voted on the UN General Assembly universal moratorium vote (third commission).
- In November 2014 at the opening of the International Human Rights Forum in Marrakech, the King of Morocco arranged for his Justice Minister to read a text citing abolition of the death penalty and the right to life twice.
- Burkina Faso, represented at the Congress by its Human Rights Minister, Julie Prudence Nigna Somba, launched a national debate (including the Executive and Parliament) on abolition of the death penalty through a review of its penal code.
- Chad's Justice Minister, Mr Jean Bernard Padare, present during the entire Congress, returned home with a draft reform of a penal code which would not include the death penalty. The document is still being drafted in 2014.
- Commissioners from the Death Penalty Working Group of the African Commission for Human and Peoples' Rights (ACHPR), meeting in Johannesburg in July 2013, agreed on a text (found to be very good by the NGOs present) for the additional protocol to the African Human Rights Charter.
- Queen Sofia of Spain received the Director of ECPM and the Nobel Peace Prize Laureates during the Congress to provide the symbolic support of the Spanish royal family to the abolitionist cause.

Déclaration finale du Core Group

Lue par **M. Busingye Johnston**,
ministre de Justice du Rwanda, lors de la cérémonie de clôture du Congrès de Madrid

Call from the Core Group in support of the World Congress against the Death Penalty

The four previous World Congresses have shown the need to establish a resolute political and diplomatic action network. The Core Group for political mobilization, created for the preparation of the first Regional Congress on the death penalty in the Arab world in Rabat, Morocco and the 5th World Congress against the Death Penalty, is open to any State wishing to engage in the struggle for the universal abolition of the death penalty.

Today it consists of the four Sponsor States of the 5th World Congress (Spain, Norway, Switzerland and France), Argentina, Mexico, Morocco (CNDH), the Principality of Monaco, Turkey and Rwanda), the International Commission against the Death Penalty and the French association Ensemble contre la peine de mort, ECPM (Together against the Death Penalty).

The new body has three major objectives:

1. Ensure a high level political representation of abolitionist and retentionist States and contribute to the sustainability of global and regional conferences against the death penalty.
2. Encourage the active participation and commitment of abolitionist states to establish a dialogue with retentionist States for the universal abolition of the death penalty, including by mainstreaming the fight against the death penalty in the agenda of bilateral and multilateral meetings on human rights.
3. Encourage States to engage in the ongoing campaign for the universal abolition by voting in favour of the universal moratorium at the General Assembly of the United Nations, the ratification of the Optional Protocol to the International Covenant on Civil and Political Rights and the reduction in death sentences and executions, at national, regional and international level.

Call for diplomacies against the death penalty:

The Core Group calls:

1. Abolitionists to work together for concerted abolitionist diplomatic actions;
2. Abolitionist countries to work in coordination with the Core Group in the preparation of major national, regional and international events on the death penalty;
3. Retentionist countries to engage in a dialogue with members of the Core Group.

Madrid – June 15, 2013

Final Declaration of the 5th World Congress Against the Death Penalty

Madrid – June 15, 2013

WE,

the participants in the 5th World Congress against the Death Penalty, taking place in Madrid (Spain), June 12 to 15, 2013, organized by the Association Together Against the Death Penalty (ECPM) and sponsored by Spain, Norway, Switzerland and France, and in partnership with the World Coalition Against the Death Penalty ;

Adopt this Declaration, after three days of intense debates, shared experiences and testimonies, numerous commitments of abolitionist states and a variety of institutions and international and intergovernmental organizations, as well as the attention of retentionist States attending the World Congress against the Death Penalty ;

Are pleased:

- that the abolitionist movement is expanding in a world where 70% of the states are no longer implementing the death penalty, by law or *de facto* ;
- that since the World Congresses in Strasbourg, 2001, Montreal, 2004, Paris, 2007 and Geneva, 2010, including this 2013 World Congress against the Death Penalty, supported by its 145 members together with the International Commission against the Death Penalty, States, Regional or National coalitions of organizations and civil society, parliamentary networks, networks of academics, have been uniting their forces to promote the abolition of the death penalty;
- that the abolitionist States are increasingly inserting the issue of the universal abolition in their international network, and are more and more likely to make it a major issue of their international policy to promote human rights;
- that the links between, on the one hand, civil society, and on the other hand, States and intergovernmental, regional and international organizations are being strengthened;
- that retentionist States, such as Iraq, are showing a growing concern on the issue of the implementation of the death penalty, or, for some of the *de facto* abolitionist countries, are showing a growing tendency to open the debate on the legal abolition of death penalty;

But regret that:

- 93 countries still retain the death penalty in their legal arsenal and 58 countries still implement it; every year, thousands of people are sentenced to death in the world,

including China, Iran, countries in which executions take place almost every day, Saudi Arabia, Iraq and USA;

- Some countries have resumed executions after the death penalty was suspended, such as India, Japan, Indonesia, and Gambia after 27 years of moratorium, while others plan to reintroduce the death penalty;
- The death penalty still affects juveniles and the mentally disabled, discriminating on the basis of ethnic, religious or social origin, skin color, and sexual orientation or gender identity;
- Those sentenced to death are often subjected, by reason of their status, to deteriorated conditions that violate human dignity;

Highlight the need to take new significant steps towards total and universal abolition of the death penalty,

Call on:

Intergovernmental organizations and international organizations:

- To continue and intensify their cooperation with States and civil society to promote the universal abolition of the death penalty;

Retentionist states:

- To reduce by law the list of crimes punishable by the death penalty, including those related to the repression of drug trafficking and the fight against terrorism;
- To comply with the International Convention on the Rights of the Child, renouncing the execution of minors;
- To publish regular and reliable information on their implementation of the death penalty;
- To work toward the abolition of the death penalty by establishing a moratorium on death sentences and executions in accordance with the resolution for a moratorium on the application of the death penalty passed by the General Assembly of the United Nations since 2007 and ratify, following the example of Benin or Mongolia, the Second Optional Protocol to the International Covenant on Civil and Political Rights of the United Nations;

Abolitionist states:

- To engage, beyond words, in concrete and stronger action in favor of the universal abolition of the death penalty, especially in their diplomatic relations with the retentionists states;
- To sign and ratify regional agreements, particularly in Asia and Africa, or to encourage their emergence when they do not yet exist;
- To sign and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights of the United Nations;
- To promote, when they benefit from international financial assistance for the fight against drug trafficking, the non-application of the death penalty;

Parliamentarians:

- To gather in national, regional and international networks and bring the debate to abolish into the heart of retentionists Parliaments;

Judges in retentionist countries:

- To use their discretionary power to individualize sentences, to not sentence to death or to encourage juries to decide not to condemn to death;

Abolitionist civil society and academic actors:

- To act jointly with, and eventually join, the World Coalition against the Death Penalty and strengthen interactions;
- To undertake educational activities for abolition with the public ; policy makers ; primary, secondary and College students, including every year at the annual World Day against the Death Penalty on October 10 and the Cities for Life November 30.

21

The debates



The choice of the debates

By **Sandrine Ageorges-Skinner**,

Academic Program Coordinator for the 5th World Congress against the Death Penalty

When the time comes, every three years, to take a new look at the progress made and the obstacles in order to achieve universal abolition of the death penalty, choosing the debates is a key moment that calls for group reflection. Without dwelling on it, the past must be evaluated and dissected in order to better understand the present and prepare for the future. The topic of the death penalty arouses passionate feelings, contradictions, expectations and urgent matters in a multi-faceted geopolitical context. To have a discussion is, above all, knowing how to listen to each other and becoming familiar with the other perspectives even before having a constructive conversation. The debates of the 5th World Congress were designed to improve the listening experience and to improve the exchanges between abolitionists from around the world. However, when making a list of topics or geographical zones, priorities must be established, a balance must be found between the necessity to address urgent questions without neglecting the substantive strategic discussions. The first step relied on an academic committee that outlined the major topics. The principal task of this committee was to evaluate the abolition trends in the world since the 4th World Congress and to finalise the order of priorities as well as the strategic and thematic perspectives to be addressed. What followed was a joint task with twenty-nine member associations of the World Coalition against the Death Penalty who participated in the implementation of the programme, helping with both the specific guidelines of each debate and selecting speakers based on their respective experiences in the field. Though the debate topics are an essential starting point, choosing the speakers is also a major element in order to ensure the quality of the debates. Our main goal was to find the best balance between the presentations and the discussions that are essential to advance strategically. This 5th World Congress was the opportunity to hear new voices on the topic in order to broaden and optimise our focus on the progresses or regressions of the abolitionist movement in order to better respond to the current needs of the movement where civil society, intergovernmental organisations and political representatives co-exist. Strengthening tools, refining strategies and asserting the abolitionist commitment remain the major challenges of a universal cause that addresses abolishing the death penalty with absolute urgency throughout the world. This 5th edition gathered 85 speakers from 39 countries.

The strategic regions

The Death Penalty in the MENA Region

What are the arguments in favour of abolition
from a sociological, legal and religious point of view?

Introduction by **Mairead Maguire**, winner of the Nobel Peace Prize in 1976 (Ireland),
et **Raphaël Chenuil-Hazan**, director, Ensemble contre la peine de mort, (ECPM)

Speakers

- **Nasser Amin**, director of the Arab Centre for the independence of Justice, Egypt
- **Youssef Seddik**, philosopher, anthropologist of the Koran, Tunisia
- **Mustapha Farouk Ksentini** (represented), president of the National Consultative Commission for the Promotion of Human Rights – CNPPDH, Algeria
- **Houria Es-Slami**, National Council for Human Rights – CNDH, Morocco
- **Ghassan Moukheiber**, parliamentarian and spokesperson for the Parliamentary Commission on Human Rights, Lebanon

Moderator

Amina Bouayach, vice-president of the International Federation of Human Rights Leagues – FIDH, Morocco

In a region that many abolitionists believe inaccessible to abolition, while arguments in favour of abolition are strong and should allow local actors to redefine their strategies and tools, whether they are addressed to policy makers, legislators, religious community leaders or society. This plenary session aims at assessing the situation to identify relevant arguments from a political, legal, religious and sociological perspective.

What could be a worthier cause than saving lives!

In an introduction to the plenary session, Mairead Maguire, Nobel Peace Prize Laureate in 1976, recalled the extent to which the work achieved by abolitionist organisations and NGOs is probably one of the world's most important human rights missions: what could be a worthier cause than saving lives! "It is unbearable to think that men and women in prison are cold-bloodedly awaiting their own deaths. We must now involve our governments to stop killing in our name. Together, we can abolish the death penalty." She recalled the significant amount of work, which remains to be done in the Arab world and how necessary messages of hope are if it is to be fulfilled.

Activism and the hope of possible abolition

Raphaël Chenail-Hazan, Director of *Ensemble contre la peine de mort-ECPM*, recalled a few facts and some background information. Firstly, it is undeniable that Middle East and North African region (the MENA region) are a major area of focus in terms of abolition: in terms of worldwide executions and sentences it comes second after Asia. However, the situation is more complicated and less homogeneous than it appears. People are not sentenced to death in the Maghreb as they are in the Middle East. Even in that part of the world, some countries are making significant progress every year such as Libya or Jordan for example. It is therefore essential, during this special session following the first Regional Congress in the Arab World organised by ECPM in October 2012 in Rabat, to set out the broad outlines for progress and opportunities for action in the future.

The events of the Arab Spring, which began in the little town of Sidi Bouzid in Tunisia resulting in the removal of Ben Ali from power and which were propagated across the entire Arab World, such as Morocco where a new constitution emerged, have led to the emergence of new strategies thanks to a wind of hope, freedom of speech acquired at such a high cost and an unchanged desire for dialogue and debate. Now this opportunity must be seized to push on further the movement for abolition of the death penalty.

This hope was also recalled by Amina Bouayach, Vice-Chair of FIDH in Morocco. All the States in the MENA region (with the exception of Djibouti) have kept the death penalty in law. However, a significant number of them has not executed anyone for more than ten years and apply a *de facto* moratorium. Civil society and MPs in the MENA region are also very active in support of abolition which provides some hope amidst a few disillusionments such as the arrival in power of the Islamists in Tunisia and the retaking of power by the military in Egypt. For Nasser Amin, director of the Arab Centre for the independence of Justice in Egypt, relations between the region's countries must be identified to define common strategies. In his opinion, they have four areas in common: young, changing political systems, the similarity of their legislative and legal models, the same concept of human rights and a common language.

A lesson in reading the Koran: reparation not revenge

Between hope and disappointment, how can the influence of religious and cultural traditions be overcome?

The speakers set out the extreme and permanent confusion between the subsequent links between religion and application of the death penalty. It was recalled that in most countries in the region substantive law prevails, although Islam often remains the reference point for legislators. It is a question of setting aside a literal reading of certain parts of the Koran in order to interpret and put together several approaches which are, in the end, much closer to an abolitionist vision than a vision of vengeance. What Youssef Seddi, a philosopher and anthropologist of the Koran in Tunisia, advocated is a “lesson in reading” and not a “lesson in repetition”. In his opinion, and in application of this lesson, the death penalty could have been abolished in the Islamic world centuries ago. For example, the famous *lex talionis* is an excellent example of a badly interpreted verse. There is a difference between reciting (worship) and reading (practice). Thus, in Verse 178 *lex talionis* is only applicable to the people of Israel, not Muslims. In Sura 2, known as The Cow, it is said: “O you who have believed, prescribed for you is legal retribution for those murdered...this is an alleviation from your Lord and a mercy. But whoever transgresses after that will have a painful punishment.” It is therefore expressly asked of Muslims to view justice in terms of reparation because revenge is exclusively reserved for God and only in cases of repeated offences.

According to Youssef Seddik, at the end of a fundamental verse, No. 179, it is also said that, “there is for you in legal retribution [saving of] life.” Some people interpret this in an intentionally biased way, as a call for revenge, when in fact it means that “reparation is a way of preserving the life (of another)” and therefore to do good. Similarly, the notion of forgiveness lies at the heart of Surate 5, verses 30-32, known as the Table Spread, in the passage concerning the original murder, referred to in the Old Testament as Cain and Able. However, in the Koran they are not named as if to link the murderer and the victim without any distinction. According to Seddik, there is a Gandhian approach (on the notion of forgiveness), which Muslims have not exploited. “If you should raise your hand against me to kill me - I shall not raise my hand against you to kill you... I want you to obtain [thereby] my sin and your sin so you will be among the companions of the Fire”.⁵ Further, it is important to recall that mercy has a preponderant place in the Koran, much more so than the death penalty which is not explicitly cited. Finally, it is said in Sharia law that application of capital punishment is only possible (and despite numerous restrictions not discussed here) in a socially just society without any inequality. This is still far from being the case in our world today.

Youssef Seddik concluded that “we abolitionists in the Muslim world must communicate this idea and combat the false idea that Islam is in favour of the death penalty on the ground and through debate.”

5 Surate 5, verse 30 - 32

The role of National Human Rights Institutions (NHRIs) in support of the new abolitionist strategy in the Arab World

National Human Rights Institutions are independent institutions operating according to the Paris Principles⁶ and exist in more than 100 countries across the world. They work within the framework of the international human rights referential. Houria es-Slami, a representative from the Moroccan NHRI, recalled the importance of this national institution in the abolitionist struggle in Morocco. Against a background of very dynamic civil society with the Moroccan Coalition Against the Death Penalty, the national network of MPs against the death penalty and Moroccan Lawyers Against the Death Penalty, the NHRI is part of a united struggle. The NHRI simply follows the recommendations of the Fairness and Reconciliation Body (FRB) according to its own schedule. The NHRI therefore sees its role as central in national lobbying on the issue of abolition in a country, which has not executed anyone since 1993. Morocco accepted the two recommendations from the UN Universal Periodic Review in September 2012 for a continuation in the *de facto* moratorium and an official undertaking towards abolition. The NHRI is encouraging the Moroccan State to vote in favour of the universal moratorium at the UN General Assembly, as well as implementing reform of the justice system and the Penal Code.

By contrast, the Algerian National Consultative Commission to Promote Human Rights (National Consultative Commission for the Promotion of Human Rights in Algeria, CNPPDH) “energetically works towards abolition but refuses to ostensibly provoke public opinion which is hostile to abolition”, underlined its representative Mustapha Farouk Ksentini. The Algerian State supports initiatives for abolition internationally. There have been no executions in Algeria since 1991. Thus, the CNPPDH opts for a “gentle” strategy favouring national debate and calls for transversal work coordinated at regional and international level. It is particularly interesting to note that Algeria is, in spite of it all, one of the sponsor countries for the UN resolution for a universal moratorium on capital executions.

The constitutional approach: another way!

Morocco, (Article 20), Egypt and Tunisia (Article 22) have, in their own ways, integrated the right to life into their Constitutions.

- In Morocco, the right to life is strictly affirmed in the Constitution through Article 20, which stipulates that “the right to life is the first right of every human being and the law protects this right by prohibiting damage to anyone’s physical integrity.” Tunisia, however, has not gone so far: it constitutionalises the right to life which is referred to as “sacred” in Article 22, while specifying that it can be undermined “in extreme cases set out by the law.”

6 <http://www.ohchr.org/EN/NewsEvents/Pages/ParisPrinciples20yearsguidingtheworkofNHRIs.aspx>

- Integration of the right to life into the Moroccan Constitution was achieved by civil society within the framework of the Consultative Commission for Revision of the Constitution, of which Amina Bouayach, Vice Chair of the International Federation of Human Rights Leagues (FIDH) in Morocco, was a member. This momentum from civil society has borne fruit. However, sentences continue and the death penalty has not yet been abolished. In practice, there is a loophole at the moment. It is entirely possible now to invoke a priority preliminary ruling on the issue of constitutionality, which would invalidate a verdict sentencing capital punishment. Therefore, a choice must be made: either abolition must exist in law or the Constitution should be modified again to take it into account in the terminology of the right to life.
- As for Tunisia, in January 2014 its National Constituent Assembly voted for the entirety of the chapter on rights and freedoms in its new Constitution, which represents real progress. In effect, Article 21 defines the right to life as sacred. However, the same article stipulates that, “it can be undermined in extreme cases set out by the law.” Such a disposition therefore authorises the preservation of the death penalty in the Tunisian legal arsenal but it does represent legislative progress. Tunisia has not executed anyone since 1991.
- In Egypt the new Egyptian Constitution, drafted essentially by the fundamentalists, is limited to reflecting on Islamist ideals, underlined Nasser Amin, Director General of the *Arab Centre for the Independence of Justice in Egypt*. Civil society is strongly opposed to this text and expressly requested the introduction of the right to life, explicitly calling for abolition of capital punishment, but to no avail.

The importance of concerted action at regional level

Nasser Amin, director of the Arab Centre for the independence of Justice in Egypt, recalled that the only way to bring about abolition, particularly in countries facing the greatest crisis and the most difficulties such as Egypt, is to adopt a regional approach favouring regional meetings in order to develop common approaches despite individual differences. For example, using parliamentary initiatives or highlighting the right to life and its place in the constitution, as has occurred in Morocco and Tunisia, and working on the issue of extrajudicial executions and religious aspects of the death penalty in order to demonstrate to the wider public the compatibility of the Koran, the right to life and human rights.

For all the speakers, it is primordial to work at regional level via for example the Permanent Arab Committee of the Arab League. There are plans to reform this committee, which has been heavily criticised thus far. Civil society and the NHRIs must be able to play their role as observers within this Committee fully in order to encourage adoption of an international referential.

The role of MPs as the new abolition players

According to Ghassan Moukheiber, an MP and spokesman for the Human Rights Parliamentary Commission in Lebanon, Parliament plays a preponderant role today, and even more so since the Arab revolutions. If abolition does happen, it will inevitably involve a vote by Parliament. It is therefore essential, according to Moukheiber, for all players (civil society, politicians and independent authorities) to concentrate on this area and therefore put pressure on MPs to take this step.

However, Ghassan Moukheiber underlined the importance of returning confidence to public opinion through a functioning legal and prison system, alongside the abolition process. According to him, abolition cannot happen if distrust of the system is too great. There is often confusion between the death penalty and the efficiency of the justice system in a country, which has not executed anyone for ten years.

Lebanon is progressively moving towards a system without the death penalty. Thus, the Special Tribunal for Lebanon (STL), like all international jurisdictions, does not provide for the death penalty in its statutes. The Lebanese Parliament has been prevented from voting on any new laws, including the death penalty (particularly within the framework of the law to protect victims of human trafficking or the law on violence against women or the proposed law on the prevention of torture). On the other hand, Parliament has modified the law on the organisation of sentences allowing sentencing judges to commute death sentences to prison sentences, as long as victims' families support commutation. Further, Parliament has led work resulting in the drafting of a National Human Rights Action Plan integrating a gradual process towards abolition. Finally, ten MPs from several parliamentary groups have put forward a proposed law on abolition (the text has not yet been debated four years after being drafted).

The role of Parliament and MPs is therefore essential. However, it should not be forgotten that MPs are elected and some fear speaking out in favour of a sentence which is unpopular with some of their voters. Serious action can therefore only be envisaged at the start of the mandate, long before any elections and populist temptations. Amina Bouayach recalled that no country has gone back on a vote for abolition and public opinion (and therefore voters) has never held this against the elected representatives. She also underlined the extraordinary initiative of the Network of Moroccan Parliamentarians Against the Death Penalty which, in a few months, has brought together more than 160 MPs from all political sides (except members of the Islamist party).

By way of a conclusion

The abolition process is part of a degree of growing democratisation among Arab societies. All the speakers were in agreement that the issue of human rights should be placed outside the religious field. According to Youssef Seddik, religion must be maintained in a vertical space (individual) and the debate should be refocused horizontally

by working together. The importance of proposing tools adapted for abolitionists was recalled (a manual for MPs setting out successes and failures, educational brochures on a new vision of Islam and the death penalty, the notion of the right to life). Ghassan Moukheiber underlined the importance of friendly pressure, particularly from countries in the European Union. Finally, public opinion, as often, is not in favour of abolition; however, national debates have not given rise to large public demonstrations of opposition. It is fundamental to work with the media so that they stop being vectors of populist points of view and confusion, which could have a negative impact on achieving abolition.

Asia and the Death Penalty

By **Sandrine Ageorges-Skinner**,

Academic Program Coordinator for the 5th World Congress against the Death Penalty

President

Roger Hood, professor Emeritus of criminology at the university of Oxford, United Kingdom.

Speakers

- **Parvais Jabbar**, co-executive director of the Death Penalty Project, United
- **Maïko Tagusari**, lawyer and activist at the Centre for Prisoners' Rights (CPR), Japan;
- **Yug Chaudhry**, lawyer, India;
- **Sosormaa Chluunbaatar**, advisor on human rights for the President of Mongolia;
- **Otto Nur Abdullah**, former president of the National Commission on Human Rights in Indonesia and member of the Commission on Human Rights in India, Indonesia.

Moderator

Florence Bellivier, president of the World Coalition against the Death Penalty, France

Asia is a multicultural region with complex geopolitics and it remains one of the bastions of the death penalty across the world. The resumption of executions in India, Japan and Indonesia demonstrates that this issue must be placed at the heart of important societal issues. People cruelly lack information about the application of the death penalty. The major issues are to be found in five countries with different journeys: Mongolia, Indonesia, Singapore, India and Japan.

Towards Abolitionist Asia

For Roger Hood, Emeritus Professor of Criminology at Oxford University in the UK, of all the countries in the world those in South-East Asia, which represents half the global population, execute the largest number of people. Only 24 countries in the region have abolished the death penalty and 6 other countries retain it in their legislation but do not apply it such as Burma, South Korea and Sri Lanka. It appears clear that abolitionist ideas are increasingly accepted by jurists and intellectuals, including in China where the abolitionist network declares that abolition is an “international obligation” in a world where human rights are becoming an almost universal standard. At the UN General Assembly vote in December 2012 on the resolution concerning a universal moratorium on executions, 11 of the 13 countries from this continent, which had executed people over the last few years, abstained. Only Mongolia opted for a moratorium.

Although Roger Hood indicated that public opinion can often be perceived as an obstacle to abolition, work to raise awareness demonstrates that it is much more committed to abolition of the death penalty than certain political leaders would like to admit. He concluded by recalling that abolition requires political courage because it is leaders who must bring about change.

Singapore: Challenges and Evolution

Parvais Jabbar, Executive Co-Director of the Death Penalty Project in the UK, shared her experience in the field with regard to defending prisoners sentenced to death in Singapore. This has allowed him to observe that the evolution of legislation is very slow, if not non-existent in a country which also suffers from very poor judicial activism. Singapore provides for, and applies, an automatic death penalty for terrorism, drug trafficking, war crimes and military crimes; these sentences do not give the judge any discretion. Alongside the severity of the system are a number of temporary circumstances which negatively influence legislative progress. The country has hardly signed any international treaties on the death penalty and opposed the UN vote in support of a universal moratorium on capital executions. It is also one of the countries which orchestrate virulent opposition to this text. While international jurisprudence tends to validate the unconstitutionality of the death penalty because it deprives prisoners sentenced to death of the right to life, this argument is not held up by the country's courts where it is considered to be a European concern.

For Parvais Jabbar, pleas for clemency pose another challenge because they are only granted very exceptionally. Over the last 40 years only 10 people have benefited from them. The system does not offer any transparency as to the procedure of pleas for clemency because prisoners sentenced to death, and their lawyers, do not have access to any documents, which could serve to review their cases.

A third issue concerns the discretionary power of the prosecutor because it is he who decides on the right to life of the prisoner in practice, particularly in cases of mandatory death penalty or in cases of possession of more than 15 grams of illegal drugs. It is up to him to validate the procedure or not. The prosecutor has the last word after the opinion

of the judge or the President. At this stage, several irregularities must be raised, particularly with regard to the veracity of incriminating evidence. However, the prosecutor must provide justification for his decision and if he does not abuse his discretionary power he cannot be called in question.

Parvais Jabbar noted that the lack of judicial activism has serious consequences because it means that the country's legislative power cannot be influenced. As long as mandatory death sentences, which cannot be appealed, are passed, the system will remain a vicious circle, which is perpetually repeated.

In conclusion, he indicated that the number of death sentences is dropping, Parliament is starting to accept the need to change the law and the courts are playing a more concrete role thanks to new jurisprudence.

Japan: an eminently political situation

In August 2009 Japan's Liberal Democrat Party, which had been in power for the last 50 years, lost the election to the Democrat party. For Maiko Tagusari, a jurist and activist for the Centre for Prisoners' Rights (CPR) in Japan, this change should have lead to an abolitionist initiative aiming to assess adoption of a moratorium on executions. In fact, above all it fed a debate across the country for or against the death penalty and, after three years in power, no decisions had been made. Further, she specified that 9 Justice Ministers have succeeded each other and that with such fluctuation the role of the Justice Minister has been diminished, at least in the eyes of public opinion which considers that the real work is done by bureaucrats.

After the 2009 elections, Keiko Chiba, the first Justice Minister for the new majority party, openly indicated that he was a convinced abolitionist. With a view to transparency, she tried to make public information about recent executions but State civil servants were opposed and refused to collaborate. The bureaucrats also upped the pressure because it is the Ministry of Justice which must sign the execution warrants. In 2010 she signed two execution warrants, executions which she witnessed moreover. In 2011 no fewer than four Justice Ministers succeeded one another and no executions took place that year, for the first time since 1992. She clarified that Hideo Hiraoka, one of those ministers, stated that he would not sign any execution warrants, which led to his replacement. The death penalty remains a very controversial subject in Japan. Political use of this subject is demonstrated by the constant highlighting of public opinion, a majority of which support the death penalty. However, since 2006 all politicians have adopted a more moderate position on the issue. In 2012 the Democrat party lost the election, something which provokes a certain reserve as to favourable positions towards abolition which today are still political suicide in the face of an electorate which is mostly in favour of the death penalty. Since he took office, the current Justice Minister, Sadakazu Tanigaki, has signed many execution warrants. He clearly has no intention of analysing or considering a review of the application of the death penalty in his country.

To conclude, Maiko Tagusari, delivered a message from the former Justice Minister, Mr. Hiraoka: "*I have been attacked for refusing to sign execution mandates. The opposition*

has called into question my competence as a justice minister because apparently I was not doing my job. At the next elections, we can expect the worst, not only in terms of the death penalty but also for human rights in general. We must fight for a more democratic society and educate public opinion.”

India: history and context

Since 1950 India has been a federal parliamentary republic bringing together 29 states, all managed by governors. According to Yug Chaudry, an Indian lawyer, before 1980 the death penalty was the norm in the country but since then little by little a clear *de facto* regression has been taking place and it has become increasingly difficult to obtain death sentences. It had been envisaged that its application might be restricted to exceptional cases. Over the last 11 years the Supreme Court has only confirmed 2.5% of death sentences, a very positive figure for the abolitionist community. Although the number of sentences has clearly dropped, it is because on the one hand the criteria required by the justice system, defining the rarest of crimes, are stricter and on the other hand because two abolitionist presidents succeeded one another to power over the last few years. Presidential pardon still exists and consequently no executions can take place if it is granted. Unfortunately, the current President, Pranab Mukherjee, has not followed his predecessors' trend and, according to the information available, he has denied 13 out of 14 clemency petitions. It is interesting to note that the death penalty in India does not have a dissuasive value. On the contrary, since the number of executions dropped, not only the number of murders has not increased but it has dropped.

Yug Chaudry noted that between 1998 and 2010 there were no executions in the country. On 21 November 2012, Ajmal Kasab was executed for the terrorist attacks in Bombay in 2008 which killed 72 people, and the attack of February 2013. Afzal Guru was executed for the terrorist attack on the Indian Parliament in 2011 which killed 12 people.

India has always voted against the UN resolution for a universal moratorium on capital executions. There are currently 16 people, who have exhausted all appeals procedures, awaiting execution. Increasing numbers of cases are subject to review because it appears that the death sentence is not justified and that numerous errors were committed in the past.

In India the increase in terrorism has changed the rules of the game for the abolitionist movement and according to Yug Chaudry the last two executions of terrorists and the argument of deterrence used by the authorities to justify them have slightly weakened public opinion which, until then, was opposed to executions. Today, it appears that it considers that the struggle against terrorism justifies the return to the death penalty in the country. Although the Supreme Court has taken up the defence of human rights, it has still not managed to convince the entire population or even the Government of the need to abolish the death penalty. Yug Chaudry concluded “*there remains much work to be done.*”

Mongolia: with the momentum of international support for abolition

In January 2010 Mongolia declared a moratorium on capital executions. In March January 2012 Parliament approved a draft law authorising the ratification of the 2nd Optional Protocol to the International Covenant on Civil and Political Rights⁷, and on 13 March 2012 the country signed up to the 2nd Protocol, therefore becoming the 74th State party. For Sosormaa Chluunbaatar, human rights advisor to the President of Mongolia, this approach has demonstrated Mongolia's determination to become a dignified country by abolishing the death penalty because "*the path towards democracy must be free of blood.*" 2010 to 2012 was marked by strong contributions in support of abolition, even though some show a little reticence. The decision was made to move towards the construction of a fairer society and that was what the Government of Mongolia proposed. When Parliament signed the 2nd Optional Protocol, it committed to Mongolia never using the death penalty again and to taking all the necessary legislative steps for its abolition. Review of the Penal Code is currently underway and this should lead to total abolition of the death penalty in 2013.

When the President declared a moratorium, many considered that it was premature. However, according to Sosormaa Chluunbaatar, the ideal moment never comes because it is up to political leaders to create it. In this regard, political courage and desire are fundamental. Although the decision can seem risky, it is the duty of our leaders to guarantee the application of universal rights. When the abolitionist cause collides with a certain amount of opposition, explanation, information and awareness are needed to rally public opinion which will eventually understand it and support it.

She concluded by underlining the importance of the partnership with the international community via NGOs and IGOs which has provided the power and opportunity to take this step towards abolition, a path along which the country has been able to learn enormously, as much with regard to the form as the substance of this approach.

Indonesia: a divergent reading of human rights

Between 1998 and 2013, Indonesia passed 155 death sentences including 25 for offences connected to drug trafficking, terrorism or murders. The country did not carry out any executions between 2009 and 2012 but in 2013 5 executions took place in the country. According to Otto Nur Abdullah, former President of the National Human Rights Commission in Indonesia and a member of the Human Rights Commission of India, the Government did not react one way or the other when expatriate Indonesian workers were sentenced to death overseas, which demonstrates its lack of interest in the subject. With regard to Article 28A⁸ of the Indonesian Constitution, the death penalty is indefensible and nothing can justify it. However, in Indonesia, like in South East Asia, the right to life supposes respect for universal rights and not only the application of national law. The country suffers from numerous problems concerning human rights, torture being

7 <http://www.ohchr.org/fr/professionalinterest/pages/ccpr.aspx>

8 bit.ly/1FkrhEl

one of the main ones. Mistaken identity appears to be a recurrent problem and therefore numerous injustices are committed. The right to legal aid should be a guarantee at all levels of the procedure, like the right to an interpreter when the accused and/or the prisoner are foreign nationals. However, these guaranteed rights barely exist in practice and for Otto Nur Abdullah, this situation is an undeniable indicator of a government which does not hold the reigns and cannot handle the challenge of the death penalty. To conclude, he stated that countries in South East Asia have divergent readings with regard to human rights and Indonesia is one of those “democratic” countries where the death penalty is still applied.

Recommandations

- Encourage ASEAN to create a death penalty working group in the region;
- Identify local players who could influence legislators;
- Develop tools to raise awareness among the general public;
- Encourage diplomatic networks to inform about and debate the death penalty with homologues in the region.

Iran and the Death Penalty: How can executions be limited?

By **Nicolas Brayé**,
project manager for the MENA region, Ensemble contre la peine de mort, ECPM

Speakers

- **Ahmed Shaheed**, N special rapporteur on the situation of human rights in Iran, Switzerland
- **Hossein Raeesi**, lawyer, Canada
- **Roya Boroumand**, president and founder of the Boroumand Foundation, United States
- **Mahmood Amiry Moghaddam**, representative of Iran Human Rights (IHR), Norway

Moderator

Ahmed Arafat, journalist and writer (Raha TV)

Witness

Ali Shirzadi, carrying a message from Emadeddin Baghi, Iranian journalist

~~De tous les pays qui appliquent la peine de mort dans le monde, l'Iran a, de loin, le plus grand nombre d'exécutions proportionnellement à sa population. Dans le contexte actuel, des problématiques majeures se posent face à une politique de terreur qui vise à bâillonner l'opposition politique. Des exécutions publiques aux condamnations à mort de mineurs, de l'absence de transparence du processus judiciaire à l'impunité des procès à huis clos, il s'agit ici de repenser les stratégies d'actions à adopter.~~

Capital punishment at the heart of Iran's repressive arsenal

The penal policy of the Islamic Republic of Iran, established in 1979, has made use of the death penalty commonplace by granting it a considerable place within its repressive arsenal. Human rights activists and organisations have criticised such extensive application of this punishment and the lack of transparency in Iran's judicial system. Their action, nationally and internationally, aims to shed light on the singular situation surrounding the death penalty in Iran and to obtain progressive limitation of the application of the death penalty by the authorities.

A penal policy based on elimination

Iran executes more people *per capita*, i.e. in terms of the number of inhabitants, than any other country in the world. Although 300 executions have been declared by the Iranian authorities, the speakers agreed that this figure was an underestimation. Iran Human Rights independently recorded 580 executions in 2012.

The Islamic Republic of Iran authorises extensive application of capital punishment, both in terms of the offences which are punishable by death and the criminals who can be thus sentenced. The Islamic Penal Code, published in May 2013, authorises a death sentence for those who commit violent crimes, sexual crimes (incest, fornication, adultery and homosexual relations), acts judged to constitute rebellion or "corruption on earth" and the crime of *Moharebeh* (being at war with God). Hossein Raeesi, an Iranian lawyer, explained that although blasphemy and apostasy are no longer automatically punished by death the final decision is left to the judge's discretion. He has considerable power to choose capital punishment as Sharia law, the fundamental source for Iranian penal law, also offers him the possibility of passing fixed sentences set out by the Koran (*hudud*) which are not provided for by the law.

Roya Boroumand, President and founder of the Boroumand Foundation in the United States, explained that a very large number of crimes are still effectively punished by death in Iran, citing death sentences for religious beliefs for followers of the Bahaie religion, adultery, prostitution and sodomy, as well as the crime of collusion with the regime prior to the Islamic Republic. Mahmood Amiry Moghaddam, a representative from Iran Human Rights (IHR) in Norway, underlined that over the last few years' offences relating to drug possession and trafficking have represented more than 70% of executions. That is why Ahmed Shaheed, UN Special Rapporteur on the human rights situation in Iran in Geneva, argued that a very large majority (80%) of death sentences are passed in violation of international law for offences which are not "the most serious crimes". Hossein Raeesi, highlighted the use of torture by the police and the arbitrary nature of the Revolutionary Courts which judge certain offences such as crimes against national security and/or crimes related to drug trafficking and whose verdicts cannot be appealed. The Iranian justice system also executes the most juveniles in the world (three executions in 2011). Iranian law authorises the death penalty for people the judges consider

to be mature, from the age of 9 for girls and 15 for boys, even though Article 6 of the International Covenant on Civil and Political Rights⁹, ratified by Iran in 1977, and the UN Convention on the Rights of the Child¹⁰, also ratified by Iran, formally prohibit execution for crimes committed by those aged under 18.

An instrument of terror for the Regime

Is the death penalty used by the Regime to discourage opposition movements? Since 2009 and the Green Movement's attempt to contest the results of the presidential elections, human rights organisations have criticised the use of the death penalty more particularly as a tool of repression and intimidation. Hossein Raeesi, an Iranian lawyer, regretted the hold of political power over the Iranian judicial system; the Supreme Leader has the final decision-making authority over the three branches of power (executive, legislative and judicial).

Ahmed Shaheed, UN Special Rapporteur on the human rights situation in Iran based in Switzerland, was alarmed at so much information on the use of capital punishment against political opponents and Iran Human Rights underlined the correlation between the number and frequency of public executions and periods of social or political unrest¹¹. The execution of political activists from ethnic minorities because of *Moharebeh* (war against God) or rebellion could be attempts to suffocate any autonomist leanings by minority sections of Iranian society.

However, Emad Baghi, an Iranian journalist, underlined that such massive use of the death penalty in Iran also creates a sociological problem. The degree of violence in Iranian society and the relative value of life in a particularly troubled regional environment is a factor which could explain the generalised absence of respect for human dignity which also characterises Iranian penal policy. However, he issued a warning to those authorising executions, stressing that massive use of the death penalty by a political power could be considered to be a crime against humanity with regard to Article 7 of the Statutes of the International Criminal Court.¹²

Limiting executions in Iran: how can pressure be targeted?

All the speakers were in agreement that education was one of the keys to a change in public opinion and among the elite on the death penalty. This will include, in part, greater transparency of the Iranian judicial system in order to highlight the reality of the application of the death penalty in Iran. Due to a lack of information which can be accessed by the general public and the risks facing human rights activists in the Islamic Republic of

9 <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

10 <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

11 <http://iranhr.net/wp-content/uploads/2014/03/Rapport-iran-2014-GB-030314-bd-e.pdf>

12 bit.ly/1L1ZpEe

Iran, it is impossible to give an exact picture of application of the death penalty in this country. The Iranian authorities only give partial information on the executions carried out.

In the absence of reliable official data and civil society's limited ability to take action nationally, the role of activists outside Iran is considerable in order to highlight the reality of the death penalty in the country. Roya Boroumand and Iran Human Rights insisted on the need for human rights organisations outside Iran to raise awareness of the practice of executions. Victims of executions must also be given the possibility to express themselves and the human rights violations to which Iranian citizens are subjected must be recorded and remembered. This is one of the main goals of the Memorial project run by the Boroumand Foundation¹³. It is also within this framework that the NGO Iran Human Rights produces, in partnership with ECPM, an annual report on executions in Iran. Ahmad Shaheed, UN Special Rapporteur on the human rights situation in Iran, who is prevented from visiting the country by the Iranian Regime, uses civil society within Iran and outside for his annual report which he presents to the members of the UN.

Emad Baghi considered that realistic principles and graduated reform should be adopted to achieve results with regard to restricting the death penalty in Iran. This will involve initially abolition of stoning and the death penalty for juveniles and for crimes related to drug possession and trafficking and all crimes apart from violent crime, while keeping the long-term aim of total abolition. The end of public executions should also be demanded by abolitionists in Iran.

Ahmed Shaheed considered that it is imperative to address the Iranian authorities to limit the frequent and widespread use of the death penalty which symbolises the human rights crisis in Iran. The Iranian authorities are sensitive to the image of their country abroad and are susceptible to reacting to pressure which marginalises them. First, they should be pressed to respect international treaties and cooperate with the UN, starting with authorising visits by its observers (forbidden since 2005). National and international institutions which support the struggle against drug trafficking in Iran should also ensure that the resources they provide to the Iranian authorities do not increase the number of arrests which could eventually lead to executions. Finally, international civil society must continue to take action to highlight the use of the death penalty in Iran and denounce executions through the media and international bodies.

13 <http://www.iranrights.org/foundation>

Recommendations

- Continue to highlight use of capital punishment for political ends in Iran;
- Encourage the international media to report verified data concerning executions;
- Put pressure on the Iranian authorities to immediately bring an end to public executions;
- Encourage the general public to commit to the respect for human rights in Iran through information campaigns.

Sub-Saharan Africa: evolution of practices and political influences

By **Guillaume Colin**,

Deputy Secretary General, International Federation of ACAT (FIACAT), France

Speakers

- **Frederick Ssempebwa**, lawyer, Uganda
- **Patrice Houyneaze**, human rights manager of the Minister of Justice, legislation and human rights,, Benin
- **Chino Edmund Obiagwu**, member of the Legal Defence and Assistance Project (LEDAP), Nigeria
- **Maya Sahli-Fadel**, member of the African commission on Human and people's rights, (CADHP), Algeria.

Moderator

Liévin Ngondji, member of the Congolese and Central and East Africa Coalition, Democratic Republic of Congo.

Witness

Edward Edmary Mpagi, former death row prisoner, Uganda

Despite a general trend supporting abolition, the number of death sentences and executions is rising on the African continent. Some countries in sub-Saharan Africa, such as Benin, are committed to taking the abolitionist path while a hard core of countries such as Nigeria and Kenya retain capital punishment in their legislation. Some actually envisage extending its application. A debate about the death penalty is being held on the continent and current practices and existing regional strategies need to be assessed.

The roundtable began with the testimony of Edward Edmary Mpagi, a Ugandan man previously sentenced to death who spent more than 18 years on death row for the murder of someone who was later found to be alive. His younger brother was sentenced with him for the same crime; he died in prison after 4 years behind bars. The conditions of detention on death row are particularly inhuman, hygiene is deplorable and epidemics are frequent. Prisoners suffer from a lack of food and exercise but the hardest thing is fear because of the lack of information about an execution date. When Edward's name was called, he never knew if it was because he had a visitor or if it was for his own execution.

In 2000 he received a presidential pardon and since then he has worked for the universal abolition of the death penalty and often visits prisoners sentenced to death who are still on death row in Uganda. 388 have been sentenced for various crimes. Many of them were only sentenced because they were unable to pay a lawyer.

East Africa: progress and regression

Frederick Ssempebwa, a lawyer in Uganda, has supported universal abolition of the death penalty since he observed that death row prisoners in his country came from the poorest groups of the population and therefore did not have access to justice.

Of the five States in East Africa, which make up the East African Community (EAC)¹⁴, only Rwanda and Burundi have abolished the death penalty. The three others retain the death penalty for many crimes, some of which are non violent. High treason is punishable by death in Kenya and Tanzania; rape, armed robbery, corruption and theft of livestock are punishable by death in Uganda. Further, a draft law is currently before parliament setting out that aggravated homosexuality may be punishable by death.

However, some progress has been made in these countries: no executions have taken place in Uganda since 2003, in Kenya since 1987 and in Tanzania since 1994. Mandatory death penalty was declared unconstitutional by jurisdictions in Kenya and Uganda. However, courts in these countries continue to sentence people to death. Uganda is actively continuing legislative efforts to criminalise homosexuality and make it punishable by death.

Today, retentionist States in East Africa need the support of the abolitionist community to raise awareness in support of abolition of the death penalty among lawyers, magistrates and public opinion.

Benin: a special case

Patrice Hounyeaze, Human Rights Director at the Ministry of Justice in Benin, shared his country's experience regarding the abolition of the death penalty. No one has been executed in Benin since 1987. Immediately after the National Conference of Active Forces of the Nation in 1990, the country committed to the path of democracy and ratified numerous international and regional human rights instruments. However, the issue of the abolition of the death penalty remained unanswered. In 2004, acting on the instructions of the Head of State, the Ministry of Justice initiated a review of abolition but the project was adjourned due to increased crime rate and public condemnation. The death penalty was considered to be inhuman but nonetheless a deterrent.

Benin's position has evolved since, particularly thanks to international and regional pressure. On several occasions the UN and the African Commission on Human and Peoples' Rights invited Benin to turn the *de facto* moratorium into abolition in law.

The Government then chose to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights to achieve abolition. After several months of formal

14 Burundi, Kenya, Rwanda, Tanzania, Uganda.

and informal discussions, the Parliament authorised the ratification of the Protocol on 25 August 2011 with a large majority. The ratification instrument was lodged on 5 July 2012 and abolition became effective three months after the ratification in compliance with the provisions of the Protocol, i.e. on 5 October 2012.

Benin's Code of Criminal Procedure was revised in 2013 to remove any reference to the death penalty and the draft Criminal Code is currently before the National Assembly. Two challenges remain for Benin: abolition must be accepted by the people to avoid increased public condemnation and the justice system must be improved and brought closer to the people.

Nigeria: religious radicalism and the death penalty

Chino Edmund Obiagwu, a lawyer and member of the Legal Defence and Assistance Project (LEDAP) in Nigeria, recalled that in his country the most persistent argument in favour of abolition is the number of people sentenced to death by mistake. Such errors represent approximately 30% of death sentences. However, he underlined that the death penalty remains a major topic because crime rates are increasing.

He observed that his country too has been confronted with a growing number of cases of capital punishment.

Through Sharia law, some 12 states in Nigeria have introduced new capital crimes such as adultery and apostasy, which are now punishable by death. "*This was only done to attract the sympathy of the Muslim communities*", he added, clarifying that the death penalty did not exist in traditional African law or in traditional African interpretations of Islam.

Meanwhile, violence connected to the Islamist sect Boko Haram has led the authorities to respond by increasing the number of death sentences. The problem is that the definition of terrorism is broad – in particular, it includes those who fund it.

He concluded that "*Africans care about the sacredness of life but when 12,000 people are killed, they become statistics and people no longer care about the value of the life of one individual.*"

The African Human Rights Commission

Maya Sahli-Fadel, a Commissioner and member of the Death Penalty Working Group at the African Commission on Human and Peoples' Rights (CADHP), recalled that Africa has a tool to promote human rights: the African Charter on Human and Peoples' Rights¹⁵, which reflect the evolution of regional systems and is based on European and inter-American models. The African Union's Human Rights Commission is composed of 11 commissioners elected by the Committee of African Heads of State and Government. All the continent's regions are represented.

Although the Charter does not prohibit the death penalty, it contributes to the protection of the right to life. In effect, Articles 4, 5 and 7 specifically stipulate respect for life, physical

15 <http://www.achpr.org/instruments/achpr/>

integrity and the dignity of States. She clarified that upon adoption of this Charter the abolition of the death penalty was not the main preoccupation. Evolution towards abolition is found in the legal texts, which encourage the protection of the right to life.

She underlined that the role of the Commission is to invite States through visits in the field to retentionist countries during which it uses the support of *de facto* abolitionist states or those which have adopted a moratorium. To encourage the abolition of the death penalty, the Commission works jointly with civil society. States, which are party to this Charter, submit reports on the human rights situation in their countries and a specific chapter is dedicated to the death penalty. If a report omits the issue, the Commission then demands that information.

With urgent situations or imminent executions, the Commission appeals to the State concerned to block the procedure. It also uses press releases to alert people to any urgent cases.

The Commission is organised into working groups, one of which works specifically on the death penalty in Africa. It is composed of three commissioners and representatives from civil society. This group published a first report on the issue of abolition of the death penalty in 2012¹⁶.

In conclusion, she clarified that an additional regional protocol relating to the abolition of the death penalty is in the process of being drafted. This is a complex task because the cultural, religious and political diversity of each country needs to be taken into account.

The death penalty in Africa:

Today, out of 54 African States, 17 have abolished the death penalty in law¹⁷ and 20 no longer execute prisoners¹⁸. 37 countries are therefore abolitionist in law or in fact. 17 States still retain the death penalty¹⁹.

16 http://www.achpr.org/files/news/2012/04/d46/study_question_deathpenalty_africa_2012_eng.pdf

17 Angola, Benin, Burundi, Cape Verde, Côte d'Ivoire, Djibouti, Gabon, Guinea-Bissau, Maurice, Mozambique, Namibia, Rwanda, Sao Tome et Principe, Senegal, Seychelles, South Africa and Togo.

18 Algeria, Burkina Faso, Cameroon, Central African Republic, Congo, Eritrea, Ghana, Kenya, Liberia, Madagascar, Malawi, Mali, Morocco, Mauritania, Niger, Sierra Leone, Swaziland, Tanzania, Tunisia, Zambia.

19 Botswana, Chad, Comoros, Democratic Republic of Congo, Egypt, Ethiopia, Gambia, Guinea, Equatorial Guinea, Lesotho, Libya, Nigeria, Somalia, South Sudan, Sudan, Uganda, Zimbabwe.

Recommandations

- Increase awareness among African public opinion in support of abolition;
- Raise awareness among lawyers and magistrates about the abolition of the death penalty;
- Encourage African States to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights for the abolition of the death penalty;
- Encourage African States to ratify the additional regional protocol relating to abolition of the death penalty when it is adopted;
- Improve the conditions of detention of death row prisoners in Africa.

The United States and abolition

By **Sandrine Ageorges-Skinner**,

Academic Program Coordinator for the 5th World Congress against the Death Penalty

Speakers

- **Richard Dieter**, executive director of the Death Penalty Information Center, Washington DC
- **Michael Radelet**, professor of sociology, University of Boulder, Colorado
- **Elizabeth Zitrin**, lawyer, Death Penalty Focus, California

Moderator

Javier Valenzuela, journalist and writer, manager of Tintal Libre, Spain

Witness

Robert Meeropol, son of Julius and Ethel Rosenberg, United-States

The United States of America offers great sociological and political diversity. Against this diverse background, fifty federated States abolish or apply the death penalty to a greater or lesser degree. The struggle for abolition therefore requires multiple strategies and arguments which must be adapted on a State by State basis.

The session began with the testimony of Robert Meeropol, son of Ethel and Julius Rosenberg, executed in the State of New York in 1953. He shared his very peculiar experience and explained the need for the abolitionist community to integrate the children of people sentenced to death into its strategies. Robert Meeropol has created the Rosenberg Fund for Children which finances education for the children of incarcerated or executed political prisoners.

Avec 17 États abolitionnistes sur 50, les États-Unis se dirigent vers l'abolition de la peine de mort. Cette question est au cœur des débats législatifs des États rétentionnistes. De la diversité et de l'enracinement de la culture du châtiment dans le pays sont nées des stratégies très diverses. Il s'agit ici de faire le bilan de cette marche vers l'abolition dans les juridictions d'État et fédérales, et d'évaluer les différentes stratégies ainsi que les nouvelles voix qui ont rejoint le mouvement en faveur de l'abolition.

Evolution and new data

Richard Dieter, Director of the Death Penalty Information Center (DPIC), presented a comparative analysis on the evolution of the death penalty in the United States. Noting that the USA is 5th in the world in terms of the number of executions, he recalled that, since the decision of the United States Supreme Court in 1976²⁰ to suspend the death penalty, 35 jurisdictions have chosen to reintroduce it into their legal arsenal. Executions began again in January 1977 when Gary Gilmore, whose death sentence had been commuted after the decision of the Supreme Court in 1972²¹, exercised his right to be executed in the State of Utah. This execution changed the game. Before the decision of the Supreme Court in 1972, 597 people had been sentenced to death in the country and the last execution dated back to 2 June 1967²². Today, 3,200 prisoners have been sentenced to death in the USA. The national evolution shows a clear increase, culminating in 1999 when public opinion was 80% in favour of capital punishment. From 1999 to 2013, the number of death sentences and executions dropped by 56%. In parallel, it should be noted that over the last six years, six States have abolished the death penalty: the State of New York, New Mexico, Illinois, Connecticut, New Jersey and Maryland. The statistical decrease recorded can be explained in part by the not insignificant jurisprudence of the United States Supreme Court. Thus, in 2002 the Court determined that the death penalty could no longer be applied for the mentally retarded²³, although it refused to define the specific criteria for mental retardation which has enabled some States to continue to sentence to death and execute this category of vulnerable people. In 2005 the same Court ruled on the issue of the death penalty for juveniles at the time of the crime²⁴ and, for the first time, it referred to international law to justify abolition of the death penalty for this category of vulnerable people. In 2008, the Supreme Court outlawed the death penalty for child rapists whose acts had not led to the victim's death.²⁵ These three decisions are significant because they were at the initiative of the country's Supreme Court. Of all the statistics available, one proves to be very revealing of the current practice of capital punishment: 80% of American counties do not practice and do not apply capital punishment. In practice, 2% of counties²⁶ alone have been responsible for 52% of executions and 56% of death sentences since 1976. It is interesting to note that juries increasingly opt not to apply capital punishment, particularly when the alternative of a life sentence without the possibility of parole is available. The military courts have not carried out any executions since April 1961; there have been 153 since 1916²⁷. Six men are currently on military death row. The federal courts have not carried out any executions

20 Gregg v Georgia

21 Furman v Georgia

22 Luis Monge executed by the State of Colorado

23 Atkins v Virginia

24 Roper v Simmons

25 Kennedy v Louisiana

26 <http://deathpenaltyinfo.org/documents/TwoPercentReport.pdf>

27 <http://www.deathpenaltyinfo.org/executions-military>

since 2003 and executed 3 people between 2001 and 2003. No federal executions took place between 1963 and 2001; 37 executions took place from 1927 to 2003²⁸ in the same jurisdiction.

The arguments in favour of abolition

The Sociology Professor Michael Radelet was particularly interested in the diversity and complexity of the various penal jurisdictions in the country: there are 34 such jurisdictions including federal and military. He underlined the special identity of each jurisdiction which specificities require appropriate strategies. A nation based on a federal system adds an additional complexity. Abolitionist States can have a death sentence being imposed on them by the Federal courts despite their "local" legislation. This is currently the situation with the case of the Boston marathon where the prosecutor could seek the death penalty even though the State of Massachusetts abolished it in October 1984, and this in a country where public opinion plays an essential role in the social choices and political directions of elected politicians. Today, support has dropped to 60% and when the alternative of life imprisonment without the possibility of parole is available, public support drops to 50%. This demonstrates that abolitionist strategies must be accompanied by in-depth work on the alternatives to the death penalty in order to meet the expectations of citizens and enable legislators to take a position in favour of abolition. In 1990 the argument for capital punishment as a method of retribution for victims' families was utilitarian and political. "*Retribution is not for us but for the families of victims*" is a widespread leitmotiv taken up by the media. However, according to a report published by the University of Louisville in Kentucky²⁹, this argument rests on nothing more tangible than the fact that 98% of victims' families do not speak about this issue and only the 2% who demand retribution are highlighted. This is therefore an argument, which seems doomed to failure but the abolitionist community does not make enough use of this kind of report which is necessary to raise awareness. Another element apparent in research is the financial aspect. Many think, wrongly, that the death penalty costs a lot less to the taxpayer than life in prison without the possibility of parole; others consider that this is the price to pay to prevent recidivism. This argument is no longer valid today because most States offer the alternative of a life sentence without the possibility of parole. The factual elements of the application of the death penalty in the United States are necessary tools and yet the way in which we discuss it today has changed. Most of the arguments in favour of the death penalty have been replaced with calls for retribution. In 1961 almost all homicides ended in an arrest. In 1976, before Gary Gilmore was put to death, the rate dropped to 79%. In 1992, it had dropped to 65%. Today, only 6 out of 10 murders are resolved, i.e. more than a third of homicides are never solved. Many victims' families prefer justice to vengeance. The very significant costs of capital punishment should be redirected to solving homicides and therefore providing victims' families with answers.

28 <http://www.deathpenaltyinfo.org/federal-executions-1927-2003>

29 <http://kcadp.org/wp-content/uploads/2011/04/An-Investigation-Victims-Family.pdf>

Although racial prejudice and the arbitrary nature of the punishment are still used, the argument of innocence is just as present. In conclusion, he underlined the need for each State to develop its own strategy without forgetting the importance of the next presidential election which will be a determining factor in the eventual presidential nominations of federal judges concerned with human rights.

The Context

1972: 597 prisoners on death row

2014: 3053 prisoners on death row

1998: public opinion supports the death penalty by 80%

2014: public opinion supports the death penalty by 60%, it drops to 51% when life without parole is possible

Since 1973: 16% of those sentenced to death have been executed

Since 1976: 1366 executions (as of January 1st, 2014),⁹ 9 States abolished the death penalty, 9 States have a de facto moratorium (including the federal and military jurisdictions), 25 States are retentionist

Since 2008: 5 States have abolished the death penalty (New York State, New-Mexico, Illinois, Connecticut and Maryland)

In 2014: 80% of US counties do not use the death penalty, 52% of executions and 56% of death sentences take place in 2% of the American counties.

The importance of international collaboration

Elizabeth Zitrin, a lawyer, chose to broaden the debate by considering the example of the State of California and the impact of abolitionist collaboration at the international level. California has observed a moratorium on executions since 2006 because the procedure of lethal injection, as it was practiced, revealed a lack of information whose opacity allowed executions which potentially did not conform to human rights standards. The local movement rose up against such a violation and asked the international community to make itself heard and protest against such a practice. A large number of letters were sent to the State Government in dozens of languages. The world was able to express the reasons for its opposition to capital punishment and its application in the State of California. The international map was a major asset in the local debate. What could be interpreted by some as provocation from overseas actually led to discussions on the ground with prosecutors and lawyers which moved the debate forward. Such international collaboration requires mutual listening to better understand and accept the differences inherent in the socio-political contexts of each country. This strategy can be a strength if it begins with cooperation. The United States is a retentionist country with strengths and weaknesses which are part of a complicated federal system. The various

tools and messages which could be used should be assessed, shared and considered. Although strategies often concentrate on the cost of capital punishment, the voices of innocent people and victims' families, they must also include the voices of lawyers and law enforcement representatives. Sharing individual experiences makes for effective communication to convince public opinion. Common strategies, whether they are developed in conjunction with international institutions such as the UN, IGOs or NGOs, represent major capital in support of our cause and we must work more and better together.

Recommendations

- Use existing tools better to broaden the scope of the abolitionist argument
- Accept a variety of strategies to make them complementary
- Develop international exchanges to strengthen national strategies

The Caribbean: the Death Penalty in the Region

Theme of the World Day 2013: practices and strategies

By **Sandrine Ageorges-Skinner**,

Academic Programme Coordinator for the 5th World Congress against the Death Penalty

Speakers

- **Leela Ramdeen**, chair of the Catholic commission for social justice, Trinidad and Tobago
- **Carmelo Campos Cruz**, co-founder and spokesman for the Puerto Rican Coalition against the death penalty, Puerto Rico
- **Lloyd Barnett**, lawyer, founding member of the regional coalition Greater Caribbean for Life (GCL), Jamaica
- **Sergio García Ramírez**, former judge at the Inter-American Court for human rights, Mexico

Moderator

Ramón Lobo, journalist and writer, Spain.

The Caribbean region, also known as the Greater Caribbean, is composed of 25 countries. The exact number varies according to the different international institutions. The region is very geopolitically diverse due to the colonial influences, which forged its history. English and Spanish are the most widely spoken languages, although French and Dutch are also spoken in some countries. The region has a very high crime rate and holds the highest homicide rates in the world³⁰. The death penalty remains taboo in small countries, which have few resources to combat corruption and focus on prevention and rehabilitation. And yet, when you look more closely this mosaic indicates that the death penalty is practiced in a variable and often unexpected way.

30 <http://www.nationmaster.com/country-info/stats/Crime/Total-crimes>

Raising awareness about abolition when crime is a major concern

According to Leela Ramdeen, a member of the Catholic Commission for Social Justice in Trinidad and Tobago, of the 25 Caribbean countries 10 are abolitionist in law³¹, 2 are *de facto* abolitionist³² and 13 are retentionist³³. Work to raise awareness among the people is a major challenge because rising crime levels frighten citizens who demand appropriate responses. It is essential to educate people to prevent confusion between justice and vengeance. In Trinidad and Tobago, there are currently 44 people on death row. A law imposes a maximum period of five years imprisonment on death row, failing which the death sentence must be commuted to life imprisonment. However, the application of this rule is unpredictable and it does not function as a legal benchmark. The highest court of appeal in the Caribbean brings together 53 countries and yet only 3 conform to the jurisdiction. She recalled that the spoken language remains an important barrier with regard to developing awareness tools, and that some geographical areas do not have access to the Internet. Although polls give an indication, the results do not provide any concrete answers. In effect, a report published in English in 2009³⁴, drafted by Roger Hood and Florence Seemungal, concerning application of mandatory death penalty in Trinidad and Tobago, showed that the percentage of people in favour of the death penalty in that country varied from 26 to 98%. The issue clearly illustrates the need and urgency to change mentalities, beginning with the political leaders to encourage prevention rather than repression. The death penalty must be examined in the context of human rights. In this respect, Leela Randeem underlined the cruel lack of resources to support, for example, the UN resolution for a universal moratorium on capital executions. In her opinion, abolition of the death penalty in the region will not be achieved without multiple approaches adapted to the practices and culture of the countries concerned.

Puerto Rico: an abolitionist country in the grip of the American Government

Carmelo Campos Cruz, co-founder and spokesman for the Puerto Rican Coalition Against the Death Penalty, recalled that the last execution in Puerto Rico took place in 1927 and that abolition was voted through irreversibly in law in 1929. And yet, the country continues to face capital punishment in a very unusual context. Puerto Rico is not an American state but rather a territory dependent on the United States Federal Government. The issue of the country's independence is far from being resolved because a referendum organised in 2012 revealed that 65% of the voters wanted Puerto Rico to become a full American state. Against this unusual background,

31 Colombia, Costa Rica, Dominican Republic, El Salvador (for common law crimes), Haiti, Honduras, Mexico, Nicaragua, Panama and Venezuela.

32 Grenada and Surinam.

33 Antigua –and-Barbuda, the Bahamas, Barbados, Belize, Cuba, Dominica, Guyana, Jamaica, St Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Trinidad and Tobago.

34 http://www.deathpenaltyproject.org/assets/7/original/09.08.10_Trinidad_Publication.pdf?1259080068

American federal courts can judge the accused and seek the death penalty on Puerto Rican territory, something which has happened seven times over the last decade. Four of these trials took place between 2012 and 2013. He underlined that, very fortunately, none of these trials led to a death sentence. Currently ten other federal cases are awaiting trial.

Figures concerning the trials of the accused facing the death penalty under American federal jurisdiction put Puerto Rico in 6th position with 17 cases. There are many disparities in the country because you need to speak English to be a member of the jury for a federal trial. Only 10% of the population is eligible under that condition. Further, selection is strongly determined when the potential jurors support a death sentence. Puerto Rico is the 4th country in the world in terms of fatal shootings. According to Carmelo Campos Cruz, this is a very destabilising factor for the population and yet 57% are opposed to the death penalty, which is significantly different from many countries.

To conclude, he clarified that since 2005 several sectors of civil society have become organised within the abolitionist movement. There is no movement in favour of the death penalty in Puerto Rico. Further, all the candidates from the political class say that they are against that sentence. Therefore, in a country, which has been abolitionist in law since 1929, this struggle will only end when the American Federal Government also abolishes the death penalty in its jurisdiction.

Building abolition in the greater Caribbean

Lloyd Barnett, a lawyer and founding member of the regional coalition Greater Caribbean for Life (GCL) in Jamaica, retraced the historical context of the region and more specifically that of the English-speaking countries. In his opinion, for the last 50 years the death penalty's anchorage in people's mentalities has come essentially from MPs for electoral purposes. Further, you cannot understand the region's English-speaking countries without taking into account their common history linked to slavery and the colonial domination of the British Empire. After independence, common law remained in place. During the colonial period, death by hanging was authorised for a large number of crimes. Today, only treason and murder are punishable by death.

In the past, the main argument of the abolitionist movement was centred on the issue of a fair trial because the accused were often poor and uneducated and came from racial minorities. Although reports and analyses concretely supported the direct link between the social origins of the accused and unfair trials, this strategy has proved to be ineffective or at the very least incomplete.

In the '60s and '70s, when Caribbean countries gained their independence, their constitutions included the prohibition of inhuman punishments and treatments, and yet these same texts included exceptional clauses authorising the use of the death penalty. This punishment therefore remains present in law even though the conditions required for its use are very restrictive. But a conservative interpretation by the courts has caused the failure of abolitionist initiatives. It should be noted that even

today most countries in the region are not party to the American Convention on Human Rights³⁵, or the provisions of the Inter-American Court of Human Rights.³⁶ Nevertheless, legislative progress has been made concerning how different kinds of murder are evaluated. Death by hanging for anyone capable of murder has been labelled abominable. This provision was adopted by several countries such as Belize. This implies that the circumstances of the crime must be examined before a death sentence is passed and supposes a restriction for countries which have retained the death penalty in their penal codes.

However, there is a risk of regression because governments are trying to remove the legitimacy of each jurisdiction's legislation. Barbados, for example, has modified its Penal Code to retain the death penalty for voluntary homicide and high treason; Jamaica has included an exception in its human rights charter which excludes the death penalty from the list of degrading treatments. These governments are standing in the way of human rights progress.

In conclusion, Lloyd Barnett underlined the importance of legislative initiatives and cultural programmes because the respect for the right to life is a moral issue and, consequently, a cultural dimension is required to deal with this issue. When this framework exists, the political context will evolve and the possibilities for abolishing the death penalty will be increased.

The Inter-American Court: a regional instrument

For Sergio Garcia Ramirez, a former judge at the Inter-American Court of Human Rights, the historical and cultural context is a determining factor in the region. *De facto*, the issue of abolition cannot be discussed homogenously. The English-speaking Caribbean has its own set of characteristics and the French and Dutch-speaking areas have theirs. Reticence and delay by these countries with regard to making clear commitments about abolition of the death penalty are worrying. Although the San José Pact, drawn up in 1969 and in which 18 countries participated, formed the basis for human rights protection³⁷ in the region, the Inter-American Court of Human Rights was not created until 1978 and the protocol on the abolition of the death penalty did not appear until 1990. The Court's abolitionist positions can be seen in jurisprudence, particularly concerning the consular rights of defendants. The Court can also adopt preventative measures within the framework of human rights protection. It also has the power to oversee application of punishments and, in this respect it has demanded explanations from several States, such as Barbados for example, on several occasions. However, this theoretical commitment to accountability has not yet been put into practice.

Although the Convention stipulates that the death penalty must only be applied to the most serious crimes and that it must be used apolitically, it does not have any criteria for

35 http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.htm

36 <https://www1.umn.edu/humanrts/iachr/iachr.html>

37 http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.htm

defining “the most serious crimes”. *De facto*, some States consider that depriving someone of his life is a serious crime. Meanwhile, the Inter-American Court of Human Rights has prohibited use of an automatic death penalty which has given rise to a collision between secondary laws and the constitutions of each country resulting in exceptional rules, something which makes pre-constitutional norms validating use of the death penalty sustainable; for example, the criteria of future dangerousness posed by an individual leads to the death penalty in Guatemala.

To conclude, he underlined that the Inter-American Convention on Human Rights is *de facto* a Latino-American concept because too few countries have ratified it for it to be a real continental rule.

Recommendations

- Develop information and awareness tools for legislators of the countries concerned so that they ratify the Inter-American Convention on Human Rights;
- In a region with a high crime rate, encourage informal meetings with experts on prevention and rehabilitation;
- Encourage the Inter-American Court of Human Rights to define the notion of “the most serious crimes”;
- Educate and raises awareness among the public as to the damage and social consequences of the death penalty;
- Awareness raising and lobbying with regional bodies such as Caricom³⁸.

38 Caricom or the Caribbean Community brings together several English-speaking States in the Caribbean plus Dutch-speaking Suriname and French-speaking Haiti. Currently, it has 15 member states (Antigua, Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, St Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago), 5 associate members and 8 observers (including the Dominican Republic, Puerto Rico, Mexico and Venezuela). Haiti alone represents half the population of Caricom. As part of Caricom, the Council for Foreign and Community Relations (COFCOR) or the Council for Human and Social Development (COHSOD) may be relevant bodies for lobbying about abolition of the death penalty.

The death penalty in question

Juveniles and the Death Penalty in the World

By **Sandrine Ageorges-Skinner**,

Academic Program Coordinator for the 5th World Congress against the Death Penalty

Speakers

- **Adel Debwan Said Sharabi**, coordinator of the project « protection of children » for the Ministry of social affairs, Yemen
- **Leila Alikarami**, lawyer, Iran
- **Haitham Shibli**, Penal Reform International, United Kingdom

Moderator

George Abu Al-Zulof, child protection specialist, Justice for Children, UNICEF, Yemen

The use of the death penalty for juveniles at the time of the crime is prohibited by Article 6.5 of the UN Convention on the Rights of the Child³⁹. Only three countries in the world have not ratified it: the United States, South Sudan and Somalia. However, among the countries which have ratified this convention some do not respect it such as Iran, Saudi Arabia, Yemen, Pakistan and Afghanistan. In fact, these countries use à la carte criteria to establish if the person sentenced is a juvenile or not, something which is “tolerated” by the League of Arab States Human Rights Charter⁴⁰ which sets out that “the death penalty must not be imposed on a person aged under 18, unless there is a contrary clause specified in the laws in force at the time when the crime was committed.”

39 <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

40 <https://www1.umn.edu/humanrts/instree/loas2005.html>

A la carte criteria

Adel Debwan Said Sharabi, a child protection specialist for UNICEF in Yemen, said that neither the Penal Code nor the Code of Penal Procedure in that country mention capital punishment. It is, however, stipulated in Article 464 of Islamic Sharia which sets out "*that the criminal's neck will be cut or he will be shot*", as well as in the Military Code which includes specific clauses such as drug trafficking, kidnapping and terrorist attacks. In these scenarios, capital punishment can even be applied to accomplices of the crime. However, the main problem in Yemen remains the age of the accused at the time of the crime. Adel Debwan Said Sharabi has recorded 31 cases where the accused's age of majority was called into question. Six of them saw their death sentences confirmed after appeal and were executed. The 25 others are still on death row today. In Yemen 22% of births are recorded. Therefore, the Public Ministry could obtain birth certificates or school certificates to clarify the age of the accused; it does not. Further, the law provides for the consultation of an expert in order to confirm the age of the accused. Unfortunately, a text to guarantee a fair trial remains unanswered and is not applied in the implementation of justice. In some cases, official documents have even been presented to attest to the young age of the accused but have been rejected because they have been catalogued as forged documents. Despite these problems, it should be noted that the Ministry of Justice reviews the files of those executed at a young age and provides training to improve application of the law by magistrates.

Iran's double standard: tragic and capricious application of national law

Application of the death penalty for juveniles in Iran rests on two points: manipulation of the age of majority and interpretation of the Convention on the Rights of the Child. In effect, although the Penal Code outlaws the death penalty for juveniles, by using religious texts judges assess and adapt the age of the accused to sentence juveniles to death under civil criteria whose age of majority is established through religious texts. Further, the Convention on the Rights of the Child stipulates that a guilty party recognised as a juvenile at the time of the crime cannot be sentenced to death. Iran insists that it does not execute juveniles as the authorities wait for the day of their 18th birthday in order to hang them "legally" and supposedly in conformity with the Convention.

Leila Alikarami, an Iranian lawyer and activist, raised the context of her country which changed its Constitution after the 1979 revolution. Since that date, the trials of juveniles are held behind closed doors which give the judges total freedom to apply texts according to their free will. Iran has signed treaties and ratified conventions which are partially in conflict with national law because in reality Islamic law prevails over any other legislation. In 2012 the authorities announced the abolition of the death penalty for juveniles but the practice still reflects an entirely different reality today. Iran is involved in double dealing by sentencing juveniles to death, while proposing alternative punishments for the same category of detainees and boasting that it has abolished the death penalty for juveniles.

The Iranian Penal Code stipulates that maturity is 9 lunar years⁴¹ for girls and 15 lunar years for boys which allows a manipulation of the actual age of the party concerned. From this threshold, girls and boys are judged as adults and can be subject to the death penalty. Application of the death penalty in Iran, by particularly encouraging revenge by the victim's family, exercises discrimination: in effect, compensation for the victim's family is a lot less if the sentenced person is a girl.

From a sociological point of view, most executed juveniles come from modest backgrounds and do not have access to education. These children must work from a very young age and often find themselves drawn into fights during which one or several people die. Leila Alikarami set out further that it is possible for children who have not reached legal adulthood to serve their sentences in a Juvenile Psychological Assistance Centre which completely removes the risk of a death sentence or a prison sentence but focuses on the rehabilitation of the juvenile.

The lawyer underlined that most of these children are sentenced to a double punishment: incarceration and then execution. Although it is true that the number of juveniles sentenced to death is dropping, many judges are quick to use it even though the highest legal authorities are encouraging them to apply alternative measures. According to her, if so many interpretations are possible and accepted, it is because the country's Constitution contains a number of contradictions and the legal authorities have no independence. Proscribing the death penalty for juveniles requires a modification of the Constitution, without which multiple interpretations of the law remain commonplace.

Two examples: Sudan and Saudi Arabia

Haitham Shibli, a representative from Penal Reform International in Jordan, chose to illustrate the practices of the death penalty applied to juveniles with the example of Sudan and Saudi Arabia. Sudan signed the African Charter on Human and Peoples' Rights⁴² and the Convention on the Rights of the Child, which should in theory act as guarantees as to the defence of those rights. However, when it comes to crimes considered to be "dangerous", the death penalty remains possible for juveniles. The suspension clause, which particularly affects children concerns the application of capital punishment in times of war; Sudan has many child soldiers. The question of adulthood among adolescents also enables the texts to be adapted. In effect, girls can be considered "adolescent" from 15, while for boys the judge can consider that at 18 they are not mature enough to receive capital punishment. Today, four children are on death row in Sudan: all are child soldiers. None had a lawyer to represent them. However, although Sudan applies the Law of Talion, it also provides for reconciliation. Some centres receive juveniles to work on a solution based on reconciliation when they do not have the means to hire a lawyer. Reconciliation consists of mediation between the accused and the victim's family. This

41 The Muslim calendar or the Hegirian calendar (*hijri*) is a moon calendar based on a year of 12 moon months of 29 to 30 days each . A Hegirian year has 354 or 355 days and is therefore shorter than a solar year of approximately 11 days.

42 <http://www.achpr.org/instruments/achpr/>

can take the form of monetary compensation. The victim's family can, however, demand the application of the sentence. Executions are generally applied either through stoning or hanging but, in some cases, the prisoner can be executed in the same way as he killed his victim.

In January 2006, before the Committee for the Rights of the Child⁴³, the Saudi authorities declared that no juveniles had been executed since the Convention's entry into force in the Kingdom in 1996. Since then, at least two juveniles were executed in 2009 and three in 2013. This is the only country in the world which does not have a Penal Code as such but which uses Sharia law strictly. As there are no bases for governing interpretation of Sharia, the judges have a very broad basis for decision. The death penalty can be imposed as a discretionary punishment for acts considered crimes. And the juvenile's age is left to the interpretation of the judges according to very variable criteria. In this context, the rights of the child are unpredictable in application of a law, which essentially rests on religious texts to justify the lack of respect for international standards and treaties.

Recommendations

- Engage in joint dialogue and reflection with the Committee for the Rights of the Child, the supervisory body for implementation of the Convention on the Rights of the Child, to raise awareness of the issue of the death penalty for juveniles;
- Encourage the diplomatic corps in the countries closest to those applying the death penalty for juveniles to establish informal exchanges on this issue;
- Develop appropriate tools to explain, scientifically and sociologically, the idea of childhood and penal irresponsibility;
- Encourage lawyers across the world to train colleagues about this issue in the countries concerned.

43 <http://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx>

Abolition and alternative sentences

Évolution des systèmes pénaux dans le monde abolitionniste

By **Nadia Bernaz**,
Senior lecturer, Middlesex University School of Law

Speakers

- **Theodore Te**, lawyer, Federal Legal Assistance Group, Philippines (video presentation)
- **Dirk Van Zyl Smit**, professor at the university of Nottingham, member of the International Academic Network for the Abolition of Capital Punishment (Repecap), United Kingdom
- **Constance de la Vega**, professor at the law school of San Francisco, member of Human Rights Advocates (HRA), United States
- **Raphaël Nyabirungu**, Dean of the law school of Kinshasa, Democratic republic of Congo
- **Mohammed Bouzlafa**, professor of criminal law and international private law at the university Sidi Mohammed Ben Adellah, Fès, Morocco
-

Moderator

Andrea Huber, policy director, Penal Reform International (PRI), United Kingdom

What is the alternative to capital punishment, particularly in countries where the justice system is problematic and the general state of prisons leaves something to be desired? Few States apply life sentences without parole but the international trend shows a hardening of mandatory sentences across the world. Those arguing in favour of abolition of the death penalty have a duty to contribute concrete answers or at least suggestions with regards to alternative punishments.

The situation in the Philippines

Theodore O. Te, a lawyer, recalled that in the Philippines the death penalty is recognised in the 1987 Constitution but in 2006 Congress adopted a law abolishing capital punishment. The 2006 law replaces the death penalty with life imprisonment with a minimum term of 20 to 40 years during which time the prisoner may not request conditional release. Those sentenced to death therefore saw their sentence commuted upon adoption of the law.

Why life imprisonment without parole cannot replace the death penalty

Professor Dirk Van Zyl Smit is delighted that the European Union had abolished the death penalty and established abolitionism as a common value, to the contrary of the United States. Today, Europe is facing a new challenge: it must ensure that, unlike the United States, it does not replace the death penalty with punishments which are just as inhuman and degrading such as life imprisonment without hope of release. Such a punishment cannot be commuted and a prisoner is sentenced to die in prison. Fortunately, this kind of sentence without the possibility of parole is rare in Europe. Most European States either do not make provision for life imprisonment or provide for it but with a minimum term. Thus, once the minimum term has ended, a prisoner can request conditional release. However, some European States have a system of life imprisonment almost without hope of release. This is the case in the Netherlands for example, although few individuals are sentenced to this punishment. In Europe, currently fewer than 200 people are in this situation. However, this figure, although low, should not hide the reality of this type of punishment: like capital punishment, it denies the humanity of those subjected to it. It is therefore important to debate it, underlined Dirk Van Zyl Smit. He added that, unfortunately, the position of the European Court of Human Rights on the issue is far from clear. In the case of Kafkaris vs. Cyprus, the Court indicated that life imprisonment without parole could be contrary to Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms⁴⁴, but that, given the facts in question, Mr Kafkaris actually had hope of being released via a possible pardon. In the case of Vinter vs. the United Kingdom, a chamber of the European Court decided that a punishment of life imprisonment without possibility of conditional release could, in certain circumstances, become inhuman if, over time, it no longer met any justification connected to the scale of the punishment. The judgement of the Court's Grand Chamber on this case is eagerly awaited. The speaker underlined that Europeans must organise against such punishments, as they have been against the death penalty. They have a duty to reject life imprisonment because of what it is: a delayed death penalty. Acting in favour of life imprisonment as a substitute to the death penalty is a mistake. Abolitionists must consider alternative punishments in order to develop a coherent and concerted advocacy strategy.

44 <http://conventions.coe.int/treaty/en/treaties/html/005.htm>

The United States opts for life imprisonment without parole

Constance de la Vega, a Professor at the Human Rights Clinic of the San Francisco Law University, noted that in the United States the main alternative punishment to the death penalty is life imprisonment without the possibility of parole. More than 140,000 prisoners find themselves in this situation. This kind of punishment goes against the United States' international commitments, particularly those resulting from the International Covenant on Civil and Political Rights (ICCPR), which indicates that the aim of imprisonment is rehabilitation. The United States has the highest rate of incarceration in the world. Its prisoners represent 25% of the world prison population while the country represents only 5% of the world population. The United States and 70 other countries apply life imprisonment without parole. Theoretically, this kind of punishment is reserved for very serious crimes and so each country has very few prisoners sentenced to this punishment. The United States is the exception: in most of the country's States this punishment is provided for non-violent crimes. Further, numerous prisoners face punishments equivalent to life imprisonment because when an accused person is found guilty of several crimes, he or she must serve all those sentences separately and consecutively. According to Constance de La Vega, a life sentence without the possibility of parole poses similar problems to those posed by the death penalty regarding the risks of sentencing innocent people, racial discrimination and the incarceration of individuals without the possibility of a future outside prison. While Afro-Americans represent 12.8% of the total population, they represent 35% of the prison population and nearly 50% of people sentenced to life. Finally, the United States is the only country in the world, which continues to sentence juveniles to life imprisonment without parole. There are currently 2,500 individuals in this situation. In June 2012, the United States Supreme Court declared mandatory life sentences without parole for juveniles to be unconstitutional⁴⁵, thus ordering the 28 States which apply it to re-sentence the individuals concerned. Further, more and more prisons are managed by private companies, which introduces the question of profit into the operation of prisons. In conclusion, Constance de la Vega underlined that on occasion the managers of these prisons are accused of having initiated incidents to increase the duration of sentences or subjecting prisoners to inhuman treatment.

How to ensure the implementation of incarceration

Raphaël Nyabirungu, Dean of the law school in Kinshasa University, indicated that in the Democratic Republic of Congo (DRC) the death penalty is provided for with regard to 15 common law crimes and several others within the military framework. In practice, the death penalty has not been applied for ten years, although the sentence is still passed. There are therefore encouraging signs which suggest that abolition is close. This issue remains in the hands of the Constitutional Court or the legislator. When

45 http://www.youthlaw.org/juvenile_justice/6/us_supreme_court_bans_mandatory_life_without_parole_for_youth/

it happens, the question of the choice of alternative punishments will be asked: life imprisonment, forced labour? Conditional release in the DRC is provided for all kinds of crimes but this presents a difficulty: public opinion tends to consider that without the death penalty, impunity would reign. In effect, in the prison system in the DRC there are no prisons as such. Sentences are served either through work to be carried out within a prison establishment or outside. Infrastructure problems within the DRC prison system being what they are, sentenced prisoners try to exploit them. In summary, the principle of an alternative punishment must be established. But it should also be remembered that when an administration does not have the resources to establish a structured prison system, it is not able to ensure minimal prison conditions and that poses considerable difficulties.

Propose alternative models to underline the aim of rehabilitation

Beyond considerations based on international human rights law, Mohammed Bouzlafa, Professor in Criminal Law at Fes University in Morocco, underlined the risk of prisoners sentenced to death being turned into martyrs, particularly in cases related to terrorism. In practice, Morocco does not apply the death penalty but remains retentionist in law. The country sentences individuals to death but has not executed anyone since 1993. Moroccan abolitionist organisations hope that the new Constitution will abolish the death penalty. But this could lead to an increase in life imprisonment, particularly for acts of terrorism for which the population tends to demand exemplary punishments. However, there is no systematisation and the abolition of the death penalty will not necessarily lead to the introduction of life imprisonment as a substitute punishment. He underlined the importance of alternative models which allow for graduation depending on the gravity of the crime and which would place rehabilitation at the forefront.

According to a report⁴⁶ by Penal Reform International: "The global trend towards abolition of the death penalty, including the moratorium on death sentences and executions, and growing restrictions on its application, constitute important challenges for States with regard to carrying out their duty to protect the population and appease its fears, while administering justice fairly and helping those found guilty of the worst crimes to return to civil society.

Recommendations

- Initiate a comparative international study to provide precise figures on alternative punishments applied and the evolution of the crime rate in abolitionist countries compared to retentionist countries;
- Develop information tools for legislators and public opinion;

46 http://www.penalreform.org/wp-content/uploads/2013/06/PRI_Lifers_Info_Pack.pdf

- Consider a global strategy to combat life imprisonment without parole as a substitute for capital punishment;
- Work on in-depth reforms in penal and prison systems;
- Support countries with weak resources to give structure to a fair and functional penalty.

Terrorism and Abolition

By **Sandrine Ageorges-Skinner**,

Academic Program Coordinator for the 5th World Congress against the Death Penalty

Speakers

- **Hanne Sophie Greve**, judge, vice-president of the High Court in Bergen and member of the International Commission against the death penalty (ICDP), Norway
- **Saira Rahman Khan**, founding member of ODHIKAR and assistant professor at the law school of BRAC, Bangladesh
- **Abderahim Jamaï**, lawyer, coordinator of the Coalition against the death penalty, Morocco

Witness

Souad El Khammal, member of a victims' family in the attack in Casablanca

The increase in the number of acts of terrorism across the world has considerable consequences on abolition strategies. Many abolitionist countries must confront terrorism and yet they find legal responses nonetheless. As terrorism is used by retentionist counties to justify the use and application of the death penalty, an assessment of the direct and indirect consequences of this situation is urgent so as to adapt abolitionist strategies and tools.

The Direct effects of terrorism

Souad El Khammal, a Moroccan citizen, shared her tragic experience. She lost her husband and son in the Casablanca attacks in 2003⁴⁷. With great sensitivity, she spoke of how hard she had found it to make allowances. Her husband had been a lawyer, a defender of human rights, and together they defended values, including the abolitionist cause. She described her disappointment when three of the terrorists were given death sentences. As a mother, she underlined that she could never wish for the death of anyone. Although she still cannot forgive them, she felt that seeking the death of the guilty party would be against her principles. She recognised that she could only speak for herself because every victim's family reacts differently. Since that devastating event, she has been trying to reconcile her suffering and her values.

From the declaration of human rights to human dignity

For Hanne Sophie Greve, a judge and Vice-Chair of the Western Norway High Court and a member of the International Commission Against the Death Penalty (ICDP), the declaration of human rights starts with human dignity and that must be respected everywhere and for everyone because it is unviable. Human dignity defines the value of life as fundamental. Human beings are social creatures so everyone is a social creature and these are the ties which structure human rights. She underlined that there is no agreement about the definition of terrorism. The offence is identified in three main groups. The UN has drawn up 14 different conventions on terrorism. The work of non-governmental organisations is not taken into account sufficiently because it is often perceived to be too emotional. The International Commission Against the Death Penalty (ICADP) considers that there is no data to attribute a deterrent effect to the death penalty within the framework of terrorism which uses ties and codes which must be broken. The death penalty cannot correspond to the respect for human life or the notion of life in society. To recognise the dignity inherent in the human family, the death penalty must be eliminated for terrorists because respect for this dignity is necessary to deliver justice for individuals who cannot establish revenge as a form of justice.

The death penalty for terrorism is not the mark of a state of law

Saira Rahman Khan, a founding member of ODHIKAR and assistant professor at BRAC Law University in Bangladesh, made a parallel between the definition of a state of law and the application of the death penalty which is very widespread in Bangladesh for terrorists. Amendment 15 of the Constitution is opposed to the death penalty while Article 7 of the same Constitution recognises the death penalty. The legal system is not independent even though the Constitution provides for this. It is the politicians who choose judges and prosecutors. There is therefore direct interference from the Justice Ministry. Justice cannot be fair when it remains in the hands of the Executive. Separation of powers is indispensable for the implementation of fair justice. *De facto*,

47 <http://news.bbc.co.uk/2/hi/africa/3035803.stm>

the country suffers not only from death sentences but also from extrajudicial executions and torture.

Bangladesh voted on an anti-terrorism act in 2009 and this text was recognised by the military Government. The definition of “terrorism” is very broad in this reference. The death penalty is allowed for acts of terrorism and the legislation has already been applied even though many players from civil society are very critical with regards to this text and its application.

For Saira Rahman Khan, as long as trials in Bangladesh remain instruments of a political agenda, the issue of terrorism and the death penalty cannot be resolved.

Terrorism, the death penalty and the rights of victims

For Abderahim Jamaï, a lawyer and coordinator of the Moroccan Coalition Against the Death Penalty, there is a question, at the international level, based on considering terrorism, the death penalty and victims' rights. Since 2001 a kind of consensus has grown between States that terrorism must now be fought with violence. The war against terrorism really calls for other methods, stronger than violence. Justice remains the most effective tool when it defends life while terrorism defends death. In his opinion, there is often a distinction between the rights of one and others. Repression of terrorism through violence is contrary to human rights. It reverts to combating terrorism through illegal means. Increased use of torture is a flagrant example. Its use has given rise to unfair trials and executions. Using torture is in itself a kind of state-sponsored terrorism. We must be able to say No categorically to the use of violence to combat violence and end the Talion's law. In order to say No to terrorism, we must first say No to State-sponsored terrorism.

When it is a question of the death penalty and terrorism, Abderahim Jamai believes that discussing forgiveness is required. It would seem more logical that the request for forgiveness comes from the authors of the crimes rather than waiting for victims' families to grant their forgiveness. It is difficult to imagine victims or their families being able to forgive. In Morocco, consideration of the issue of forgiveness has been implemented. In the context of the struggle for abolition, we must reflect with the victims and their families. It seems that the international movement is moving towards calling on victims to forgive. But for that to happen they must benefit from time for a general reflection and not solely an analysis on a case-by-case basis. The practices which exist in some countries which aim for the families of prisoners sentenced to death to ask for forgiveness from victims' families is not desirable because it creates enormous pressure that no human being should bear.

The International Federation of Victims of Terrorism suggested unconditional support for a declaration against the death penalty. This would represent a big step towards abolition while enhancing the principle of justice based on reconciliation.

In Algeria the Human Rights League raised the need for dialogue with the victims of terrorism. There is a strong connection between such organisations across the world. More work at the local level appears necessary. The struggle against terrorism cannot

lead to ever more repressive legislation which does not take into account the needs and expectations of victims' families and which restricts human rights ever further.

Mr Jamai concluded by underlining that the struggle against terrorism is not the sole responsibility of the State and that collective consideration could reveal and increase understanding of the sources of terrorism in order to combat them.

Recommandations

- Assess and analyse the correlation between the geographical areas where terrorism occurs most often and the direct consequences on the application of the death penalty;
- Develop information tools which are appropriate for this specific context;
- Organise informal meetings with magistrates, lawyers and MPs in the areas concerned to raise awareness of the non-dissuasive effect of the death penalty for terrorists;
- Inform the media about the reality of the situation using statistics and witness accounts in support of the argument;
- Encourage and assist victims of terrorism organisations across the world to include opposition to the death penalty as a response to their suffering and their demands.

Europe: strategies for the future

By **Ariane Grésillon**,
Deputy Director, Ensemble contre la peine de mort (ECPM)

Présentation vidéo

Par **S.E. M. Remigiusz Achilles Henczel**, président du Conseil des droits de l'homme, Nations unies

Speakers

- **Antonis Alexandridis**, member of the department for human rights for the European External Action Service (SEAE), Belgium
- **Luigia Di Gisi**, programme manager at the European Commission, Belgium
- **Valiantsin Stefanovich**, vice-chairman of the Human Rights Center Viasna, Belarus
- **Renate Wohlwend**, former rapporteur general of the Parliamentary Assembly of the Council of Europe on the abolition of the death penalty (PACE), Lichtenstein.

Moderator

Ariane Grésillon, Deputy Director, Ensemble contre la peine de mort (ECPM), France.

At the end of the Second World War most European States still practiced capital punishment. In 2014 Europe is free from capital punishment, with the exception of Belarus. Since the end of the 1980s, the Council of Europe has recommended abolition of the death penalty via Protocol 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning abolition of the death penalty in all circumstances⁴⁸, including in times of war, and via the Charter of Fundamental Rights⁴⁹. This Roundtable proposed drawing up a report of the strategies introduced by Europe with regard to its member States and third countries, and to analyse the possible paths for action to respond to the special case of Belarus and Russia.

48 <http://conventions.coe.int/treaty/en/Treaties/Html/187.htm>

49 http://www.europarl.europa.eu/charter/pdf/text_en.pdf

EU action in support of abolition of the death penalty: an uncompromising and strict policy.

Diplomacy in support of abolition

According to Antonis Alexandridis, a member of the European External Action Service, the European Union (EU) has a firm policy against the death penalty and is a key player for its abolition across the world. “The strategy chosen is that of universal abolition. At State level, when this is not possible, the EU encourages a *de jure* or *de facto* moratorium on executions. If this second option fails, a third path is used which consists of encouraging and defending respect for and non-violation of the minimum standards defined by the international standards in terms of protecting human rights with retentionist countries.”

The EU uses all the diplomatic tools available. At the bilateral level, the organisation seeks dialogue with third countries which have not yet abolished the death penalty. “Iran, Iraq and the United States are the centre of attention but steps are taken in several other countries on the basis of the EU’s minimal standards and orientations on the death penalty”, said Antonis Alexandridis.

At multilateral level, the EU acts within the framework of the United Nations, the OSCE and the Council of Europe: publishing joint statements⁵⁰ and intensively lobbying to promote international instruments, including UN Resolution 67/206⁵¹ in support of a universal moratorium on executions.

Support for local and international civil society

The EU remains the main backer of abolitionist civil society across the world, including in the United States, via the European Instrument for Democracy and Human Rights (EIDHR). Since 2007 the EU has set aside approximately 20 million euros for this purpose and anticipates providing an identical sum over the next few years. The projects it supports are seeking progress in terms of the Penal Code, the promotion of international instruments, action to raise awareness and better legal assistance. Thanks to calls for projects managed by local delegations (Country Base Support Schemes, CBSS), the EU cooperates directly with civil society in retentionist countries and provides support in line with the needs of the target countries. This Instrument has led to real progress, underlined Luigia Di-Gisi, a member of the European Commission, citing for example support for the key players involved in abolition of the death penalty in Illinois (2001), Mongolia (2012) and Maryland (2013).

50 The EU published eight statements in 2012 at the Permanent Council of the OSCE and called upon its member States to support the UN resolution in favour of the moratorium. To mark the World Day Against the Death Penalty, the European Union and the Council of Europe published a joint statement relayed by European Union delegations across the world.

51 http://www.un.org/ga/search/view_doc.asp?symbol=A/C.3/67/L.44&referer=/english/&Lang=E

The Council of Europe (CoE) – precursor of abolition in Europe

The abolitionist commitment of the CoE, which today brings together 47 member states, is longstanding recalled Renate Wohlwend, PACE⁵² rapporteur on abolition of the death penalty until April 2013. Under the influence of the Parliamentary Assembly of the Council of Europe (PACE), Protocol 6 to the Convention, prohibiting capital punishment in times of peace, was adopted in 1982. Since 1994 adoption of a moratorium on executions and ratification of Protocol 6 have been *sine qua non* conditions of membership for new States. Protocol 13 to the Convention excludes the possibility of maintaining the death penalty for acts committed in times of war and was adopted in 2002.

These treaties, combined with strong pressure on member States by PACE and the Council of Ministers with a view to ratifying the protocols, have made Europe a region free from capital punishment – with the exception of Belarus⁵³. Renate Wohlwend recalled that the Council of Europe was also establishing international dialogue with Observer States, particularly Japan and the United States.

The strategy of the European institutions in favour of abolition of the death penalty can be consulted in the following documents:

- The strategy of the European institutions in favour of abolition of the death penalty can be consulted in the following documents:
 - Death is not justice “The Council of Europe and the death penalty”, Directorate General of Human Rights and Legal Affairs, Council of Europe, September 2010;
 - Delivering on the Death, Highlights of the Semester January-June 2013, Development and Cooperation Europeaid, European Commission;
 - Cadre stratégique sur les droits de l’homme et la démocratie, lignes directrices sur la peine de mort (revised in 2008)
-

52 Parliamentary Assembly of the Council of Europe

53 In 2013 only Russia had not ratified Protocol 6 and four countries, Azerbaijan, Armenia, Poland and Russia, had not ratified Protocol 13.

Belarus and Russia: the limits of action by the European institutions?

Belarus: what possibility of action in a totalitarian country where the death penalty is considered a State secret?

Belarus is the last country in Europe to apply the death penalty: since 1990, 329 people have been executed there. The field of application of the death penalty is vast: “terrorism, attacking public order, violent crimes, etc. and the Penal Code provides for 12 crimes punishable by death”, indicated Valiantsin Stefanovich, a representative from Viasna, one of the main organisations involved in fighting the death penalty in Belarus.

The European institutions face two problems with regard to Belarus. First, the country is not part of the Council of Europe which limits the possibility of action by that body. “Belarus has been invited to be an observer country or a special guest of the Council of Europe but those options have yet to be formalised”, recalled Renate Wolwend.

Secondly, Belarus considers the application of the death penalty as a State secret which complicates dialogue on this issue. “There is no information on places of detention or those of executions. It is therefore very difficult for the EU to establish a productive dialogue with Minsk”, indicated Antonis Alexandridis. However, faced with such a situation Europe has not been inactive and it uses a large range of tools. “We use public diplomacy, naming and shaming, and we have a delegation in Minsk which regularly complains about violations of human rights”, explained Antonis Alexandridis⁵⁴.

In June 2013, the Council of Europe organised a roundtable in Minsk on “Belarus: religion and capital punishment”⁵⁵ which gave the Belarus Orthodox Church the opportunity to declare that it was in favour of abolition. The representatives from European institutions present at the roundtable therefore stated they were satisfied with the resolution on Belarus approved at their initiative by the UN Human Rights Council on 13 June. With this document, Europe restated its refusal in the face of the only country on the continent where capital punishment is still applied.

Finally, Valiantsin Stefanovich relayed an account of the day-to-day existence of NGOs in Belarus, recalling incidentally that they operate “outside the law”. “We try to influence public opinion and publicise abolitionist positions but since 2003 our organisation has not been recognised... You don’t know when you’ll be sanctioned: last year the Chair of our organisation was detained and sentenced to four and a half years in prison.” Following questions from the public to support their work, Valiantsin Stefanovich raised the usefulness and effectiveness of internet tools. Luigia Di-Gisi recalled that calls for local projects can be a tool to support civil society and encouraged the EU delegation in Belarus to make abolition of the death penalty one of its priorities.

54 Following death sentences passed in 2012, the EU published a statement underlining that capital punishment was contradictory to the country’s efforts to progressively reduce the use of the death penalty and called for the commutation of the sentences passed.

55 <http://www.icomdp.org/2013/06/round-table-religion-and-death-penalty-belarus/>

Russia

Today, Russia is the only member of the Council of Europe (CoE) not to have ratified Protocol 6 to the Convention. A moratorium on executions since 1996 (date of its membership) is not enough for the CoE which has continued to increase diplomatic action to pressure the Russian authorities to ratify the Protocol and “will continue to do so as long as Russia has not abolished this punishment in law”, indicated Renate Wohlwend. However, Russia’s position makes it legitimate to question the weakened stance of the CoE authorities with regard to a Russia which has been integrated in recognition of its European identity and as a way of encouraging progress on human rights issues, something which has not been successfully completed today.

A question from a participant to the representative from the Russian Ministry for Foreign Affairs, Alexis Goltiev, on the influence Russia could have on Belarus on this issue moved the debate on and opened a path for consideration, the latter having discussed “the importance of bilateral relations between the two countries and the fact that Russia had highlighted with the Belarusian authorities their example of abolition in stages.”

Conclusion

In conclusion, the participants called for a moratorium in Belarus, recalling that the main obstacle remained the absence of political will to commit to real reform of the system and not the support of public opinion for capital punishment, as this had evolved.⁵⁶. They also restated that data must be obtained from Belarus and that the State Secret covering the application of capital punishment must be lifted.

Recommandations

- All EU instruments, which support abolition, must go beyond funding and tackle political and diplomatic strategies in a concerted way for countries such as Japan, the United States and Belarus;
- Aim more widely for sharing experiences between magistrates, lawyers and sociologists to highlight the assets of abolition;
- Better support the defenders of human rights and the abolitionists in these countries.

56 <http://www.penalreform.org/resource/belarusian-public-opinion-crime-punishment-including-death-penalty/>.

Drug trafficking and the death penalty

By **Sandrine Ageorges-Skinner**,

Academic Program Coordinator for the 5th World Congress against the Death Penalty

Speakers

- **Zaved Mahmood**, representative of the office of the United Nations High Commissioner on Human Rights (OHCHR), Switzerland
- **Maya Foa**, deputy director of the death penalty department for Reprieve, United Kingdom
- **Damon Barrett**, deputy director, Harm Reduction International, United Kingdom
- **Taimoor Aliassi**, UN representative of the Association for Human Rights in Kurdistan (KMMK-G), Switzerland

Moderator

Xaquin Lopez, investigative journalist, RTVE, Spain

Witness

Sabine Atlaoui, wife of the French national Serge Atlaoui sentenced to death in Indonesia for drug trafficking.

According to UN research⁵⁷, international drug trafficking is estimated to be worth about 30,000 million dollars. Currently, 33 countries use capital punishment for drug traffickers and sometimes even for consumers. In the era of globalisation, the international struggle against drug trafficking requests international funds for programmes whose application in the field sometimes proves counter-productive and does not provide any transparency with regard to the respect for human rights within the framework of this struggle.

57 http://www.unodc.org/unodc/secured/wdr/wdr2013/World_Drug_Report_2013.pdf

A daily reality

Sabine Atlaoui, whose husband Serge Atlaoui, a French national, was sentenced to death in Indonesia for drug trafficking in 2007, opened the session. She shared her story of the daily reality of families of those sentenced to death. She spoke of her experiences, the suffering and problems she and her children faced because her husband is on death row on the other side of the world.

The UN and the death penalty

Zaved Mahmood, representative from the Rule of Law and Democracy Unit of the Office of the High Commissioner for Human Rights, opened the debate by reiterating the UN's abolitionist principles and recalling that capital punishment is unacceptable in all circumstances. The death penalty is arbitrary and should not be justified in cases of terrorism or drug trafficking. In his opinion, international legislation must be respected and in the war against drug trafficking some players have interests at stake which make the application of international standards more complicated. The leaders of networks often have greater political and financial means than the leaders of the countries where they operate. The countries which apply capital punishment for drug traffickers are in an extremely sensitive position with regard to respect for human rights. In his eyes, the only possible measure is to suspend all aid to countries which apply it. He encouraged civil society to be particularly active in this regard.

The reality in the field

Maya Foa presented the project of the NGO Reprieve in the UK concerning countries which finance programmes combating drug trafficking. The Save project⁵⁸ demonstrates the link of cause and effect between these programmes and executions of prisoners sentenced to death. The aim of this project is to raise awareness in the European countries, which finance UNODC⁵⁹ programmes, particularly in Iran⁶⁰, in order to encourage them to terminate their participation. Further, in collaboration with other organisations, this project seeks to map the aim of these programmes. The international war against drug trafficking has negative consequences. In 12 member states, the death penalty is mandatory for drug trafficking. In Iran⁶¹, more than ten thousand executions have taken place since 1979; in Pakistan⁶², they have tripled since 2009. There is a particularly important correlation in the case of these two countries. Within the framework of this project, a parallel is established between the main charges and sentences, and then the context of the funding programmes is reviewed. The data shows an enormous gap between the struggle in Europe and the

58 http://www.rerieve.org.uk/investigations/stop_aid/

59 United Nations Office on Drugs and Crime

60 See the annual report by IHR/ECPM on the death penalty in Iran :
<http://iranhr.net/wp-content/uploads/2014/03/Rapport-iran-2014-GB-030314-bd-e.pdf>

61 <http://www.essex.ac.uk/hri/documents/overview-iran-death-penalty-drug-crimes.pdf>

62 <http://www.theguardian.com/world/2012/nov/18/pakistan-drugs-aid-death-penalty>

results obtained. If Europe followed a common objective, it could have an international influence rather than contributing to more executions. The latest figures show that there have been ten thousand executions in Iran, a country which receives 14 million euros from Europe. This significant sum could be invested in more productive ends. Several European citizens have been arrested for possession of drugs and risk being sentenced to death. In order to take political action, it is essential to concentrate on individual cases concerning people sentenced for offences relating to the trafficking or consumption of drugs.

The death penalty affects the most vulnerable: the exploited people who act as mules are the most affected while organisers of trafficking are not arrested. The debate on the struggle against drug trafficking takes place in Europe in particular which is the main destination for these drugs. Western countries devote several million euros to UNODC programmes, money sent to countries where the death penalty is applied. Executions are a means for these countries to demonstrate that measures against drug trafficking are really being taken. To attest to the validity of such programmes, those who are at the head of these networks must be arrested.

The UN convention must reflect the reality

Damon Barrett, Deputy Director of Harm Reduction International in the UK, explained that his organisation aims to reduce the social and health consequences of drug trafficking. HRI's latest report⁶³, which considers data from 1999 to 2005, was presented to the UN in the Spring 2013. The UN Convention stipulates that drugs are harmful and encourages combating them. However, it is essential that the programmes financed to this end are irreproachable and transparent. In the absence of such guarantees, some countries have withdrawn their funding for the war against drug trafficking. Denmark has redirected its funding to a programme combating AIDS in Iran. The 1961 UN Convention on narcotic drugs⁶⁴ must take into account current practices and integrate human rights criteria if this international struggle is to be productive and avoid penalising the most vulnerable. This issue goes beyond cultural and religious issues. Although some States are proud of the results obtained in this "war", they do not allow any criticism or questioning of their position. The major issues surrounding international drug trafficking must be discussed from another angle in collaboration with all the players concerned.

A hidden war on ethnic minorities

Taimoor Aliassi, representative at the UN for the association Human Rights in Kurdistan (KMMK-G), saw an instrument of repression behind the international struggle against drug trafficking in Iran where more than 75% of executions are related to

63 http://www.ihra.net/files/2012/11/27/HRI_-_2012_Death_Penalty_Report_-_FINAL.pdf

64 http://www.unodc.org/pdf/convention_1961_en.pdf

drug trafficking, while each year ten thousand people become dependent⁶⁵. Today, dependence affects those under thirty. The process of criminalising consumers is constantly increasing and the Iranian authorities use drugs as a pretext for repressing certain ethnic groups and political opposition groups. The Cultural Revolution from 1980 to 1983 had already led to an increase in executions for this kind of offence. The death penalty is imposed for all cases of possession of at least 30 grams of heroin, morphine or psychoactive drugs, or 50 grams of opium. Such repression notably increased after the re-election of Ahmadinejad and had a very negative impact on the country's minorities. Today, Iran benefits from an EU aid programme but, despite everything, the statistics show that consumption of drugs in the country has increased during the last three years. Between 2007 and 2011, Iran has received millions of dollars from overseas within the framework of complex and opaque programmes. Neither the Ministry for Health nor health-care organisations are tackling the dependency problem. The secret services have drugs circulated to justify their policy of repression towards certain groups. NGOs consider that the UN should not attribute aid if it does not contribute to relieving human suffering. Iranian policy with regards to drugs constitutes a violation of Article 6 of the International Covenant on Civil and Political Rights⁶⁶. Civil society as a whole should consider better integration of human rights in this particular context.

References

- *The strategy of the European institutions in favour of the abolition of the death penalty can be found in the following documents:*
 - *Annual Report on the Death Penalty in Iran 2013, ECPM - Iran Human Rights*
 - *Drug Addiction as Human Right issue in Iran by Taimoor Aliassi, June 2013, Teaching Center and research in humanitarian action, University of Geneva*
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65 In a country of 70 million inhabitants, between 3 and 4 million say they are consumers.

66 <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

Recommandations

- Call upon the governments concerned to end funding for opaque and repressive programmes;
- Call upon the UN Human Rights Council to fully integrate human rights into application of UNODC programmes, and impose within this framework absolute transparency on judicial procedures for drug-related offences;
- Call upon civil society to track and document cases of people sentenced to death for drug trafficking or possession.

Innocence and Abolition: from the argument to the reality in the field

By **Sandrine Ageorges-Skinner**,

Academic Program Coordinator for the 5th World Congress against the Death Penalty

Innocence lies at the heart of strategic debates in support of abolition across the world. Public opinion is aware of or receptive to this issue because it is fairly easy to identify with some sentenced wrongly who is often awaiting death in total isolation. This argument is a formidable tool for raising awareness and educating people about the reality of the death penalty. However, on its own it cannot epitomise the various points which make abolition necessary in a judicial system where arbitrariness, social or racial discrimination, unfair trials and a lack of transparent procedures are commonplace. However, it could be the main reason in favour of abolition.

Although the last few years have witnessed the release of innocent prisoners sentenced to death across the world (Taiwan, the United States, Lebanon, Morocco, Uganda, China and Bangladesh) whose stories were widely taken up by the international media, this staggering reality appears, little by little and involuntarily, to be erasing other arguments in support of abolition. By focusing the debate on judicial error, the question of innocence is concealing the foundations of abolition.

Judicial error is, in effect, above all a question of the justice system, something which highlights the urgency of necessary reforms, which have been ignored for too long and the consequences of which are often under-estimated because they only concern a tiny minority of people. Such errors are frequently directly connected to a lack of financial resources for the defence, which, *de facto*, is unable to gather information concerning attenuating circumstances. Poor quality defence is often responsible for judicial errors. She underlined, further, that when it comes to the death penalty, the perception of "acceptable collateral damage" creates vociferous debate among those who remain convinced of its usefulness and its efficiency in the 21st century.

That said, if the abolitionist movement frequently uses this argument it is because it is convincing and irrefutable as it is based on the true stories of survivors of the death penalty. Some came to tell their stories at the World Congress: Kirk Bloodsworth from

the USA, Antoine Chahine from Lebanon, Ahmed Haou from Morocco, Chien-ho Su, Chuang Lin-hsun and Liu Bin-lang from Taiwan, and Mpagi Edwards Edmary from Uganda. These faces and these voices, symbols of innocence and a justice system tainted by mistakes, are a major asset.

However, over the last few years the question of innocence as a “main” argument in support of abolition, widely taken up by the media across the world, has taken such a large place in the debate that the abolitionist community is forgetting the negative consequences.

In effect, lawyers representing those who may face the death penalty during their trials or representing prisoners already sentenced to death for their appeals, are alarmed at the place that innocence is now occupying in their dialogue with the prosecuting party. An American report⁶⁷ drawn up by jurists and statisticians from Michigan and Pennsylvania, and published in 2014, considers that at least 4.1% of prisoners sentenced to death are innocent. However, that still means that lawyers have to defend 95.9% of guilty parties. When the only issue for judges can be summed up as innocent or guilty, the lawyer's margin for manoeuvre is almost non-existent when it comes to avoiding the death penalty for his client. This issue is particularly tangible in the United States where the elected officials of some States only have one aim: improve procedure in order to ensure that only guilty people are executed. Their new quest is for a “clean” death penalty without judicial error.

Using innocence to combat the death penalty across the world is a double-edged sword. It should be noted that even today the abolitionist movement seems to ignore this aspect. A man-made justice system remains weak, judicial errors are inevitable and, although it seems inconceivable that innocent people are sentenced to death and executed, nevertheless abolition of the death penalty is a worthy cause for all those who face this punishment.

The world abolitionist movement owes it to itself not to neglect or forget all the arguments to raise awareness and convince the general public that the death penalty belongs to history books and no longer has a place in criminal law.

67 <http://www.pnas.org/content/111/20/7230.full>

Parliamentary networks and abolition

By **Nicolas Perron**,

Programme Director, Ensemble contre la peine de mort (ECPM)

Speakers

- **Vivien Helen Stern**, president of the All Party group on the abolition of the death penalty, United Kingdom
- **Khadija Rouissi**, vice president of the House of representatives, coordinator of the parliamenarians against the death penalty, Morocco
- **Léonard She Okitundu Lundula**, senator, Democratic republic of Congo
- **Alice Alaso**, member of Parliament, Uganda

Moderator

Nicolas Perron, Programme Director, Ensemble contre la peine de mort (ECPM), France

Members of Parliaments (MPs) lie at the heart of public debate and legislative procedures, and they have played an essential role in support of abolition of the death penalty in a number of countries. They are the people who propose laws (abolitionist laws or laws aiming to restrict the field of application of capital punishment) and they are in the front line when it comes to challenging the executive and truly advocating with members of their parliaments. The keystone of abolition, their votes can bring the abolitionist process to completion, going beyond party lines and bias. Often isolated, most of them face hostility from their peers and their populations when it comes to abolition.

The work of MPs on capital punishment is organised differently, depending on the powers attributed to parliament and progress of the abolitionist debate in a given country. In countries where *de facto* abolition is in force, concerted legislative initiatives can be envisaged with the aim of achieving definitive abolition of the death penalty. In Morocco, no executions have taken place since 1993 and the right to life was established in Article 20 of the Constitution in 2011. In February 2013, 250 MPs from all political sides, except the Islamist party in power, managed to create an official organisation for their group via the creation of the Parliamentary Network Against the Death Penalty in Morocco (*Réseau des parlementaires contre la peine de mort au Maroc*, RPCPM). This was a first in a country which still has capital punishment in its legislative arsenal. This Network aims to convince Parliament to make the moratorium official, adopt international death penalty instruments and, in the long-term, vote for penal reform to abolish the death penalty in law. During parliamentary sessions, its members systematically challenge the authorities in the form of oral questions and therefore put the death penalty at the heart of the political debate. Less than a year after its creation, the Network presented a draft law to commute the death penalty to a life sentence in prison, including a mandatory term of 25 years.

In the Democratic Republic of Congo, several draft laws have already been presented in the past, most recently in 2010 at the initiative of Professor Andre Mbata. Discussed within the framework of a draft law aiming to bring Congolese law into line with the Rome Statute of the International Criminal Court, this proposal created unprecedented parliamentary debate. At the end of an unusually violent discussion according to witnesses, and due to a lack of agreement with the abolitionist players, the draft law was rejected with an overwhelming majority. In the face of this, and at the initiative of Senator Léonard Shé Okitundu, a network of MPs is being established in the country to collectively prepare a new proposal with enough upstream support for it to be discussed.

In countries where the death penalty is still practiced, the challenge initially is above all to reduce the number of crimes punishable by death or even to remove the mandatory application of the death penalty which still exists in some States.⁶⁸ For example, in 2005 the Constitutional Court of Uganda declared the mandatory application of the death penalty unconstitutional, in opposition to the Constitution, following an appeal made by nearly 400 prisoners sentenced to death. Their appeal was very strongly supported by a small group of abolitionist MPs who work informally with local civil society and religious players. Under the influence of Alice Alasao MP, the MPs then created a working group within Parliament, charged in particular with encouraging the authorities to reduce the number of crimes punishable by capital punishment.

MPs from abolitionist countries also have an extremely important role to play in the struggle against the death penalty. In the UK the British all-party parliamentary group (APPG) led by Baroness Vauxhall, Vivien Helen Stern, regularly questions NGOs on particular

68 Mandatory death penalty means that the courts cannot choose the sentence applicable to a particular crime but instead must automatically pass a death sentence.

cases and sends letters to local MPs asking them to vote in favour of abolition. It also organises high-level political visits to retentionist countries in order to support local abolitionist MPs and provide greater visibility for their work. The APPG has therefore organised trips to Japan, Thailand, Uganda and the United States, and has developed international advocacy campaigns in favour of abolition. Spurred on by Baroness Stern and in collaboration with Parliamentarian Global Action (PGA), the World Coalition Against the Death Penalty and Ensemble contre la peine de mort (ECPM), the APPG now wishes to establish an international network of MPs. Such a network could, in particular, federate MPs from across the world and exercise influence over international parliamentary bodies such as for example the Parliamentary Assembly of the OSCE⁶⁹ or the Parliamentary Assembly of the Organisation internationale de la Francophonie.

Main actions which can be carried out by a national network of MPs

- Draw up a draft law aiming, depending on the context, to definitively abolish the death penalty or reduce the number of crimes punishable by death;
- Challenge the authorities on the death penalty during parliamentary sessions;
- Organise workshops to raise awareness within parliaments, in the presence of national and international MPs;
- Organise informal political meetings with the presidents of parliamentary groups and political parties of various sides;
- Use the right granted to MPs in most countries across the world to visit prisoners sentenced to death;
- Encourage MPs from countries which have already abolished the death penalty to share their experiences;
- Question NGOs and public opinion about individual emblematic cases of which they may have heard;
- Write to MPs from other countries, asking them to vote on reforms in favour of abolition.

69 Organisation for Security and Cooperation in Europe

The main conditions for creating a national network of abolitionist MPs

Several elements must exist to encourage the emergence of a national network of MPs against the death penalty.

- Existence of a small group of MPs who are particularly committed to human rights and able to convince their peers to join them. The Moroccan network was established around a group of particularly charismatic women who managed to federate MPs from both chambers, bypassing party political divisions and governmental and opposition coalitions.
 - Existence of an organised civil society able to assist the network in implementing its strategy and providing it with tools appropriate for the local context. According to its coordinator, Khadija Rouissi MP, the RPCPM could not have been established so quickly without the support of the Moroccan Coalition Against the Death Penalty, an informal network of 11 human rights NGOs. In the DRC Senator Léonard Shé sought to launch his network of abolitionist MPs with the Congolese Coalition Against the Death Penalty. In Uganda, the group of MPs initiated by Alice Alasao works particularly with the Foundation for Human Rights Initiative (FHRI), head of the local abolitionist movement.
 - Include members from the majority party and opposition from the various chambers of parliament. This condition is crucial to enable the network to be part of the long-term local political landscape. As soon as it was created, the RPCPM was composed of MPs from the two chambers of the Moroccan Parliament and they came from all the parliamentary groups, except the PJD, the Islamist party in power.
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Tools and strategies

Legal and Diplomatic Strategies for Foreign Nationals Sentenced to Death

By **Sandrine Ageorges-Skinner**,

Academic Program Coordinator for the 5th World Congress against the Death Penalty

Speakers

- **Victor Uribe**, counsellor for the legal affairs at the Embassy of Mexico in the United States
- **Rodolfo Mattarollo**, Argentinian ambassador in Haïti and special representative of the technical secretaria of the South American Union (UNASUR) in Haïti, Argentina
- **Zara Brawley**, representative for Reprieve, United Kingdom
- **Richard Sédillot**, international lawyer, spokesperson for ECPM, France

Moderator

Carles MacCragh, vice-president of the Fundación abogacía española, Spain

Although it is difficult to pinpoint an exact figure for the total number of people sentenced to death outside their country of origin across the world today, the problem of the level of commitment offered by authorities to their nationals remains resoundingly relevant. Today, only one country in the world pays legal costs for its nationals overseas: the Netherlands. However, many countries follow cases of their nationals sentenced to death very closely, thereby ensuring their diplomatic role and fighting for the fair application of the law in the jurisdiction concerned. Although in death penalty cases the legal defence and the diplomatic service share a common goal, it is rare for the two parties to talk to one another and, above all, they do not understand one another; this is sometimes counter-productive for the prisoner and the outcome of his trial or appeals. Some countries⁷⁰ are more concerned than others about this issue and each defines its action strategy in its bilateral relations with the jurisdiction concerned. As for lawyers from the countries of origin of prisoners sentenced to death, who work pro bono, they often run into a lack of communication or a refusal to cooperate from the authorities of the country of origin of the death-sentenced prisoners they represent alongside a local lawyer.

70 Afghanistan, Brazil, China, India, Iraq, Japan, Mexico, the Netherlands and the Philippines.

Mexico and the United States: an endless struggle

Due to its border with the United States, Mexico has long been managing cases of its nationals liable to the death penalty or already sentenced to death on American soil. Today, 81 Mexicans face capital punishment; 60 Mexicans are on death row in the United States and 3 others are on death row in Malaysia. The Mexicans sentenced to death in the United States represent 42% of foreign national death-sentenced prisoners in that country and they are the most represented minority. According to Victor Uribe, Legal Affairs Advisor at the Mexican Embassy in Washington, Mexico is absolutely opposed to the death penalty and has made a commitment to defend any Mexicans facing this punishment. He underlined that Article 36 of the Vienna Convention⁷¹ stipulates the right of a country to be informed of the existence of an accused individual or prisoner sentenced to death overseas. Among the 60 Mexicans sentenced to death in the United States, only 8 of them benefited from consular notification. He outlined his country's work which is carried out on three levels:

- Consular assistance for prisoners sentenced to death (visits, medical care, communication with families);
- Legal defence: Mexico actively participates in all stages of the trial;
- Political/diplomatic interventions via official communications addressed to lawyers, prosecutors and judges.

He underlined that when the Mexican Government intervenes upstream and during trials, the death penalty is only passed in 1% of cases.

To conclude, Victor Uribe, Legal Affairs Advisor at the Mexican Embassy in Washington, recalled the victory of Mexican diplomacy before the International Court of Justice against the United States on behalf of 54 prisoners sentenced to death. This gave rise to the Avena jurisprudence⁷² in March 2004. It is important to note that this legally binding decision has still not been applied by some American States which consider that only the Federal Government ratified the Vienna Convention and that as long as American Congress does not vote on a bill to apply it nationwide, this jurisprudence is not applicable in their jurisdiction. The State of Texas, which applies this jurisdictional logic, has executed four Mexican nationals: Jose Medellin in 2008, Humberto Leal Garcia in 2011; Edgar Tamayo and Ramiro Hernandez in 2014.

From international texts to reality

Rodolfo Mattarollo, Argentine Ambassador in Haiti and Special Representative of the Technical Secretariat of the Union of South American Nations (Unasur) in Haiti, discussed the reality on the ground. According to him, there is a danger of information alienation. He considered that, although it is necessary to work with legal data and categories, it is still important not to forget the human side; and he recalled that human rights are

71 bit.ly/1JdGOGn

72 bit.ly/1bPN4Xb

values crystallised in legal categories when they are human above all. He considered that, although a lot of people talk about majorities and rights, it should be made clear that majorities are not synonymous with either reason or truth. Not sentencing to death or executing is a rule which the majority should understand. He considered that positive general prevention, the idea that punishment contributes to establishing values on which society bases its very existence, has evaporated. Although it is necessary to analyse legal and political data for strategic purposes, the human factor must remain at the heart of the abolitionist reflection as the very air of this movement.

He illustrated his words by discussing a particular case, that of Victor Hugo Saldano, an Argentine national sentenced to death in Texas. He explained that the Argentine authorities have always supported him, helped him publish his writings and represented him before the American justice system and before the Inter-American Commission. Victor Saldano has been on death row in Texas since 1996.

To conclude, Rodolfo Mattarollo recalled that a defence strategy must remain very prudent and based on a case-by-case basis. He considered that any overseas intervention for a prisoner sentenced to death is perceived as an intrusion trying to upset the legal and moral set-up of the country concerned. The struggle against the death penalty is part of the struggle for human rights. It is up to the diplomatic services and lawyers to take action to encourage countries to make concrete commitments to defend their citizens.

Assisting prisoners sentenced to death

Zara Brawley, a representative from the organisation Reprieve based in the United Kingdom, explained that her organisation assists more than 700 European citizens either sentenced to death or who risk the death penalty across the world through funding from the European Commission. This support operates at several levels: firstly, assistance for lawyers and/or experts who represent the prisoner or the accused in the country concerned. The organisation also carries out research in the country of the individual involved in the procedure and looks, in particular, for information concerning, for example, medical data on the mental health of the person concerned to allow a plea based on mitigating circumstances. If this scenario is proved, medical experts prepare a specific report. Depending on the country of origin, it is important to communicate closely with the families of the persons concerned.

She recalled that this work on a case-by-case basis is also accompanied by collaboration with the European Bar Council and European NGOs in order to develop defences with, for example, the UN Human Rights Commission. When the person facing the death penalty is European, it proves to be essential to work with European governments because their intervention can make a prosecutor's position so that he does not seek the death penalty; these governments can also intervene to protect the rights of the person sentenced. She underlined the essential role of consular authorities with regard to the prisoner: visiting and supporting the defendant so that he benefits from diplomatic intervention before the trial has taken place. It appears clear across the world that financial

resources and the quality of the defence have an enormous impact on the outcome of trials; a well-defended defendant often escapes a death sentence.

Zara Brawley raised the question of the media coverage of certain cases because, according to Reprieve's experience in the United Kingdom, 70% of cases of foreign nationals liable or sentenced to death do not receive any media coverage. NGOs must seek the most representative cases which are most able to raise awareness among public opinion and also the diplomatic service of the country concerned so that work with the media results in productive progress for the prisoner sentenced to death.

She concluded by calling for the reinforcement of ties and exchanges between the legal defence and the diplomatic service to combat the death penalty across the world.

Defence and diplomacy: different missions

For Richard Sédillot, an international penal lawyer in France and spokesperson for ECPM, a pause for thought is required with regard to the varied interests of the defence team and the diplomatic service. Their respective action is often different and could not be reduced to simple extensions of the jurisdiction of a country because the interests of each party are not necessarily superposed. *De facto*, particular vigilance and discretion are required.

As a lawyer who represents French nationals sentenced to death overseas, he underlined that often lawyers and the diplomatic services are unable to agree and he questioned the diplomats' lack of legal knowledge and the lawyers' lack of diplomatic knowledge; this situation could be improved if defence/diplomacy communication was scheduled to overcome these deficiencies.

As an example, Richard Sédillot recalled a trial in Mauritius after which forty death sentences were passed. After an attempted *coup d'Etat*, a group of rebels had been questioned and judged. He was acting on behalf of ECPM on this case and met the President of the Court. The latter thanked him for his intervention and clarified that the Government had ordered him to pass these death sentences and that, consequently, there was nothing else to do. However, German and French diplomats were present during the trial and together they were able to observe and understand the political challenges. The joint work carried out between lawyers and diplomats saved these people. He recalled that it was not about "traditional" defence work; it is essential to collaborate with diplomats because the results are better.

Finally, he underlined that the issue of media coverage was a very exceptional subject which required a case-by-case research because, depending on the country concerned, such public demonstrations of support can prove to be damaging and counter-productive. In conclusion, it appears that the missions of the defence team and diplomatic services are not incompatible and can become complementary when the two parties learn to get to know one another and listen to one another to better define coherent strategies in order to obtain concrete results on the ground. Reprieve in the United Kingdom has been offering for several years short training films for consular authorities in order to establish the key points of diplomatic intervention when one of their nationals is either

at risk of the death penalty or already sentenced to death. Foreign nationals sentenced to death present a particular challenge for their countries and their defenders. This is an important abolition strategy which not only NGOs but also countries themselves must support to act better and together.

Recommendations

- Develop specific training programmes for consular representatives;
- Organise meetings between lawyers and diplomats to optimise the complementary nature of collaboration;
- Encourage diplomatic services in abolitionist countries to commit more on the ground for special cases;
- Establish a permanent dialogue between European States and their national NGOs to find out the precise situation of prisoners sentenced to death overseas from each country.

Teaching abolition: sharing tools and experiences

Quels sont les outils existants et quel partage envisager pour les améliorer afin que le plus grand nombre puisse en bénéficier ?

By **Marianne Rossi**,
Programme Director “Teaching Abolition and Human Rights”,
Ensemble contre la peine de mort (ECPM), France

Speakers

- **Tanya Awad Ghorra**, Educational Programme Director, “Lebanese Association for Civil Rights (LACR),” Lebanon
- **Osvaldo Burgos**, member of the committee against the death penalty of the Bar Association of Porto-Rico and Educational Director, Puerto-Rico
- **Jenchun Hsieh**, Head of the Taiwanese Coalition against the Death Penalty and coordinator of the Murder by Numbers Film Festival, Taiwan
- **Rosalyn Park**, Research Director, The Advocates for Human Rights, United States
- **Marianne Rossi**, Project Director “Teaching abolition and human rights,” Together against the Death Penalty (ECPM-Ensemble contre la peine de mort), France
- **Mostafa Znaidi**, Assistant coordinator of the Moroccan Coalition against the Death Penalty, Morocco.

To achieve universal abolition, it is necessary to educate future generations. Throughout the world, NGOs develop specific tools for education. Teaching Abolition is for all communities, schools, civil or religious. This workshop is to discuss and explore ways to maximize the sharing of existing tools adapted to the specific context of each country to reach the largest number based on different resources. Teaching abolition, especially to the younger generation, is of crucial importance when one is in an abolitionist or retentionist country because the fight for abolition will only stop once capital punishment is no longer seen by anyone as a possible legal tool.

Developing an approach that allows students to identify with the abolitionist cause

"The young generations do not have a clear idea of what the death penalty is; they do not understand that there is still a battle to be won. In this light, it is easy to be in favour of the death penalty, especially in a country like Lebanon where a lack of safety is part of daily life," stated Tanya Awad Ghorra, before adding that "prisoners' faces must be shown and their names need to be said in order to make the debate more human." Marianne Rossi and Mostafa Znaidi are pursuing this approach by working with witnesses who have seen the reality of the death penalty with their own eyes when they come speak at schools. Former death row prisoners, families of prisoners and families of victims tell the young students of the horror that is capital punishment in order to encourage them to move beyond the stereotypes. Osvaldo Burgos, from Puerto Rico, also invites, as does Rosalyn Park in the United States, criminologists, sociologists, doctors and victims to the debates organised for the general public in order to present various points of view showing the importance of abolition. Jenchun Hsieh, from Taiwan, created a film festival intentionally called "Killing People" to ridicule the fact that Taiwan still carries out the death penalty. This festival, where fictional films and documentaries are shown, invites participants to discuss the different issues brought up in the movies. According to Hsieh, "*cinema is a common language for all; it transcends borders and has an impact on the international level.*"

Creating teaching tools in support of the abolitionist argument

In Puerto-Rico, the issue of abolishing the death penalty is not in school curriculums and Osvaldo Burgos points out that it is not yet possible to organise school visits, but he would like to be able to develop tools that would reach young people in order to develop projects with them one day. The question of integrating the death penalty issue in school curriculums is in fact essential to gain support from teachers. That is why ECPM developed courses in France to meet the requirements of the National Education Programme in several subjects (French, English, Spanish, history-geography, visual arts), of which some could be directly translated in order to be adapted for other countries. These tools encourage teachers to integrate the issue within the framework of their classes in an autonomous way and to promote year-long projects that allow students to develop a viewpoint, such as the participation in the drawing contest, "Draw me the abolition," organised this year by ECPM with French and Spanish students. In the United States, *The Advocates for Human Rights* developed a similar approach by creating a guide with documentary resources available, including a glossary of legal terms and a quiz for organisations wishing to organise awareness-raising presentations.

In Lebanon and Morocco, a ludic approach is preferred. The LACR develops role-playing games that allow the children to question their viewpoint. In particular, they are asked to recreate a parliamentary debate in class where they have to successfully defend the abolition of the death penalty. This role-playing allows the students to adopt their own argument in favour of abolition. The Moroccan Coalition against the Death Penalty

developed a game called “The Minute of the Prisoner” where students are divided into four groups (death row prisoner, death row prisoner’s family, victim’s family and executioner). For one minute, they close their eyes while they have to listen to the tic-toc of the clock before hearing a gunshot. After this exercise, the students then explain what they felt according to which group they were in. It helps them to realise the complexity of capital punishment on their own.

Recommendations

- Encourage the development of projects that allow students to form their own argument in favour of abolition using an artistic and recreational approach in particular;
- Develop teaching tools that can easily be adapted for other countries in various contexts;
- Create a platform of exchange on good practices in teaching abolition by networking with the actors involved in education throughout the world in order to promote the sharing of existing tools.

Intergovernmental Organisations and Civil society: Joint Strategies

By **Maria Donatelli**,

Executive Director of the World Coalition Against the Death Penalty, France

Speakers

- **Maria Donatelli**, Executive Director of the World Coalition Against the Death Penalty, France
- **Mabassa Fall**, representative of the International Federation of Human Rights Leagues (FIDH) at the African Union, Senegal
- **Martine Anstett**, Assistant Director, Peace, Democracy and Human rights Department, Organisation Internationale de la Francophonie
- **Chiara Sangiorgio**, member of the Death Penalty Group, Amnesty International (AI), United Kingdom
- **Asunta Vivó Cavaller**, General Secretary of the International Commission Against the Death Penalty, Switzerland

The goals of intergovernmental organisations and civil society can be complementary. This is what the workshop tried to highlight. The possibilities for combining the work of intergovernmental organisations and civil society could significantly strengthen the abolitionist struggle. This debate should serve as a basis for the establishment of links between these two entities so that they can work hand-in-hand.

State of Play

For Maria Donatelli, Executive Director of the World Coalition Against the Death Penalty in France, civil society has not always had access to international and intergovernmental organisations to express its opinion and share its experiences in the field at the international level. In Africa, for example, a real dialogue between civil society and IGOs has been developed on the issue of the death penalty, in particular since 2005 with the creation of the Working Group on the Death Penalty in Africa within the African Commission on Human and Peoples' Rights. But this remains unusual.

Despite the problems of access to international bodies faced by civil society in the past, and sometimes still today, international organisations, both globally and regionally, increasingly recognise the importance of NGOs and they have opened their doors to them.

A relationship of inter-dependence has been created between the two kinds of organisation which over time has led to an exchange of information, an improvement in international procedures and collaboration in the field, crucial to the defence of human rights. On the issue of the death penalty, since 2007 successive resolutions by the UN General Assembly calling for a moratorium on executions have made the death penalty an issue of international law and human rights. However, these important meetings are not the only opportunities for interaction between NGOs and intergovernmental organisations.

Africa under examination

Mabassa Fall, representative of the International Federation of Human Rights Leagues (FIDH) at the African Union, explained that in Africa there is no culture of collaboration and that for a long time civil society found it very difficult to work with intergovernmental organisations. In order to be heard by them, some human rights activists went on hunger strike in the corridors of the African Commission on Human and Peoples' Rights. Subsequently, a right to two or three minutes speaking time was established. Often civil society is considered to be an adversary or another power. In 1999 the Centre for Research on the Environment and Development in Africa (CEDA)⁷³ was the first to understand and consider that the issue of human rights must be dealt with in a public perspective. The African Union has made great progress and today has bodies dedicated to human rights. Today, NGOs participate fully in drawing up reports. In 2005 the African Commission on Human and Peoples' Rights created a Working Group dedicated to the death penalty. It is a joint collective involving prestigious human rights activists. Thanks to this group, in 2012 a global report on the death penalty was drawn up.

Since then, a number of conferences and seminars have been held, particularly in Rwanda. This new working model has allowed us to better raise awareness among civil society. *De facto*, this specific Working Group literally fulfils the functions of a death penalty observatory in Africa.

To conclude, Mabassa Fall recalled that of the 54 countries on the African continent, 19 have adopted a moratorium and only 18 have abolished the death penalty. Although a

73 <http://aitec.reseau-ipam.org/spip.php?article513>

concrete dialogue exists between civil society and the African Union, it is up to parliaments to push forward abolitionist initiatives because the path towards abolition is still long.

IGOs and NGOs: a necessary dialogue

Martine Anstett, Assistant Director, Department of Peace, Democracy and Human Rights at the Organisation Internationale de la Francophonie (OIF), recalled that OIF was created in 1970. Its main goal was to work on cultural issues. Progressively, the organisation shifted towards the “political French-speaking world”. Work to overcome the death penalty has therefore been developed. One of the main areas of work is encouraging French-speaking States to introduce a moratorium on executions and to ratify texts supporting abolition, nationally, regionally or internationally. Another activity aims to propose and support recommendations with international bodies.

She underlined the importance of dialogue with civil society and specified that this must be structured via participation in regional and international events. She recommended strengthening these networks. From her point of view, exchanging information is an essential entry point for achieving fruitful collaboration.

She concluded by recalling that only a concerted debate between all the players would lead to better efficiency in the field.

Defining the goals

Chiara Sangiorgio, a member of the Death Penalty Group for Amnesty International (AI) in the UK, raised the issue of collaborative work between NGOs and IGOs. She recalled that AI works regionally and nationally in the various fields of human rights.

Goals are defined for the short and long-term. Short-term goals cover urgent imminent executions in order to both save lives and raise awareness of these special cases and what the death penalty involves more generally. In the long-term, work is structured around the development of new tools within the UN Human Rights Commission to be used as means of increasing pressure and generating international debate.

She specified that it was necessary to distinguish between the short-term goals and the long-term ones because those facilitate identification of partners with a view to fruitful collaboration. Short-term objectives require rapid action methods and the long-term is built with international institutions to engage in substantive reforms.

Strategies for action must be considered in advance to assess the possible contribution of other NGOs which could be better able to achieve the initial goal.

She concluded by underlining that it is sometimes vital to wait before acting because precipitation can cause damaging consequences in the long-term.

Exchanging information

The circulation, exchange and complementary nature of information collected concerning the application of the death penalty across the world are bonds between NGOs, IGOs and civil society. For Asunta Vivo Cavaller, General Secretary of the International

Commission Against the Death Penalty in Switzerland, the availability of information, be it via reports, investigations or statistical data, is a major tool which the International Commission can use⁷⁴. Finally, the Commission works specifically from a political point of view in support of abolition of the death penalty. Its 15 members are former ministers, lawyers, diplomats or academics who use their experience to influence the political approach with regard to the application of the death penalty across the world.

The basis of this work is the data gathered by NGOs because this is not only a source of information but above all it complements and supports action in the field which can lead, for example, to obtaining formal or informal commitments from governments during abolitionist events.

The Commission is currently working on a draft of new regulations which would enable players from civil society to participate directly with international institutions via experts. She recalled that obtaining new ratifications of international texts is on-going long-term work.

In conclusion, she underlined that the bonds existing between the various players in the abolition field must be strengthened so that access to information is not only possible between abolitionists but available in the countries from which it stems.

Conclusion

Although over the last few years various doors have opened, it appears clear that there is a lack of understanding about the role of each group and the areas of complementary competence. Increasing such understanding could prove to be fruitful by allowing IGOs and civil society organisations to better identify their respective needs and the corresponding interlocutors.

International Instruments

The Human Rights Council is an intergovernmental UN body charged with promoting and protecting human rights across the world. The Council can tackle the death penalty when it debates the Secretary General's annual report on the death penalty and civil society can contribute to the report by sending information. It examines and adopts the reports of the special rapporteurs on torture and extrajudicial, summary or arbitrary executions. The special rapporteurs depend largely on information gathered from civil society.

The Universal Periodic Review (UPR) is a process during which the Human Rights Council examines the human rights situation in UN member states.

74 <http://www.icomdp.org/>

Civil society can act by sending information to the UN High Commissioner for Human Rights (UNHCHR) for the stakeholders' report; by participating in consultations organised by the State under consideration or by encouraging the State to organise such consultations; or by approaching other States to encourage them to make specific recommendations and ask certain questions during the UPR.

The UN Human Rights Committee is composed of independent experts who oversee respect for and interpretation of the International Covenant on Civil and Political Rights (ICCPR) and its two optional protocols. The Committee receives information from civil society on all the aspects covered by the ICCPR.

The UN Anti-Torture Committee is the body of independent experts who oversee respect for the Convention Against Torture. The Committee receives information from NGOs at different stages of the follow-up process and meets them before examining State reports.

Civil society can also raise the issue of the death penalty by sending information to the UNHCHR to contribute to the Secretary General's report on the death penalty presented before the UN General Assembly every two years.

The UN Office on Drugs and Crime also gathers information, including from NGOs, for the Secretary General's report on the death penalty and application of safeguards to protect those who may face the death penalty. This report is presented to the Commission on Crime Prevention and Criminal Justice every five years.

Civil society can also access regional mechanisms for the promotion of human rights in order to advance the abolitionist cause. In Africa NGOs can contact the African Commission on Human and Peoples' rights to provide information for the report of the Death Penalty Working Group.

On the American continent, NGOs legally recognised in at least one Member State of the OAS can lodge a complaint in the event of a violation of human rights with the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights.

In Europe, civil society can send information to the Council of Europe Special Rapporteur on the death penalty and, with regard to the EU, the European Commission is one of the main backers of abolitionist action. The EU External Action Service also has a focal point on the death penalty and NGOs can contact this department to influence EU's policies on this subject.

Recommendations

- Obtain from IGOs a charter clarifying their areas of action and the points on which they can be consulted by civil society;
- Request that IGOs commit further upstream, calling on the members of ASEAN, the League of Arab States or the Commonwealth, in order to encourage them to be involved in abolition. This could be achieved by presenting possibilities for research, consideration or action set in place by IGOs committed on this issue;
- Formalise a working charter to enable IGOs and civil society to work together more productively.

China: Information Tools for the Legal Community

Exchanges of experiences between lawyers to develop communication tools for the legal profession in China.

By **Aurélie Plaçais**,

Programme Director, World Coalition Against the Death Penalty, France

Speakers

- **Teng Biao**, lawyer and law professor, founder of China Against the Death Penalty (CADP), China
- **Liang Xiaajun**, lawyer, China Against the Death Penalty, China
- **Liu Weiguo**, lawyer, China

Moderator

Nicola Macbean, director of The Rights Practice, United Kingdom

The number of capital crimes in China and the country's position as the world's leading executioner are well known. Less known is the experience of Chinese lawyers defending clients in a system unable to guarantee a fair trial. In the absence of an independent bar association and amid populist pressure for retribution, what strategies and tools are available to Chinese lawyers? In this workshop, they will share their experience with lawyers from other challenging jurisdictions in order to identify new strategies for legal activists in China.

Tools for defending prisoners sentenced to death in China

More than 85% of executions across the world take place in China. In this context, the task facing lawyers is enormous. Their strategy is to focus on the cases involving confessions obtained under torture, legitimate defence, absence of evidence and mental illness to raise awareness among the public and improve the standards of a fair trial.

Liu Weiguo, a lawyer, presented three cases lawyers have worked on in China to reduce the application of the death penalty. Among them was Zhao Zuohai, sentenced to death in 2002 for the murder of Zhao Zhenshang. On 8 May 1998, a decapitated and decomposed body was found in their village. The local police identified Zhao Zhenshang and arrested Zhao Zuohai. Between 10 May and 18 June 1999 Zhao Zuohai confessed nine times to committing the crime. On 30 April 2010 Zhao Zhenshang returned to the village alive.

The case attracted a lot of attention from the public and media, and led to an improvement in the guidelines on the exclusion of coerced confessions. “Our campaign across the media and social networks gathered a lot of support from some of the public. Thanks to these cases, it is possible to show that the death penalty represents a great danger for justice”, said Liu. “Lawyers face many difficulties and their impact on death penalty cases is generally limited. But lawyers can still make a difference through their involvement in the evolution of penal procedure and the power of the internet,” he added.

Protect lawyers who defend prisoners sentenced to death in China

Teng Biao, a lawyer and law professor, is a real spearhead for abolitionist action in China. He raised the difficulty of supporting this cause in China. “The annual inspection of licences is like a sword of Damocles held above all lawyers”, declared the founder of the China Against the Death Penalty network. Bar associations are not independent and every year they examine cases to renew licences for all lawyers, without which they cannot practice.”

“They can also openly threaten human rights lawyers and prevent them from representing sensitive cases,” added Teng. Another problem faced by several lawyers is the accusation of falsification of evidence or “perjury by lawyer”.

The rights of all lawyers, including seeing their client, having access to the case file, investigating the case to gather evidence, carrying out a cross-examination and bringing a case before a court, are often not guaranteed. Some lawyers have also been sent to re-education labour camps, to prison or have been the victims of forced disappearance and torture when working on sensitive cases.

Liang Xiaojun, a lawyer and member of China Against the Death Penalty, emphasised that Teng Biao had himself been detained just before the 2008 Olympics in Beijing.

Subsequently, his licence to practice law was revoked by the authorities and in 2011, during the Jasmine Revolution following the Arab Spring, he was arrested by the authorities and held in secret for 70 days during which time he was subjected to inhuman treatment.

The former French Minister for Justice, Robert Badinter, a member of the International Commission Against the Death Penalty, called such lawyers, who defend death row prisoners to the extent that they put their own lives at risk “heroes of justice”.

Create a network of lawyers

China Against the Death Penalty (CADP) was created in 2001 to confront these challenges. Since then it has been trying to raise awareness about the death penalty among lawyers and organising workshops and meetings on the issue of the death penalty. It remains very difficult to organise this kind of meeting in China because the Government tries to smother any non-profit activity of this kind. CADP is not recognised in law, which makes its work very difficult. During the Jasmine Revolution the organisation literally disappeared for three months and the internet site was suspended. Circulation of the website is also limited for security reasons and those who manage the organisation's website cannot talk about it.

Despite these problems, the lawyers claim to be optimistic: “Although civil society organisations are forbidden, those of us who work in human rights are in contact and we form organisations without by-laws. In this sense, the Internet is a precious, cheap tool which allows us to communicate and organise meetings. It is true that some people support us. Through our website we are in touch with writers, actors, artists (Ai Weiwei created our logo), etc. We have completed a documentary and are already preparing others on the fairly surprising trials which take place in China. We hope that you can help us to find producers, as well as funding. In this way, we could look after more death row prisoners and particularly those whose situation is urgent.”

Such tools can improve the work of lawyers but reforms must be implemented to facilitate the defence of death row prisoners in a country where State control is so strong and where lawyers' rights are barely recognised. In this regard, formal and informal bilateral exchanges between abolitionist countries and China must be increased, both politically and diplomatically.

Evolution of penal procedures in China since 2010:

- In 2010 the Supreme People's Court and other central Government bodies jointly issued rules on issues relating to the examination and evaluation of proof in cases where the accused risks capital punishment and the exclusion of illegal proof in penal cases. These bodies insisted on the fact that no reasonable doubt must subsist as to the facts and proof in cases which could lead to the application of the death penalty, and the need to apply strict rules during the examination and assessment of evidence within the framework of these cases.
- By virtue of the 8th modification of the Penal Code, adopted in 2011, China abolished the death penalty for 13 non-violent economic crimes. With a view to creating the necessary legal conditions to progressively limit the application of the death penalty, the modified Penal Code sets out that no one aged 75 and over at the time of the trial may be sentenced to death.
- In 2012 China modified its Penal Procedure law by clearly including the phrase “respect for and protection of human rights”, and by improving and refining the re-examination procedure for cases which could lead to the death penalty. The modified law sets out that the Supreme People's Court examines cases where the accused risks the death penalty, questions the defendant and considers any requests from the defence lawyer. The law also sets out that the Supreme People's Prosecutor can provide opinions to the Court.
- On 15 November 2013, the third plenary session of the Central Committee of the Communist Party decided to “progressively reduce the number of crimes punished by death.” Immediately, the Supreme People's Court declared that it anticipated a reform to eliminate the use of torture to obtain confessions, prevent local players from intervening in justice decisions and allow judges to make their own decisions.
- In March 2014 during a press conference on the fringes of the National People's Congress (NPC), Ang Tiewei, from the Commission of the NPC permanent committee for legislative affairs, declared that a draft law aiming to reform the Penal Code, and particularly to reduce the number of crimes subject to the death penalty, was under discussion.

The challenge of implementation

Nonetheless, it is difficult to assess how far China is going to apply the regulations and amendments to the Penal Code adopted recently. Human Rights Watch underlines for example that “according to Article 37 of the new Code of Penal Procedure, lawyers must be able to access their clients without appointment or official authorisation, and this access must take place within 48 hours. However, a dangerous weakness exists: if a case is considered to be a risk to national security or a case of terrorism or major corruption, access to lawyers can be refused. The police can do this arbitrarily and there is little recourse against this decision.”

Recommandations

- Talk about death sentences at the end of unfair trials to win the support of public opinion and put pressure on the authorities to review the trials;
- Support lawyers through training sessions and exchanges of good practice and information;
- Publicise and recognise the rights of lawyers which are not guaranteed, particularly by supporting international lawyer networks;
- Obtain the support of the international community to circulate information on the death penalty in China and put pressure on the authorities;
- Financially support the lawyers who follow this path.

The victims' families: an international action network

By **Sandrine Ageorges-Skinner**,

Academic programme coordinator for the 5th World Congress Against the Death Penalty

The organisations of victims' family members⁷⁵ who fight for the abolition structure themselves and develop their action networks. Their role is important to argue in favour of abolition. It is necessary that these organisations have the opportunity to share their experiences and their communication tools to strengthen the international network and promote their work on the ground.

Around the world, families of victims work for judicial reforms that would take into account their needs and expectations. Some have joined together in organisations to legitimize their words, and to demand the abolition of the death penalty, a sentence that, in their view, is only a political response that does not resolve anything, because it allows justice to exploit the suffering of these families to obtain a guilty verdict and a death sentence. They clearly formulate their rejection of being the stooges of a sentence they consider barbaric. For these families, who have been directly affected by violence, justice cannot be fair if it uses the death penalty. They ask only for the serious consideration of their cases in the judicial process: more information, support and psychological care for long periods, and financial support when it is crucial to the survival of the family.

For those who testify, it is about ending the spiral of violence and existing in a community of compassion and humanity. Their shared experiences are based on a quest for reconciliation, because to them, peace cannot be achieved by revenge; and if the loss of a loved one cannot be repaired, it could be relieved by a fair implementation justice that would take care of those who suffer, rather than creating new victims.

Their common denominator is found in the judicial systems around the world, that use the families of the victims in identifying them as the main justification for the death penalty, sacrificing another life to make up for the one they lost. It is against this justice of retribution that they fight together and on the five continents.

75 These organisations gather people who have lost a family member, victim of homicide or terrorism.

These victims' families, who attended the World Congress, to testify from Puerto Rico, Guatemala, Japan, Mexico and the United States, all carry within them a strong need to be heard. Beyond the violence they have suffered, to testify is a necessity to counter this manipulation, often for political purposes only aiming to secure new death sentences.

Associations of victims' families fighting for the abolition of the death penalty around the world are allies of the abolitionist community, they carry a powerful and legitimate message to which public opinion is very attentive. It is therefore our task to better integrate them in abolitionist strategies, without shame or concern because the strength of their testimonies can only touch even those who are convinced that the death penalty is necessary.

Recommendations

- Structure the networks of victims' families by region and even internationally;
- Assist them to formalise specific tools beyond the oral testimony and allow better sharing of experiences at the international level;
- Invite them to participate in lobbying activities through informal meetings with legislators or at formal meetings;
- Encourage the judicial systems of retentionist countries to better address the needs of victims' families, rather than use the death penalty as a response to their suffering.

Death Penalty and Torture

By **Sandrine Ageorges-Skinner**,

Academic Program Coordinator for the 5th World Congress against the Death Penalty

Speakers

Vincent Warren, executive director of the Centre for Constitutional Rights (CCR), United States

Emilio Ginés Santidrián, member of the sub-committee on the prevention of torture of the United Nations(ONU), Switzerland

Sylvie Bukhari de Pontual, president of the International Federal of Action by Christians for the abolition of torture and the death penalty(FIACAT), France

John Bessler, associate professor of law of the university of Baltimore, United States

Witness

Ahmed Haou, former death row prisoner, Morocco

The death penalty and torture remains a key issue for NGOs. National, regional and international jurisprudence does not truly deal with this question. The international instruments and strategies which would lead to recognition of the death penalty as an act of torture in the long-term must therefore be identified in order to achieve its definitive and irreversible abolition.

Ahmed Haou opened the debate by recounting his own experience as a prisoner previously sentenced to death and as a member of the working group of the National Human Rights Commission (CNDH). He recalled that incarceration on death row is, at the very least, psychological torture and that two-thirds of prisoners suffer from schizophrenia, paranoia or bipolar disorders. Further, 70% of prisoners ask to be transferred to a psychiatric hospital because they are suffering on a daily basis from “death row syndrome”. He underlined the importance of appropriate centres to help these people. He concluded by launching an appeal to the National Coalition Against the Death Penalty in Morocco for it to assess and consider the situation on Moroccan death row.

Recognition of acts of torture: a question of strategy

For Vincent Warren, Executive Director of the Centre for Constitutional Rights (CCR) in the United States, an organisation which undertakes legal action and raises awareness to encourage respect for human rights, since the events of 11 September 2001 his country has been responsible for very serious acts of torture and degrading treatment, although the Government still refuses to take responsibility for them.

He described a recent visit his organisation had made to death row in the states of Louisiana and California. He underlined the extreme suffering of prisoners sentenced to death who only rarely see their families and who are placed in prison isolation for between 22 and 23 hours a day. Sensory deprivation is a source of notable suffering as well as little access to reading. Further, it should be noted that waiting for their own death is unavoidable as they do not know the date and this is indeed psychological torture. What is known as "death row syndrome" stems from these conditions of detention. This is a very real and universal phenomenon because its effects are visible among all individuals subjected to this kind of environment.

He described three important factors: the time element resulting from the delay between sentencing and execution; the material and physical conditions of the wait; and the experience of living in a state of imminent death. These three factors are illustrated through the following symptoms: a vague sensation of danger and powerlessness; vulnerability; emotional emptiness and the difficulty of showing feelings towards oneself and others, as well as physical and emotional weakness.

Faced with this situation, the choice of the word "torture" is easy to understand. The question is how to convince the governments concerned that it is indeed torture.

In order to discuss local strategies, Vincent Warren referred to the situation in the state of California, which he visited within the framework of the same mission, where 717 people, including 20 women, are imprisoned on death row. No executions have taken place in that state since 2006 which raises questions about the merits of moratoriums and the consequences of their introduction. Certainly, firstly, a moratorium is preferable to maintaining executions. However, by suspending deaths, moratoriums do not prevent the state of torture. Abolitionist strategies differ from one state to another. In 2012 the main arguments used in California only concerned the issue of the cost of the death penalty and the safety of citizens; the more significant idea of living in a society which kills its own citizens has not been discussed, just like the conditions of their detention while they await execution. Today, the lawyers of these prisoners do their best to avoid the execution of their clients. Although progress is undeniable in terms of the awareness of public opinion, worrying tendencies should be noted, such as in Louisiana for example where the death penalty can be passed for a wide variety of crimes. Since 1976, there have been 28 executions in this state and only one since 2003: a man who dropped his appeals in order to be executed. Some prisoners wait for more than twenty years for their execution and their lawyers observe notable damage to their mental health. During this trip and a visit to the prison, it was noted that all the buildings in the establishment benefited from air conditioning except the

one housing death row. In this state the outside temperature can exceed 40 degrees in the summer. These are certainly daily conditions of detention which it is difficult to qualify as anything other than torture.

He concluded on the need to define defence strategies to counter such practices. From the point of view of his experience, he added that in the United States human rights organisations are often badly informed and think that local strategies are not effective; consequently investment goes elsewhere. And yet, it is essential to be able to coordinate the action of every organisation in order to keep the people we are defending at the very heart of our strategic initiatives.

A preventative approach

Emilio Ginés Santidrián, a member of the UN Sub-Committee for the Prevention of Torture, explained that this Committee was created in 2002 from the optional protocol to the UN Convention Against Torture⁷⁶. This working group does not take on individual cases and addresses governments exclusively to discuss the introduction of prevention initiatives. If the government concerned accepts the recommendations which made by the Sub-Committee, it must then report on the evolution and success of its implementation. The Sub-Committee's work has demonstrated that a reactive approach after the facts observed does not lead to satisfactory results and it has chosen to adopt a preventative approach.

During various field trips the observations have been terrible, firstly with regard to the conditions of detention which are deplorable to the extent that in Mali prisoners serving prison sentences die just like prisoners sentenced to death because malnutrition is predominant and the risk of contracting diseases such as malaria or tuberculosis is high. He also raised the issue of the fragility of moratoriums on executions, such as in Mali or Morocco, because any political change could call them into question.

He denounced the hypocrisy of a politically abolitionist Europe and the presumed relations between European hospitals and the Chinese authorities which, it seemed to him, proposed "a la carte" executions within the framework of organised organ trafficking. He strongly hoped to see Europe rise up and end such practices.

In conclusion, he underlined that whether it concerns profits which are directly or indirectly connected to the death penalty or facts of torture within the framework of application of the death penalty, Europe must take the necessary steps to ensure that it is no longer a silent accomplice.

Is the death penalty an act of torture?

This question could prove to be the key to an international strategy for achieving abolition of the death penalty across the world. For Sylvie Bukhair-de-Pontual, president of the International Federation of Action by Christians for the Abolition of Torture and the Death Penalty (FIACAT) in France, proper consideration is needed to define a new strategic

76 <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>

framework. For all the NGOs which support abolition of the death penalty, it is indeed a crucial issue because jurisprudence does not provide any definitive answer. It is therefore necessary to envisage the consequences if international organisations were to recognise that the death penalty was indeed a form of torture. In fact, such a label would be the final step in the struggle for abolition. *De facto*, in international law the prohibition of torture is subject to *jus cogens*⁷⁷, i.e. it is applied in all cases without exception.

She recalled that the International Criminal Tribunal for the Former Yugoslavia underlined that torture is prohibited in all texts of international law, humanitarian law and regional texts, and that this is applied in all countries, including those which have not ratified conventions against torture, without any distinction between times of peace and times of war. Consequently, the prohibition of torture is absolute and is therefore placed at the same level as the prohibition of genocide, mass murder and slavery.

This prohibition offers a path which could be used by international organisations in the struggle for abolition. The death penalty damages the right to life even where its practice is legal. However, she considered that to obtain such a label for the death penalty, a reminder was needed that the right to life is not an absolute norm and that international law admits exceptions in that regard. If the death penalty was included as an act of torture in international law it would imply that it would be illegal at any time and in any circumstances. It should be noted that regional bodies are prudent on this subject and do not dare step out of line. They prefer to talk of "inhuman, cruel and degrading treatment" which is quite a limited concept and not really very satisfactory when it is a question of abolition.

It is essential that abolitionist NGOs begin collaboration with international and national organisations to work on the issue of prohibiting torture because such a step would not mean moving away from the path towards abolition but rather would be another step on the same path. It would be a real end point whereby the death penalty could be prohibited without exception.

To conclude, she recalled the words of the UN Special Rapporteur on Torture, Juan Mendez, who affirmed that the death penalty was not in itself an act of torture but that certain conditions on death row could constitute an act of torture, the same being true of certain conditions of execution. This is about progress which could allow for the introduction of an imperative norm that would define the death penalty as an act of torture and consequently would abolish it *de facto* and *de jure*. To move in this direction, it would be desirable to carry out specific research that a group created by the UN Human Rights Council could follow up to reach the universal goal: having the death penalty recognised as an act of torture in order to abolish it definitively.

Defining torture: a question of law and strategy

John Bessler, a Law Professor at Baltimore University in the United States, used the daily life of a prisoner sentenced to death to reflect on the definition of an "act of

77 https://www.law.cornell.edu/wex/jus_cogens

torture” and “inhuman, cruel and degrading treatment”. How do you define an act which consists of shutting someone in a space measuring 3m by 3m and telling him that he will be shot or executed by lethal injection? Is this torture or inhuman, cruel or degrading treatment? Maybe it is both or maybe neither? The answer rests entirely on who carries out such acts: an ordinary citizen or a representative of government. In Pennsylvania for example, torture is an aggravating circumstance in the case of murder and the same is true in Puerto Rico. In Tennessee, torture is defined as inflicting physical or psychological pain on a living person. When someone is awaiting execution, unbearable moral and physical pain is inflicted on him. Consequently, this person is being tortured. In the case of Soering vs. The United Kingdom,⁷⁸, the European Court of Human Rights seems to have validated this interpretation. It defined the wait on death row as “intense suffering due to the fear of being executed”. It is indeed human dignity which is at stake in such cases. And yet, in the United States the death penalty has been legal since the Supreme Court authorised its application following the case of Gregg vs. Georgia in 1976⁷⁹.

While Juan Mendez, UN Special Rapporteur on Torture, questioned the need for considering the death penalty as torture, John Bessler considered that it was necessary to do so.

Abandoning corporal punishment in the United States indicates a positive evolution. Further, the 8th amendment to the American Constitution refers to the dignity of persons and the Convention Against Torture. These are important tools for the abolition of the death penalty. Article 1 of the Convention presents three criteria for defining torture: physical or mental punishment, inflicted intentionally and committed directly or indirectly by an authority. These three criteria are undeniable avenues for consideration and work which must be taken into account in the struggle for abolition.

It should be recalled that in 1992 the International Criminal Tribunal for the Former Yugoslavia set out the principle that execution is a degrading act which constitutes torture. At the same time, American Congress approved the criminalisation of international torture outside its territory⁸⁰. Consequently, the very threat of a death sentence may be considered to be torture.

In conclusion, he set out that if the death penalty is to be labelled torture, it must be done at the same level as other forms of torture in order to eliminate it totally.

Recommendations

- Establish a working group composed of jurists, NGO representatives, experts and IGOs to propose research at the UN Human Rights Council;

78 <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-57619>

79 <http://www.lectlaw.com/files/case26.htm>

80 <http://www.law.cornell.edu/uscode/text/18/2340>

- Obtain a mandate for the Special Rapporteur Against Torture to consider this issue;
- Within the framework of work for abolition, raise awareness among the public of the notion of torture and the instruments prohibiting it;
- Develop new information tools with documentation identifying special cases and jurisprudence by country or region;
- Identify the various forms torture takes in the case of the death penalty (psychological, physical, collateral with prisoners' families, victims, lawyers, etc.)

Abolitionist Strategies: the campaign for abolition in California

Assessing the strengths and weaknesses of a campaign and identifying the new voices to have emerged from it.

By **Claude Guillaumaud-Pujol**,
board member of ECPM, an academic and American specialist.

Speakers

- **Elizabeth Zitrin**, lawyer, representing Death Penalty Focus (DPF), United-States
- **Natasha Minsker**, member of the American Civil Liberties Union (ACLU) and campaign manager for the SAFE campaign in California, United-States
- **Gil Garcetti**, former prosecutor, Los Angeles County, United-States.

The campaign for abolition of capital punishment in the State of California created a unique precedent in abolitionist history. It led the Californian people to vote on the issue of abolition. Despite the failure of the campaign, new voices emerged from it and the choice of argument had the merit of encouraging abolitionists to think again about the accepted practices of the past and daring them to look at new strategies in the future.

California: an interesting context

Elizabeth Zitrin, a lawyer and representative from *Death Penalty Focus* (DPF) in the United States, recalled that California is the largest State in the USA with a gross domestic product of 2 billion dollars and a population of 38 million (making it the 9th world power if it were independent). Abolishing the death penalty here requires the same amount of effort as campaigns in independent nations, or possibly even more, particularly as regards Congress. This State has not executed anyone since 2006 but it has the country's biggest death row with 745 people sentenced to death.

In the United States, apart from the military and federal jurisdictions, which are retentionist, each State has its own Constitution and its own Penal Code, which decides whether or not to apply capital punishment. 32 of the 50 American States are retentionist.

To abolish the death penalty in California a draft law must be ratified by a referendum. In 1978 the death penalty was authorised under new statutes using the referendum option. As a direct consequence, a draft law in support of abolition would have to go through a compulsory referendum. In 2012 a draft law was put to the vote and an abolitionist referendum campaign was established at the initiative of SAFE (*Savings Accountability Full Enforcement*). In the 1970s a similar referendum had credited the abolitionists with 33% of votes and the initiative was not continued.

The SAFE campaign

Natacha Minsker has led the SAFE (*Savings Accountability Full Enforcement*) campaign for 7 years in difficult circumstances (economic crisis and decreasing crime rate). She organised the inquiry prior to the referendum (meetings with various civil and judicial players) for the 12 months which followed the announcement of the referendum. The campaign lasted 30 days. Since 2000 the abolitionist movement has made marked progress, particularly within the Afro-American and Hispanic communities. In 2012 48% of voters supported the initiative, i.e. 6 million voters out of 12.4 million valid votes. The abolitionist campaign obtained the support of the Democrat mayors and important media outlets such as the Los Angeles Times which was a first. However, the main obstacle to victory remained the lack of money. Other electoral campaigns benefit from 4 to 10 times more resources. The American electoral system requires significant resources in order to reach and raise awareness among as many voters as possible.

For her, abolition must include a modification of the legislation on drugs traffickers and the consumption of drugs which is responsible for a growing number of death sentences for crimes linked directly or indirectly to the use or trafficking of drugs.

The SAFE programme broadened the Californian coalition against the death penalty by bringing together groups as diverse as civil liberties organisations, law enforcement, religious organisations, victims organisations and members of the legal bar. Its impact was very real as the result of the referendum shows, despite insufficient funding to establish a media campaign which would have resulted in all audiences being reached. Despite the active support of some religious movements nationally, strong opposition could be

observed among the very conservative religious groups of the Middle West and the South which still preach the religious origin of the death penalty: "once executed your soul shall be saved".

Voters questioned the possibility of replacing the death penalty with a life prison sentence without the possibility of parole or rehabilitation for the sentenced prisoner after serving his sentence as an alternative to the death penalty. She also underlined the urgency of abolishing the death penalty in the United States, given the country's place and role across the world; a recurrent argument in retentionist states is that the death penalty is compatible with a democratic process since it continues in the United States. It seems that the two main obstacles to abolition are legal and political: in view of the current legislation, application of the death penalty does not leave space for rehabilitation. Unlike European legislation, in the United States there is no second chance unless the legal system is modified.

Further, it should be recalled that State judges and prosecutors are elected (except in two States) so they have little chance of being elected if they display abolitionist positions.

In conclusion, for Natacha Minsker, despite the disappointment of the defeat, the positives must be retained from the campaign: the opinion of the media which considered the campaign to be madness at the beginning and the view of the general public which increasingly sees abolition as a future reality. She envisages this challenge with the determination to raise awareness about the need to reform the judicial system so that the death penalty is finally considered to be an obsolete tool.

The view of a former prosecutor on application of the death penalty

Gil Garcetti, a former Los Angeles deputy prosecutor (1968-2000), shared his experience as a committed player in the referendum campaign. Every year, the county of Los Angeles handles approximately 60,000 cases, 20% of which result in a death sentence. Although 745 prisoners sentenced to death are awaiting execution in California, only two executions have taken place since 1978, to be added to the numerous suicides and "deaths by natural causes" on death row.

Although he had been in favour of the death penalty, since leaving the Bar in 2000 Gil Garcetti has declared publicly that he is abolitionist after observing the many problems with the judicial system. This is why he joined the SAFE campaign for abolition of the death penalty in California, aligning himself with the central argument of the campaign: the economic aspect of the death penalty - which in parallel proved to be ineffective in terms of dissuasion. He recalled that, based on the number of executions between 1978 and 2006 (the date on which executions were suspended in the State), the average cost from trial to execution is 184 million dollars per prisoner sentenced to death. He also underlined that the death penalty is purely about revenge and has nothing to say about the problem of fighting crime, particularly in terms of prevention. This is why he got involved in the electoral campaign on a practical basis. Now he considers that, although the campaign failed, it was mainly due to the lack of financial resources

and he is convinced that with 15 million dollars abolition could have been carried in California. He concluded by underlining the importance of international partnerships to achieve abolition of the death penalty in California.

Recommandations

- **Strategy must be developed far upstream of a referendum;**
- **Consolidate and develop political and religious support;**
- **Use education about abolition to reach a wide audience;**
- **Broaden the argument to include the inhuman aspect of the death penalty.**

Legal representation in capital punishment cases across the world

Presentation of a new handbook for lawyers representing people charged with a capital crime

Par **Anne Souleliac**,
Paris Bar Association, France

Speakers

- **Sandra Babcock**, professor and director of the International Centre for Human Rights of the Northwestern University Law School, United states
- **Sarah Belal**, lawyer, Pakistan
- **Aurélie Plaçais**, Programme director, World Coalition against the Death Penalty, France
- **Robin N. Maher**, director of the American Bar Association Death Penalty Representation Project, United States

The workshop presented a Best Practices Manual developed by the World Coalition with Death Penalty Worldwide and the law firm of Fredrikson & Byron, P.A. It aims at providing lawyers with legal arguments and strategic guidance when representing individuals facing the death penalty, taking into account the experiences of worldwide advocates, international human rights principles, and the jurisprudence of both national and international courts.

Improving the representation of prisoners sentenced to death

Many prisoners sentenced to death are not executed for committing the worst of all crimes but for receiving the worst defence. To overcome this problem, one solution would be to enable people subject to the death penalty to receive competent legal representation.

It should be noted that across the world lawyers lack the training and resources to provide an effective defence for people subject to the death penalty. In most of the cases involving capital punishment, the defence is provided through legal aid alone. Such assistance programmes are often insufficient and unsuitable for people who risk the most serious punishment. In Pakistan lawyers receive a fee of 3 euros per hearing with a global amount of approximately 23 euros for a case which might last several years. As a result, some lawyers do not even meet their clients before the trial.

The aim of this new manual is therefore to provide a legal and strategic solution to lawyers representing people subject to the death penalty across the world. It serves as a guide to the role of defence whose mission, whatever the country concerned, must always adhere to the same expectation of quality.

Concrete tools for a universal vocation

Thirty lawyers from across the world with experience in the field of the death penalty have made this manual a real tool with a universal vocation. It is based on the experience of lawyers from various legal systems, the fundamental human rights principles and the jurisprudence of national and international courts.

Following a pragmatic approach, the manual highlights good practice within the framework of defence through every stage of the procedure, step by step: investigation, summons and pre-trial negotiations, the trial, sentencing and appeals before national or international courts. Regardless of nationality, lawyers will find ideas and experiences they can use, including elements of international law, which can be invoked.

The manual exists in English⁸¹ and French⁸² and it has also been translated into Chinese. An Arabic translation is being finalised. Further, upon translation the manual will be updated and adapted depending on the relevant region of the world and the penal law in force.

This manual aims to become the cornerstone of future training on defending people subject to the death penalty.

81 http://www.worldcoalition.org/media/resourcecenter/EN-Death_Penalty_Manual_-_final_copy_01_16_13.pdf

82 http://www.worldcoalition.org/media/resourcecenter/FR_Death_Penalty_Manual-05_06_13.pdf

Recommendations

- Establish a circulation network which is suitable for demand;
- Ensure that the heart of the manual deals with issues which are specific to its target countries and regions;
- Publish the manual in as many languages as possible;
- Anticipate how the document might be updated by using user feedback.

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Around the Congress





The Cultural Programme

By **Desislava Raoul** and **Charlène Martin**,
Ensemble contre la peine de mort (ECPM)

As the death penalty presents challenges which far exceed a straightforward judicial or political framework, the 5th World Congress Against the Death Penalty chose to emphasise a rich and eclectic cultural programme. Art was therefore invited to Madrid to help create informal exchanges between the Congress participants and raise awareness among the public in Spain.

By targeting as many people as possible, cultural actions made the Congress come alive early on by awakening the consciences of all ages. The citizens of Madrid will undoubtedly remember *Living in 6 m² for 20 years* where they could come face to face with the experience of life in a death row cell. A series of films on the death penalty was held, particularly at Casa Encendida and the French Institute.

Throughout the Congress, the Palacio Municipal de Congresos was dressed in the colours of abolition and welcomed not only debates but also artistic compositions in all forms: modern dance, installations, exhibitions of editorial cartoons, engravings and posters.

“¿Hasta dónde?” (Where to?) conquered the public at the official opening ceremony. The dance for two was created by the Israeli choreographer Sharon Fridman. It combined the two sides within us – violence and tenderness – and the contrasting attitude of the dancers oscillated between rejection and attraction, violence and love. It was a demonstration of trust and balance through the symbolic performance of two men who managed to stay upright by supporting one another. Hasta donde has been shown in more than 30 different locations and won First Prize in the Burgos Choreography Competition in New York in 2011. In the context of the 5th World Congress Against the Death Penalty in Madrid, this performance was an excellent invitation to consider violence and love, revenge and forgiveness, trust and justice.

Several exhibitions connected to the abolition of the death penalty were organised to create space for unity among the political, judicial, organisational and cultural communities.

- “An interrupted dream”, an exhibition of the work of Shirin Salehi, an Iranian visual artist;
- Exhibition of the editorial cartoons of Kianoush Ramezani ;
- Exhibition of Goya reproductions as well as a garrote provided by the International Academic Network for the Abolition of Capital Punishment (REPECAP);

- Exhibition of posters by the NGO Poster for Tomorrow;
- Exhibition of “Draw me the abolition”, the result of a Franco-Spanish drawing competition created for the Madrid Congress.

For the first time, ECPM and PhotoEspana, a world renowned Spanish photography festival, came together to create a new performance, *Beyond the Words on the Row*, with extracts of accounts from death row prisoners illustrated by photographs.

During the second evening of the World Congress, the performance of *19 pasos, brazos en cruz* enabled the numerous overseas participants to meet the Madrid audience which is used to the highly emblematic Centre for Contemporary Creativity, Matadero. This show was the result of research on death row by the artist Felix Fernandez. The video-performance played on three essential dimensions: movement, light and sound. The person remained shut off but his body was in permanent movement and continued to live and exist. The repetitive sound, chanting the person's gestures, recalled notions of sentence and punishment. Fragments of images buried in the person's memory and projected onto screens acted as windows. *19 pasos, brazos en cruz* is a reflection on passing time, memories and hope.

As with every Congress, the aim of the cultural programme was to bring together, affect and inform as many people as possible. Art is an undeniable vehicle for raising awareness because it encourages thought and debate on a fundamental issue for society.

The Faces of the Death Penalty

By Desislava Raoul and Charlène Martin,
Ensemble contre la peine de mort (ECPM)

Although in the end abolition of the death penalty requires legislative action, above all it takes the commitment of individuals. Shirin Ebadi, an Iranian lawyer, and Mairead Maguire, a pacifist activist from Northern Ireland, incarnate quintessential citizen action. Their struggle in support of human rights was crowned by the Nobel Peace Prize which they received respectively in 2003 and 1976. In this regard, they have been spokespersons for the abolitionist cause, telling the world's citizens that abolition concerns all of us.

Victims' families, death row prisoners, death row exonerees, their families, lawyers and the professionals working for this "killing machine" as prison guards: they are all victims of the death penalty; the different profiles show the scope of the cruelty and the multiple consequences of this punishment disguised as justice. It is a perpetual cycle of violence. Further, what separates a defence lawyer from the family of a death row prisoner and what brings them closer? How do they interact and how far can they share what they endure, one conforming to the hope given to him by the law and the other carried by love.

What is the reality of the death penalty? How do people work there and survive there? How does a guard who rubs shoulders with the condemned every day, with prisoners sentenced to death whose lives hang in the balance, dependent on a decision from the justice system, feel? Two faces, two different worlds in this strange, ambivalent reality.

On 14 June 2013 at an evening event organised at the *Círculo de las Bellas artes*, a cultural centre in Madrid, within the framework of the 5th World Congress Against the Death Penalty, these questions were given a voice by those who are prudishly called "witnesses". They came to give legitimacy, their personal experiences and a face to these contemporary victims of the death penalty. Their faces.

Among them was Sandra Babcock, a Law Professor at Northwestern University in Illinois and Clinical Director of the International Human Rights Centre at Cornell University Law School. She is a brilliant American lawyer who began her career with a human rights NGO working with women facing the death penalty in Texas and who then directed the Mexican Ministry of Foreign Affairs programme to help Mexican nationals sentenced to death in the United States. Sandra was in charge of the cases of many of those who lived for years at the mercy of a decision by the justice system, hanging in the balance

of a possible death sentence. After all, convincing judges that justice can exist without capital punishment is her job. She alone can feel satisfied with accomplishing good work when a court resolves to find an alternative to execution. But she is also the one who carries on her shoulders the weight of failure and the responsibility of speaking to the families when the end of the process is also the end of a life for her clients.

Opposite Sandra was a young Latino woman used to meeting lawyers. During years of trial and appeals, she has seen them come and go, decision after decision. She has fought constantly and has always remained at the side of her husband who is sentenced to death. On 24 July 2000 Pablo Ibar, a Spanish national on death row in America was accused of a triple murder despite the fact that his alibi was that he had been in Tanya's arms at the time. For the young woman, who first defended an innocent man against injustice, her youthful affair turned into the love of her life. They married fifteen years ago and since then Tanya has spent seven hours on the road every Saturday travelling to spend five hours in the visiting room, with the person she is fighting for but which only feels like one. She needs to be strong in a country where she is often stigmatised for being the wife of a death row prisoner and where she is not used to her admirable daily struggle for life being applauded as it was in Madrid.

Jerry Givens did not wait until Madrid to meet the families of prisoners sentenced to death but for the first time he was able to really listen to their stories - and tell his own because he knows death row only too well. For years Jerry worked in a prison in Virginia in the United States as Chief Executioner. As an executioner from 1982 to 1999, he personally supervised the executions of 62 people. Since then, the acquittal of an innocent person who was very nearly executed and his own sentence for money laundering, which he denies, ended his faith in the legal system. This is someone who, only a short time ago, one could not imagine admitting the doubts and errors are part of this lethal legal system that kills. Today, he has joined the abolitionist cause and makes his very singular voice heard so that no one should ever again be employed to execute people. And he did not hide his tears before the world's television cameras when he listened to the stories of people previously sentenced to death and their families.

Sandra, Tanya, Jerry... Let us give them the floor. A few months later, they told us what they had retained from that evening on 14 June 2013 in Madrid, an evening which brought together two different worlds and where, finally, all victims of the death penalty came together.

They are going to kill your son

By Sandra Babcock, USA

It is 22 January 2014, 5.45 p.m. I am in Texas, more specifically at the Hospitality House in Huntsville. It is a kind of refuge for parents of death row prisoners. I am here with the close family of my client, Edgar Tamayo, a Mexican national whose execution was approaching. Everyone is tense. We are waiting for news from the US Supreme Court where we have filed several appeals to stop Edgar's execution.

The execution has been scheduled for 6 p.m. We are looking at the time on our mobile phones. It is 6 p.m. and then 7 p.m. Edgar's grandchildren are playing with their cousins. They do not realise that their grandfather is about to be killed. Edgar's mother is lying on a bed in a dark room. His father is in the kitchen with all his brothers and sisters. I have told them that it would be very difficult to obtain a stay of execution but that his case has attracted the attention of the media and politicians and that thousands of people have written to the Governor of Texas to ask him to grant clemency for Edgar. Despite everything, I have not lost hope. The children run around while we continue to wait.

8 p.m. Without news, we wonder if the judges are going to order a stay. The media continues to call. I do not pick up. We cannot do anything but wait. At 9 p.m. I receive a telephone call from my colleague, Maurie Levin. She tells me in tears that the Court has denied our appeals. While she calls Edgar to tell him that he is about to die, I look for his father in the kitchen.

-- We have lost. I'm very sorry.

He looks at me, confused.

-- The Court denied our appeals.

He keeps looking at me.

-- And now?

-- They are going to kill your son, I tell him as gently as I can.

He is visibly in a state of shock. He does not react.

-- I am really very sorry, I repeat.

I look for Edgar's sister who does not yet know.

-- We have lost. I'm very sorry.

She starts to cry.

-- They are going to kill by brother! My brother! Edgar! She cries, unable to stop.

I embrace her but I cannot say anything to comfort her. There are no words to express my feelings of loss, anxiety, failure, helplessness and horror. Furthermore, although I have a good relationship with her and all Edgar's family, I am not myself a family member and I cannot share their pain. I have lost a friend, a client, someone I liked a lot. But his family has lost one of its own, someone they have loved all their lives.

Edgar's brothers and sisters enter the bedroom where their mother has been all evening without being able to move. On the other side of the door, I hear her cries. I do not dare go in. I feel dreadful.

* * *

Throughout that awful night, I was thinking about another evening in Madrid seven months before for the 5th Word Congress Against the Death Penalty. The Congress organisers had invited me to participate in the conference with the wife of a man sentenced to death. When they asked me if I was available and prepared to participate, I felt uneasy. What could I say compared to someone whose one true love was a death row prisoner? Furthermore, I feared being overcome with emotion talking about my personal relationship with my clients and their families. I hate crying in front of strangers.

That evening, on the stage, I found myself sitting next to Tanya Ibar, the wife of Pablo Ibar. A journalist was asking Tanya questions and she was movingly talking about her love for Pablo, her belief in his innocence and the despair which sometimes took hold of her. She also talked about lawyers who were not interested in her husband's case, who seemed insensitive and cold.

There was nothing I could say, nothing I could add to her account. The pain that I feel when my clients are killed is nothing compared to theirs. But when the journalist gave me an opportunity to speak, I began to talk to Tanya, to describe to her how I felt when I had to tell the parents of my clients that their dear child was going to die. I described my feelings of helplessness and anxiety. When I talked to her, I felt as I do when I am talking to my clients' parents. And I used the opportunity to tell her everything I cannot tell them.

Afterwards, I found it very difficult to stop crying. Even though I hate breaking down in public, the experience made me think about the importance of the bond between the lawyer and the client's family. The parents, partner and friends of people facing the death penalty often do not understand the justice system because they do not receive any support, either emotional or legal. As a lawyer, I have a duty to explain everything to them, to comfort them, to give them hope when there is some, to tell them the truth when there isn't.

* * *

After Edgar's death, I did not speak to his sister for ten days. I was worried that she would blame me, that she would think that I had failed in my duty by not succeeding to prevent the execution.

When I finally called her, she told me that thousands of people had attended Edgar's funeral in Mexico. The town's priest had even dedicated a Mass to him. She thanked me for the help I had given Edgar. She told me that Edgar was very fond of me. And she told me that if I wanted to go and see them in Mexico one day, I was to think of it as my second home.

The spokesperson who changes things

By Tanya Ibar, USA

There are not enough words in the dictionary to properly express the emotions I felt on 14 June 2013 in Spain on the roof with its view of the whole of Madrid. Sitting in front of the audience, I told them my story, the journey I had been on with my husband who has been on death row for more than twenty years. I remember being so surprised that people came to see me. They came to hear my story...

You see, in the United States people do not think I am brave or a devoted person. They think I am a girl who fell in love with a murderer. They think that I am horrible because I support someone sentenced to death. They do not understand why I am fighting for his life or why it is important to me. In their eyes the life of a death row prisoner is worthless and they don't care about justice. They just say "one more death, so what?"

As I write this letter, thinking about that day, it brings back so many emotions that I have tears in my eyes. On 14 June 2013 I made myself heard. That helped me in my journey. I would like to say to all the people in the audience how much their compassion, their support and their love of life gave me the strength to continue this struggle, to never give up and stand for what I believe in.

Sitting opposite Sandra, a lawyer who defends death row prisoners, I was able to explain how important a lawyer who fights for the life of someone sentenced to death and his freedom is. I was able to explain how much the families of those on death row suffer all through the trial and the appeals, how much the families count on the lawyers to put them on the right path during this horrible time. Further, Sandra really helped with regard to what lawyers go through during this process. As they say, there are two sides to every coin. I think it is important to hear both sides.

I have to admit that that evening really opened my eyes. It is as though my whole life changed that weekend at the 5th World Congress Against the Death Penalty. I discovered that there were other people in the world who were fighting just like me. I was so moved to see that all the team from *Ensemble contre la peine de mort* and all the participants at the Congress were also people who held this cause close to their hearts. This struggle is the reality I face every day with my husband and my family. I want people to understand the fear I face every day, knowing that at any time the State can decide to end the life of my husband for a crime he did not commit. I feel so powerless because I cannot save the life of the man I love, I cannot end this horrible nightmare. I cannot do anything for the good of my family or for many others who face the same situation.

Our voices must be heard! We must make people understand that every life is precious, whatever people have or have not done. I will always stay with *Ensemble contre la peine de mort* (ECPM). I hope to pass on this message of life which expresses how precious every individual is. I want to be the person who makes a difference, who changes things to end the death penalty once and for all.

What we share: death row

By Jerry Givens, USA

At the Congress in Madrid, four people shared their experiences with one another. I was surprised to realise that, despite their differences and their individual journeys, they all shared something: death row. Some had experienced it, others had been there as visitors and others, like me, had worked there. Telling our stories in front of an audience gave us a sort of internal relief. Here is mine.

For many years I lived with another person inside me, someone who executed people sentenced to death for the State of Virginia. Throughout those years, I asked God to allow me not to execute an innocent person and, all that time, I was convinced that everyone on death row was guilty and should be punished by death for taking an innocent life. I was convinced that I was therefore serving a powerful God who answered our prayers - until that God put M. Earl Washington on death row in the State of Virginia. This man was within days of being executed but was found innocent thanks to DNA tests. These tests also freed Kirk Bloodworth who spent two years on death row in the State of Maryland. He had always claimed to be innocent.

On 14 June 2013 in Madrid I was sitting with Kirk Bloodworth and Tanya Ibar whose husband is still on death row in Florida.

When people like Kirk Bloodworth, Earl Washington and others cast doubt on death row the State should abolish the death penalty to avoid stealing the life of an innocent person.

What Madrid showed was the love which God has given us to share with each other across the world.

4 /

The 5th World Congress Against the death penalty

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Ensemble contre la peine de mort (ECPM)

Unite abolitionists from all over the world

Since 2000, ECPM fights for the universal abolition of capital punishment. Backbone of civil society at the heart of World Congresses Against the Death Penalty and of the World Coalition against the Death Penalty of which it is a founding member, ECPM has become a privileged partner of countries on concerted actions. The association coordinates an informal group of nine countries, Core Group, which involve their diplomacy in favour of abolition and the Congresses. ECPM also works to create abolitionist parliamentarian networks.

Strengthen the capacities of local partners and work with them

ECPM helps abolitionists by initiating meetings to assist them in organising, interacting and promoting the creation of national and regional Coalitions against the death penalty. ECPM supports local partners in their functioning and co-organises events to promote the abolition in retentionist and de facto abolitionist countries.

ECPM is particularly active in the MENA region, with the Moroccan, Tunisian and Lebanese Coalitions Against the Death Penalty as well as with the Coalition for central and eastern Africa in partnership with the association Culture for Peace and Justice (DRC) and the Foundation for Human Rights Initiative (Uganda).

Inform, educate and raise awareness among the public

ECPM is committed to teaching abolition, even in abolitionist countries. Because the death penalty will only definitively disappear once it is abolished in conscience, the association develops informative and awareness raising tools for all:

- Abolition.fr and its monthly newsletter, the mail de l'abolition shared with over 30 000 people;

- The Abolition Journal, 10 000 copies printed in partnership with Ouest-France.

Since 2009, ECPM is developing an educational programme to teach abolition designed for teachers and educational institutions (presentations, training on the problematic of capital punishment and the reasons for its abolition, educational material and dedicated courses). In partnership with local actors, this educational programme is available outside of France, in Morocco, Tunisia, Lebanon and Spain.

Act in favour of death row prisoners throughout the world

ECPM leads investigative missions on death rows to publish reports which give hindsight on the living and penal conditions of prisoners: in 2005 the Democratic

Republic of Congo (awarded the Human Rights award by the French Republic), in 2006 in Rwanda and in 2007 in Burundi. In 2010, ECPM went to the United States to carry out an investigative mission in eight States: California, Mississippi, Oklahoma, Pennsylvania, Tennessee, Texas, Utah and Virginia. The association has just carried out investigative missions in Tunisia and Morocco.

The "Espace Condamné" section of the website abolition.fr presents 474 information sheets concerning death row prisoners from over 36 different countries and makes it possible for citizens to write to them.

Lastly, ECPM addresses the urgency of a death sentence through international campaigns.

The Ensemble contre la peine de mort team

Congress team

General coordination

Murielle Vauthier • Coordinator of the 5th World Congress and political involvement

Amina Jacquemin • General Coordinator and cultural programme assistant

Laura Enciso Romero • Political involvement assistant

Debate programme

Sandrine Ageorges-Skinner • Head of the debate programme

Aurélie Dumond • Ludovic Tantin • Assistants

Communication

Desislava Raoul • Head of communication

Jessica Corredor • Adrien Dubois • Raphaël Mosca • In charge of communication

Public Relations

Emmanouil Athanasiou • Head of public relations and VIP's

Olivier Tenes • Assistant

Logistics

Leïla Chaibi • Responsable logistique

Céline Balan • Assistante

Translation

Victoria Pickup • Lucia Lopez • Manuela Valdivia

ECPM Team (2013)

Management

Raphaël Chenuil-Hazan • General Director

Ariane Grésillon • Deputy Manager

Administrative hub

Nadège Poulain • Head of administration and finance

Émilie Sellem • Administrative, logistics and accounting assistant

Educate and raise awareness about abolition hub

Marianne Rossi • Project Manager Educate and raise awareness about abolition

Justine Payoux • Assistant

Programmes

Nicolas Perron • Head of programmes

Nicolas Braye • Project Manager MENA region

Antonin Bravet • Iran campaign assistant

Naima Eddaoudi • MENA region project assistant

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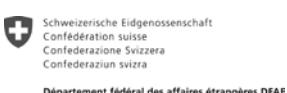
Spain

International abolition of the death penalty is a top priority in Spain's foreign policy with regard to Human Rights. Through its Minister of Foreign Affairs and Cooperation, the Spanish government has set up an anti-death penalty policy at both bilateral and multilateral level. On the 24th February 2010, during the opening ceremony of the 4th World Congress against the Death Penalty in Geneva, Spain has offered to host the following 5th World Congress against the Death Penalty in the city of Madrid. At the initiative of Spain, in October of that year the International Commission against the Death Penalty was created, an independent body that gathers international prominent personalities in order to support through its work the global trend towards abolition of the death penalty.



Norway

Norway attaches great importance to the abolitionist fight and opposes the death penalty under all circumstances. Capital punishment is inhuman and a violation of human dignity. Norway includes the death penalty in its debates on Human Rights and politics. It actively continues to undertake joint actions in international fora. It is an honour for Norway to be one of the main partners and sponsors of the 5th World Congress against the Death Penalty, as well as to be in a position to help and assist the International Commission against the Death Penalty (ICDP) as current President of the cross-regional support group of ICDP.



Département fédéral des affaires étrangères DFAE

Switzerland

The universal abolition of capital punishment constitutes one of the priorities of external policy of Switzerland regarding Human Rights. Indeed, this country conducts numerous activities against capital punishment at both bilateral and multilateral level. Switzerland encourages all States where the death penalty still exists to take the path of abolition. In 2010, Switzerland hosted the 4th World Congress against the Death Penalty, which was held in Geneva. It is proud once again to support this major event by co-sponsoring

the 2013 edition in Madrid. Switzerland also significantly contributes to the International Commission's efforts against the death penalty. It is an active member of the State-owned support group to the Commission, whose secretariat is based in Geneva.

France



By launching a campaign in favour of the universal abolition against the death penalty on the 9th October 2012, the Minister of Foreign Affairs wished to renew and straighten France's actions against this cruel and inhumane punishment. The whole of the diplomatic network is committed to furthering the abolitionist cause.

Within the United Nations, France promotes the adoption of the biennial resolution of the General Assembly calling for the creation of a universal moratorium on Capital punishment. Furthermore, France supports the action of the International Commission against the Death Penalty and sponsors the 5th World Congress against the Death Penalty of Madrid.

Lastly, France supports the International Parliamentarians' Conference against the Death Penalty organised by ECPM at the National Assembly on the occasion of the 2013 World Day.

The partners

The World Coalition Against the Death Penalty



Made up of over 140 NGO's, Bar Associations, local collectivities and unions from all continents, the World Coalition aims to reinforce the international aspect of the fight against the death penalty. The World Coalition brings a global dimension to the actions undertaken by

its members on the terrain, sometimes isolated. It is complementary with their initiatives, in the respect of each person's independence.

The World Coalition ultimate goal is to obtain the universal abolition of the death penalty. It encourages a permanent end to death sentences and executions everywhere where the death penalty is still in use. In certain countries, it seeks to obtain a reduction in the use of capital punishment as a first step towards abolition.

The World Coalition is committed to reaching these goals through lobbying and campaigns with an international reach:

World Day Against the Death Penalty: In 2003 the World Coalition launched the first World Day Against the Death Penalty. In 2007, the Council of Europe and the European Union officially recognised the World Day as a European Day Against the Death Penalty. Aimed at civil society, it raises awareness of public opinion concerning the arguments in favour of the universal abolition of the death penalty.

Campaign for a universal moratorium on executions : the World Coalition Against the Death Penalty actively participated in getting people involved in favour of the adoption of the resolution for a moratorium on the application of the death penalty voted by the General Assembly of the United Nations, since 2007.

Ratification campaign: The Second Optional Protocol related to the International Pact concerning civil and political rights and the regional protocols are essential mechanisms destined to reinforce and perpetuate the abolition of the death penalty in the world.

The World Coalition supports national and regional abolitionists. It helps with the development of professional networks against the death penalty, including members of parliaments and criminal defense lawyers who defend death row prisoners all over the world.

The World Coalition is the main partner of the International Centre of the Northwestern Law University for the creation of a database on the death penalty in the world. (www.deathpenaltyworldwide.org).

The World Coalition and its members participate in the preparation of a debate programme for the Congress in Madrid.



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MAROCAINE
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AMNISTÍA
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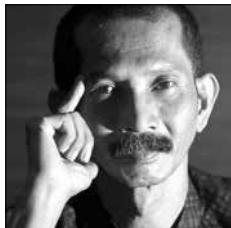
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COLEGIO DE ABOGADOS
DE MADRID



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Appendices

Biographies of Speakers



Otto Nur Abdullah
Indonesia



Taimoor Aliassi
Switzerland



Alice Alaso Asianut
Uganda



Leila Alikarami
Iran

A sociologist and member of the Human Rights Commission, he was elected Chairman of the Indonesian National Human Rights Commission from November 2011 to March 2013. Before, he was a human rights activist, including as the Director of the Aceh-based Cordova for 10 years where he acted as an impartial human rights guardian.

Plenary session: Asia and the death penalty.

UN Representative of the Association for Human Rights in Kurdistan of Iran-Geneva (KMMK-G) founded in 2006, he is a Swiss citizen, Kurdish origin from Iran and graduated of Geneva Graduate Institute, specialized in International Law. The KMMK-G promotes democracy, Human Rights and acts as a bridge between UN and Iranian ethnic minorities: Kurd, Baluch, Arab, Turkmen, Azeri.

Roundtable: Drug trafficking and the death penalty: Fighting trafficking without financing countries that execute.

Member of Parliament for the Severe district for the Forum for Democratic Change Party since 2001 and member of the Uganda Parliamentary task force on the Progressive Abolition of the Death Penalty, she was Gender and community-based services coordinator for Soroti district from 1997 to 2001.

Roundtable: Regional parliamentary network in favour of the abolition.

Lawyer and human rights activist, she holds master of laws in human rights, Leila Alikarami has worked since 2001 on the issue of the rights of women and children. She is currently the executive director of Centre for Supporters of Human Rights (CSHR) in London. In 2009, she was awarded the prize Anna Politkovskaya and had participated to a number of international conferences.



**Nasser Amin
Abd Allah**
Egypt



**Mahmood
Amiry Moghaddam**
Norway



Martine Anstett
France



Tanya Awad Ghorra
Lebanon

Lawyer at the Egyptian Cassation Court and the International Criminal Court, and General Director of the Arab Center for the Independence of the Judiciary and the legal profession, he was a member of the National Council for Human Rights. He is the focal point of the North Africa group at the Coalition of African Court of Human Rights and Peoples' rights.

Plenary session: The MENA region and the death penalty.

Norwegian-Iranian neuroscientist and human rights activist, he is the founder and spokesperson of the NGO Iran Human Rights. In 2007 he received the Amnesty International Norway's award for Human Rights in 2007 for his fight against the human rights violations in Iran. He is also professor of medicine and head of the Laboratory of Molecular Neuroscience at the University of Oslo.

Roundtable: Iran and the death penalty.

Deputy Director of the delegation for peace, democracy and human rights of the International Organization of La Francophonie, she is a former official at the Office of the High Commissioner for Human Rights and project officer for human rights at the French Ministry of foreign affairs. She was also the Director of communication at Amnesty International-France.

Workshop: IGOs and civil society, common strategies.

An expert journalist and a member of the specialised trainers and instructors team of the Lebanese Association for Civil Rights (LACR) which offers innovative educational tools aimed at schools and diverse audiences for the abolition of the death penalty. Training for a Master's Degree in Nonviolent Education and Mediation at the Academic University for Nonviolence and Human Rights in the Arab World (AUNOHR), she has introduced the concept of nonviolent communication in the media.

Workshop: Teaching abolition.



Sandra Babcock

United States



Lloyd Barnett

Jamaica



Damon Barrett

United Kingdom



Sarah Belal

Pakistan

Member of REPECAP and professor at the Center for International Human Rights at Northwestern University Law School in Chicago, she specializes in international human rights law and the defense of death row prisoners. A graduate of Harvard Law School, she was director of the Mexican Capital Legal Assistance Program, and lawyer in the Avena case before the International Court of Justice.

Workshop: Legal representation in capital cases around the world.

Former Chairman of the Independent Jamaican Council for Human Rights and its precursor, the Jamaica Council for Human Rights, he is the author of several publications on human rights and other legal subjects. He has been engaged in several leading Caribbean cases challenging the constitutionality of the imposition of the death penalty.

Roundtable: The Caribbean: the death penalty in the region.

Deputy Director at Harm Reduction International and co-founder of the International Centre on Human Rights and Drug Policy, he has been working on the death penalty for drug offences and on international financial and technical assistance for drug enforcement in retentionist states since 2007.

Roundtable: Drug trafficking and the death penalty: Fight trafficking without financing countries that execute.

Student in History at Smith College, Northampton, she completed her law degree from Oxford University in 2006. She qualified as a barrister after completing the Bar Vocational Course in 2007. She obtained her licence to practice in Pakistan in 2008 and gained rights of audience in the High Court in 2008. Since 2009, she has been leading the team at Justice Project Pakistan.

Workshop: Legal Representation in Capital Cases around the World.



John D. Bessler

United states



Teng Biao

China



Kirk Bloodworth

United States



Roya Boroumand

United States

He holds a Juris Doctor (cum laude) from the University of Indiana and a master degree in international human rights law from Oxford University. He is associate professor at the school of law of the University of Baltimore and run a capital punishment seminar at the Georgetown University Law Center. A death penalty opponent, he is the author of numerous books and publications on the issue.

Workshop: Death penalty and torture.

As a Human rights lawyer, he is a visiting scholar at the Chinese University of Hong Kong Law Faculty. He founded the China Against the Death Penalty and helped to found Open Constitution Initiative (Gongmeng), which activities included advocacy of reform to "custody and repatriation" measures against migrants.

Workshop: China: which communication tools for the legal community?

First death row prisoner in the United States exonerated by DNA testing in the State of Maryland. Convicted in 1985 of the sexual assault, rape, and murder of a nine-year-old girl, he was freed in 1993 after almost nine years in prison, two of them on death row. As advocacy Director for Witness to Innocence, he helped get the Innocence Protection Act passed in 2004.

Roundtable: Innocence and abolition: a strategic asset for the abolition?

Co-founder and Executive Director of the Abdorrahman Boroumand Foundation for the Promotion of Human Rights and Democracy in Iran. She has been a consultant within the Women's Division of the Human Rights Watch. She has written several articles on various subjects: the political situation in Iran, the nature of Islamic terrorism, family rights and women's rights in North Africa.

Roundtable: Iran and the death penalty.



**Mohammed
Bouzlafa**
Morocco



Zara Brawley
Royaume-Uni



**Sylvie
Bukhari de Pontual**
France



**Osvaldo
Burgos Perez**
Puerto Rico

Member of the Moroccan Human Rights Organisation (OMDH), he is an internationally recognised human rights and civil liberties defender. Professor at the Sidi Mohammed Ben Abdellah University in Morocco (Fès), he is the Director of the "Criminal Justice and Sciences" Master's Programme, of the "Criminal Sciences" Research Group, as well as member of the research laboratory, law and alternative justice mission.

Roundtable: Abolition and alternative sentences.

Zara Brawley, Reprieve, UK, is currently a caseworker on Reprieve's Death Penalty Team, working primarily on the cases of individuals facing the death penalty in Pakistan and the Middle East and North Africa regions. She first joined Reprieve as a volunteer in December 2012. She holds a First Class Honours degree in European Social and Political Studies from University College London and completed the Graduate Diploma in Law with Distinction at City University, London.

Dean of the University of social and economic sciences from the catholic institute of Paris and lawyer at the bar of Paris, she specializes in international human rights. Also president of the International Federation of Action by Christians for the Abolition of Torture and the Death Penalty, she is the spokesperson of Christians at the international level fighting against torture and death penalty.

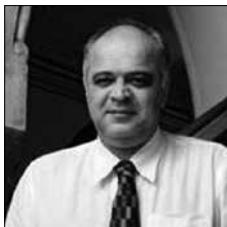
Workshop: Death penalty and torture.

Lawyer and head of the program « Educate » at the Committee Against Death Penalty of the Puerto Rico Bar Association, he is an expert on children's rights and education issues. Member of the Puerto Rico Coalition against Death Penalty and President of the Constitutional, Civil and human rights Commission of the Bar Association of Puerto Rico, he leads the Institute for Human Rights Research and Promotion.

Workshop: Teaching abolition.



**Carmelo
Campos Cruz**
Puerto Rico



Yug Mohit Chaudhry
India



**Adel Debwani
Said Sharabi**
Yemen



Richard Dieter
United States

Lawyer, he has worked as a human rights activist in Puerto Rico for the last fifteen years. He is one of the founders and spokesperson of the Puerto Rican Coalition against the Death Penalty and its former General Coordinator. He presides the Victims' Rights Commission of the Puerto Rico Bar Association and is Professor at Universidad del Sagrado Corazón in San Juan.

Roundtable:
The Caribbean: the death penalty in the region.

A Yeats scholar and human rights lawyer, he leads the death penalty abolitionist movement in India. He represents most of the prisoners in imminent danger of execution. He was consulted regularly by Ajmal Kasab's lawyers, the only terrorist survivor from the Mumbai attack in 2008, whose execution in November 2012 brought an end to the moratorium on the death penalty observed by India since 2004.

Plenary session: Asia and the death penalty.

He holds a Master in law, right of the child, from the university of Beyrouth. He is general director of Social Defense at the Ministry of Social Affairs and Labor and coordinates the project "protection of children". President of the Foundation «Together for Development and Human Rights», he is also a consultant in the field of the rights of the child and juvenile justice.

Roundtable: Juveniles and the death penalty in the world.

Attorney and Executive Director of the Death Penalty Information Center since 1992, he holds a doctorate in law from Georgetown University, he is an adjunct professor at the Faculty of Law of the Catholic University. Information on the status of the death penalty in the United States published by the organisation are references for the international abolitionist community.

Roundtable: The United States: State of the abolition.



Maria Donatelli

France



Houria Es-Slami

Maroc



Mabassa Fall

Senegal



Maya Foa

United Kingdom

Director of the World Coalition Against the Death Penalty, her interest in the abolition of the death penalty began during her undergraduate studies at Università degli Studi di Firenze. She worked at the UN and Oxfam International in New York, dealing with humanitarian and human rights issues. She also worked for Caritas, coordinating a child protection project in Argentina.

Workshop: IGOs and civil society, common strategies.

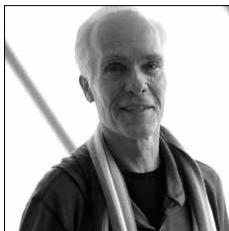
In 2011 Houria Es-Slami was elected president of the alternative forum Morocco-FMAS, after having been member of its executive board. Laureate of Superior translation school « King Fahd » in Tangier, she is the executive director of the Driss Benzekri Foundation for human rights and democracy. Member of the Coordinating committee for the families of the disappeared and the victims of force disappearances in Morocco since 1988, Houria Es-Slami is a founding member of the Moroccan forum for truth and justice.

Permanent Representative of the FIDH at the African Union and human rights activist, he has collaborated with several African NGO and organisations. Founder of the Inter-African Union of Human Rights and of the African Centre for Conflict Prevention, he started the working group on the death penalty for the African Commission of Human and People's Rights.

Workshop: IGOs and civil society, common strategies.

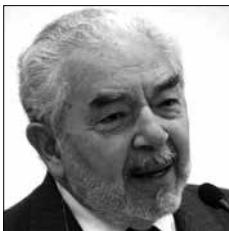
As Deputy Director of the Death Penalty department, she is in charge of Reprieve's Stop the Lethal Injection Project (SLIP), Stop Aid For Executions project (SAFE) and supporting Reprieve's overall anti-death penalty strategy. She studied French and Italian Literature at Magdalen College in 2008 and graduated from BPP Law School in 2012.

Roundtable: Drug trafficking and the death penalty: Fight trafficking without financing countries that execute.



Gil Garcetti

United States



Sergio García

Ramírez

Mexico



Emilio Ginés

Santidrián

Spain



Luigia Di Gisi

Italy

As the Los Angeles County District Attorney, he spent a total of 32 years in that office and oversaw over 1100 prosecutors serving a population of 9.7 million. He also participated in the SAFE campaign, California's initiative effort to change the death penalty to life without the possibility of parole. Now a professional photographer, he has published seven books and has exhibitions around the world.

Workshop: Abolitionist strategies: the campaign for abolition in California.

Lawyer with a phd in law, he is a researcher at the Institute of Legal Research and professor at the National Autonomous University from Mexico. He was a judge at the Inter-American Court of human rights of the Organisation of American States (1997-2010), and served as President of the Court for three years. He is the author of numerous publications in matters of law and criminology.

Roundtable: The Caribbean: The death penalty in the region.

As a member of the Subcommittee on the Prevention of Torture of the United Nations, he worked specifically on Argentina, Bolivia, and Mexico. He was Rapporteur on the detention of migrants and Member of the European Committee for the Prevention of Torture. He is professor of International Law and President of the Federation of Associations for the Defense and Promotion of Human Rights - Spain.

Workshop: Death penalty and torture.

Programme Manager in the Directorate General for Development and Cooperation of the European Commission, she addresses issues of good governance, democracy, gender and human rights. Of Italian origin, she holds a Masters degree in European project management and a doctorate in economics and international law at the University of S. Pio in Rome.

Roundtable: Europe: Strategies for the future.



**Hanne Sophie
Greve**
Norway



Roger Hood
United Kingdom



Patrice Houanyeaze
Benin



Parvais Jabbar
Royaume-Uni

Judge and Vice President of the High Court in Bergen and member of the International Commission against the Death Penalty, she is a former judge on the European Court of Human Rights. She was a member of the Council of Europe's Group of Experts on Action against Trafficking in Human Beings, from 2009 to 2012, and President for two of these years.

Workshop: Terrorism and abolition.

Professor Emeritus of Criminology at the University of Oxford, Emeritus Fellow of All Souls College, and the former Director of the Centre for Criminology at Oxford. He is the author of *The Death Penalty: a Worldwide Perspective* (4th edition with Carolyn Hoyle 2008), and is co-editor with Surya Deva of *Confronting Capital Punishment in Asia: Human Rights, Politics and Public Opinion* (Oxford U. Press, 2013).

Plenary Session: Asia and the death penalty.

Human rights manager of the Minister of Justice, legislation and human rights, Benin

Roundtable: Sub-Saharan Africa: evolution of practices and political influences.

Parvais specialises in domestic and international human rights law as it relates to the death penalty. He has represented prisoners under sentence of death before the Judicial Committee of the Privy Council, the Inter-American Commission on Human Rights, the Inter-American Court of Human Rights and the United Nations Human Rights Committee. He has also been involved in international delegations looking into death penalty reform both in China and Taiwan.



Abderahim Jamaï

Morocco



Saira Rahman Khan

Bangladesh



Robin M. Maher

United States



Zaved Mahmood

Switzerland

Lawyer and Coordinator of the Moroccan Coalition against the Death Penalty, he is the President of the Moroccan Prison Observatory, as well as member of the High Court for Justice Reform and the Moroccan Human Rights Association. Former President of the Moroccan Bars and Law Societies Association, he has participated several times in fact-finding and observer missions in the African continent.

Workshop: Terrorism and abolition.

Saira Rahman Khan is an Associate Professor of Law at BRAC University in Dhaka, Bangladesh. She is a Chevening Scholar and obtained her PhD in Socio-Legal Studies from the University of Kent at Canterbury, UK. Saira Rahman Khan has authored several journal publications, mainly focusing on issues of violence against women.

Director of the American Bar Association Death Penalty Representation Project, she works to improve the quality and availability of legal representation for those charged with or convicted of capital crimes. An Adjunct Professor of Law, she is a trainer and lecturer on the death penalty throughout the United States and internationally.

Workshop: Legal Representation in Capital Cases around the world.

He is currently working at the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Geneva as human rights officer. Previously, he worked with the UN Mission in Sudan, the UN Assistance Mission in Afghanistan and the Innocenti Research Centre in Florence, Italy.

Roundtable: Drug trafficking and the death penalty: Fight trafficking without financing countries that execute.



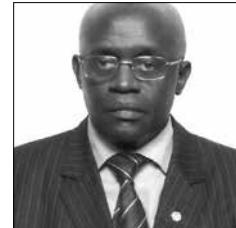
**Rodolfo
Mattarollo**
Argentina



Natasha Minsker
United States



**Ghassan
Moukheiber**
Lebanon



Raphaël Nyabirungu
DRC

Argentinian ambassador to Haïti, he was named coordinator of the commission UNASUR. He was also in charge of the human rights section of the UN mission in Sierra Leone. He was a member of the International commission against the death penalty (ICDP). Rodolfo Mattarollo died in June 2014.

Lawyer, she is the death penalty policy director for the American and Civil Liberties Union in California. She has worked many years in the Alameda County Public Defender's office. She was campaign manager for the SAFE California campaign in the referendum about the death penalty in November 2012.

Workshop: Abolitionist strategies: the campaign for abolition in California.

Ghassan Moukheiber is a lawyer, a human rights activist, a member of Parliament and Rapporteur for the Beirut Bar Association's "Human Rights Committee" as well as the spokesperson for the parliamentary commission on Human Rights in Lebanon.

Doctor in law at the Catholic University of Louvain, he is expert in criminal law and Dean of the faculty of law of Kinshasa. Former representative of the Rutshuru constituency, he is attorney-at-law at the Kinshasa-Gombe Court of Appeals, and the International Criminal Tribunal for Rwanda, and legal counsel at the International Criminal Court.

Roundtable: Abolition and alternative sentences.



**Chino Edmund
Obiagwu**
Nigeria



Rosalyn S. Park
United States



Aurélie Plaçais
France



Mario Polanco
Guatemala

A lawyer, expert in criminal law, human rights, mediator, justice reform, he is the Chairman of the Nigeria Coalition at the International Criminal Court (NCICC) and partner at Obiagwu & Obiagwu Legal Practitioners. He is member of the Human Rights Law Service and the national coordinator at LEDAP Legal Defence and Assistance Project, specialised in advocacy for prisoners' rights in Nigeria.

Roundtable: Sub-Saharan Africa: evolution of practices and political influences.

Research Director for The Advocates for Human Rights, she is a member of the Steering Committee of the World Coalition Against the Death Penalty and chairs the Working Group for the World Day Against the Death Penalty. She coordinates submissions to UN bodies on death penalty matters in various countries and oversees the production of educational tools.

Workshop: Teaching abolition.

Programme Director for the World Coalition Against the Death Penalty, she has been working for more than five years for the universal abolition of the death penalty. She has developed three international campaigns, such as the World Day Against the Death Penalty, the universal moratorium and the ratification of the international protocols aiming at the abolition of the death penalty.

Workshop: Legal Representation in Capital Cases in the world.

A human rights defender, he was director of the Fondation for Mutual Support Group, a leading human rights organisation. He represents the Mutual Support Group in international arenas such as the Latin American Network of peace builders, Pax Christi and the Coalition for human rights against clandestine structures.

Workshop: Families of victims: An international network of action.



Michael Radelet
United States



Hossein Raeesi
Iran



Leela Ramdeen
Trinity and Tobago



**Kevin Miguel
Rivera Medina**
Puerto-Rico

Professor of sociology at the University of Colorado, he is known for his pioneering studies of miscarriages of justice and racial discrimination in death cases. He has worked with hundreds of death row prisoners and testified in 60 cases involving the death penalty. He has written numerous books and articles on the subject.

Roundtable: The United States: State of the abolition.

Graduate from Shiraz University in 1991, he is a defense lawyer specialized in human rights and death penalty cases. His office in Shiraz, Iran, was recently relocated to Toronto in Canada. Member of the Human Rights Council and the Bar Association in the province of Fars, he is also the founder of Nedayeh Edalat Legal Association in Shiraz.

Roundtable: Iran and the death penalty.

Attorney-at-law, consultant and Chair of the Catholic Commission for Social Justice, she promotes innovative models in matters relating to restorative justice, the fight against crime and social exclusion using educational tools. She is also the Director of the Catholic Religious Education Development Institute and member of the steering committee of Greater Caribbean for Life.

Roundtable: The Caribbean: the death penalty in the region.

Lawyer, Chair of the Committee on the Death Penalty of the Puerto Rico Bar Association. Also member of the Bar Committee on Victims' Rights and Vice President of ALAPÁS (victims families' organization). He was legal counsel for the President of the Senate of Puerto Rico, Deputy Director and Interim Director of the Legislative Services Office, Deputy and Interim Ombudsman of Puerto Rico.

Workshop: Families of victims: An international network of action.



Marianne Rossi

France



Khadija Rouissi

Morocco



Maya Sahli-Fadel

Algeria



Chiara Sangiorgio

United Kingdom

Project Officer for "Education and Awareness on Abolition" since 2010 within ECPM, she manages the project "Education on Human Rights and Death Penalty Abolition" which organises educational actions in French secondary schools and universities. To this end, she develops pedagogical tools adapted to the school syllabus and directly usable by teachers.

Workshop: Teaching abolition.

Member of Parliament for the Authenticity and Modernity Party (PAM) in Morocco and Vice President of Parliament. Former Advisor within the Equity and Reconciliation Commission, she is a coordinator of the Network of Parliamentarians against the Death Penalty in Morocco, and President of the Bayt Al Hikma Association, an organisation for the defence of human rights and the promotion of democratic values.

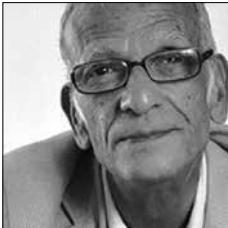
Roundtable: Regional parliamentary network in favour of the abolition.

Member of the African commission on human and people's rights, she is Special rapporteur on refugees, asylum seekers, migrants and Internally displaced persons, and member of the Working group on the death penalty. She is also expert for the UN working group on people of African descent. A former lawyer, she is a professor of international law.

Roundtable: Sub-Saharan Africa: evolution of practices and political influences.

She works in the Death Penalty team at the International Secretariat of Amnesty International. She coordinates global campaigning and co-authors Amnesty International's annual report on the worldwide use of the death penalty.

Workshop: IGOs and civil society, common strategies.



Youssef Seddik

Tunisia



Richard Sédiidot

France



Ahmed Shaheed

Republic
of the Maldives



**Léonard She
Okitundu Lundula**

DRC

A Tunisian philosopher and anthropologist, he holds a doctorate in anthropology entitled « The Koran work » from the School of High Studies on Social Sciences in Paris. A qualified philosophy teacher, a specialist in French and Greek languages and civilizations, he was professor in France and Tunisia. Former journalist, he is the author of numerous books and documentary films on Islam issues.

Plenary session: The MENA region and the death penalty.

Lawyer since 1988, he specialises in international and criminal law. Since 1998, he has committed himself to human rights, giving legal assistance to accused persons charged with capital crimes in Burundi, Mauritania or even in Indonesia. He performs legal expert assignments for international institutions (UNO, Council of Europe...). He is a member of ECPM's board of directors and Vice President of the Human Rights Commission of the National Council of Bar Associations.

Roundtable: Innocence and abolition: a strategic asset for the abolition?

Former Foreign Minister of the Republic of the Maldives, expert on foreign policy, diplomacy and human rights –particularly in Muslim countries– he played a leading role in the democratic transition of the Maldives. He is the UN Special Rapporteur on the situation of human rights in Iran and a Visiting Professor at University of Essex and the City University of New York.

Roundtable: Iran and the death penalty.

Senator since 2006 and lawyer, he has worked for Caritas in Switzerland until 1997. He is a member of the Alliance for the Presidential Majority, and co-founder of the People's Party for reconstruction and democracy. Appointed minister on several occasions since 1999, he has been Head of President J. Kabila's Cabinet (2003-2006).

Roundtable: Regional parliamentary network in favour of the abolition.



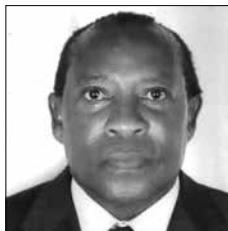
Haitham Shibli

Jordan



**Sosormaa
Chluunbaatar**

Mongolia



**Frederick
Ssempebwa**

Uganda



**Valiantsin
Stefanovich**

Belarus

Haitham Shibli is research and communication director for the MENA region at the Jordan office of Penal Reform International where he is also in charge of the death penalty project and the North Africa projects.

Adviser to the President of Mongolia on Human Rights and Citizen Participation. In November 2014, she was named ambassador for Mongolia in Brazil.

As a lawyer, he practiced law for over thirty years. He was the Chairman of the Uganda Review Commission in charge of reviewing the 1995 Constitution. He was Lead Counsel in the key case of Susan Kigula and Others v. Attorney General of Uganda, in which mandatory death sentences were declared unconstitutional.

Roundtable: Sub-Saharan Africa: evolution of practices and political influences.

He is the Vice-Chairman of the Human Rights Center « Viasna », a human rights organization founded during protest actions of the democratic opposition against the government in 1996. Viasna represents victims of human rights violations, works on defence of political and civil rights, education, election observations, and runs a national campaign against the death penalty.

Roundtable: Europe: Strategies for the future.



**Baronne Vivienne
Helen Stern**
United Kingdom



Maïko Tagusari
Japan



Theodore O. Te
The Philippines



Victor M. Uribe
Mexico

Member of the UK House of Lords with extensive experience in human rights and criminal justice matters, author of numerous books on penal matters and involved in many organisations worldwide, she has particular interest in health care in prisons and alternatives to prison. She chairs the British parliament's All Party Group on the Abolition of the Death Penalty.

Roundtable: Regional parliamentary network in favour of the abolition.

As a lawyer, she represents death row prisoners in both criminal and civil cases. She is the co-founder and Secretary-General of the Centre for Prisoners' Rights. She also serves as Vice President of Japan Federation of Bar Associations' Death Penalty Abolition Committee and Vice Secretary-General of Committee on Prison Law Reform.

Plenary session: Asia and the death penalty.

Professor in criminal law and remedy law, an active lawyer in the Free Legal Assistance Group on issues such as civil and political rights, the death penalty, prison conditions, he was the first to present oral arguments before the Supreme Court on the constitutionality of the death penalty in the Philippines.

Roundtable: Abolition and alternative sentences.

Counselor for Legal Affairs at the Embassy of Mexico in the United States, he has been an expert before U.S. courts on consular notification issues in death penalty cases involving Mexican nationals. He was part of the Mexican legal team in several cases before the Inter-American Court of Human Rights, and counsellor of Mexico in the Avena case before the International Court of Justice.

Round Table: Legal and diplomatic strategies for foreigners sentenced to death.



Dirk Van Zyl Smit
United Kingdom



**Constance
de la Vega**
United States



**Asunta Vivó
Cavaller**
Spain



Vincent Warren
United States

Professor of Comparative and International Penal Law at the University of Nottingham, he is the author and co-editor of numerous publications on sentencing and punishment. He has been an expert adviser to the Council of Europe on European Prison Rules. He is particularly interested in the law governing life imprisonment, as well as in community sanctions.

Roundtable: Abolition and alternative sentences.

Professor of Law, she leads the Frank C. Newman International Human Rights Law Clinic at the University of San Francisco. She regularly collaborates with the UN and Interamerican jurisdictions. Her works include death penalty and juvenile sentencing issues. She has raised international standards on these issues before US courts.

Roundtable: Abolition and alternative sentences.

Secretary General of the International Commission against the Death Penalty, she worked as death penalty expert at the Spanish Ministry of Foreign Affairs. She was Deputy Theme Coordinator and later Adviser in Amnesty International's death penalty team. She has a law degree, from the University of Barcelona and a Master's degree in European Studies, University of Surrey.

Workshop: IGOs and civil society, common strategies.

Former senior staff attorney at the American Civil Liberties Union, he is now the executive director of the Center for Constitutional Rights, a national legal and educational organization dedicated to promoting and protecting the rights guaranteed by the U.S. Constitution States and the Universal Declaration of human Rights.

Workshop: Death penalty and torture.



Liu Weiguo
China



Renate Wohlwend
Lichtenstein



Liang Xiaajun
China



Elizabeth Zitrin
United States

As a law graduate of the Beijing Normal University, he is a criminal defence lawyer at the Quanshun Law Firm in Shandong. He is also member of the Executive Committee of China Against the Death Penalty. He provides defence to clients facing the death penalty, and is a prominent advocate of reform to procedures for handling deaths in detention and bringing evidence of torture before the courts.

Workshop: China: which communication tools for the legal community?

Former member of the Parliament of Lichtenstein and the European People's Party, she was the Rapporteur General of the Parliamentary Assembly of the Council of Europe on the abolition of death penalty in the Commission on Human Rights until April 2013.

**Roundtable: Europe:
Strategies for the future.**

Law graduate at the China University of Politics and Law, he is a Criminal defence lawyer and Director of Dacheng Law Firm in Beijing. Liang's death penalty cases include Leng Guoqian and Li Yingquan. He provides legal services for NGOs such as Yirenping, Aizhixing and Gongmeng and is a member of the Executive Committee of China Against the Death Penalty (CADP).

Workshop: China: Which communication tools for the legal community?

Lawyer she is the Vice-President of the World Coalition against the Death Penalty and International Director of Death Penalty Focus, the largest membership-based abolition organization in the US. Her focus is developing and implementing strategies for strengthening ties between the United States and international abolition movements.

Roundtable: The United States: State of the abolition.

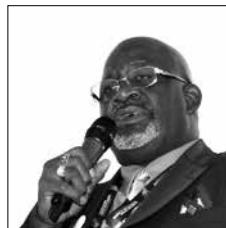
Biographies of Witnesses



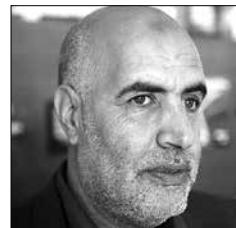
Sabine Atlaoui
France



Souad El Khammal
Morocco



Jerry Givens
États-Unis



Ahmed Haou
Morocco

Wife of Serge Atlaoui, death row prisoner in Indonesia in 2007. Originally from France, Serge Atlaoui was an expatriate in Indonesia working in the maintenance of factory equipment. He was arrested during a raid by the police who discovered an illegal ecstasy laboratory. The Frenchman says he was not directly involved; he carried out menial maintenance tasks. His wife is fighting for the reopening of his trial.

Round table: Drug trafficking and the death penalty: Fight trafficking without financing countries that execute.

President of the Moroccan Association for the Victims of Terrorism (MAVT), she lost her husband and her son in the Casablanca bombing in 2003. If during this tragedy she asked herself the question of the legitimacy of the death penalty for the perpetrators of the attack, she states, finally, that she does not see the point of this sentence and is in favour of imprisonment.
Workshop: Terrorism and abolition

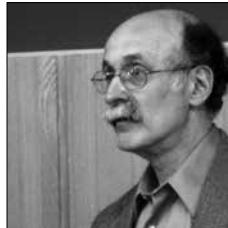
From 1982 to 1999, Jerry Givens supervised the execution team in the state of Virginia where, during this period, 62 people were put to death either on the electric chair or by lethal injection. After having closely observed the flaws of the criminal justice system, he became a fierce opponent of the death penalty.

A former death row prisoner in Morocco, he was sentenced on the 30th of July, 1984 for offence against national security and after having protested against Hassan's regime at a peaceful demonstration. Due to the pressure exerted by international organisations, he was finally pardoned in 1999. An employee for the National Council for Human Rights in Morocco, he talks today about his life experiences in Morocco and abroad.



Tanya Ibar

United States



Robert Meeropol

United States



Edward Edmary

Mpagi

Uganda

As a teenager, she met Pablo Ibar just before he was arrested and sentenced to death for a triple homicide that he still denies having committed. Married for fifteen years, she is supporting his request for a new trial. She goes every Saturday to the death row in Florida to visit her husband.

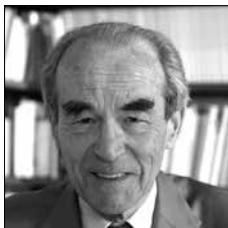
Son of Ethel and Julius Rosenberg, these New-Yorkers were arrested in 1950 for spying for the Soviet Union. Found guilty in 1951, they were executed in 1953. In 1990, he founded the Rosenberg Fund for Children, a public foundation that helps children whose parents are targeted as activists in the United States.

Round Table: The United States: state of the abolition.

Sentenced to death in 1982 with his cousin in Uganda, he was accused of having committed a murder whose victim has not been identified. Whereas his cousin died from malaria during detention in 1985, the victim was finally found alive. Despite this proof of innocence, Uganda's law did not permit at this time to reverse a judge's decision. He was finally released 20 years after his arrest.

Roundtable: Sub-Saharan Africa: evolution of practices and political influences.

Actors of the 5th World Congress



Robert Badinter
France



Florence Bellivier
France



Éric Bernard
France



Amina Bouayach
Morocco

Lawyer and former Minister of Justice, he is at the source of the abolition of the death penalty in France, which was voted in 1981. Today he is a member of the International commission against the death penalty and he continues his fight for the universal abolition of capital punishment. He is the author of several essays dedicated to the death penalty and its abolition (*L'Exécution, La Prison républicaine or L'Abolition*)

Workshop: Abolitionists strategies: the campaign for the abolition in California.

Law professor at the University of Paris X Nanterre since 2003, she has joined the FIDH in 2000. She followed, for her organization, the creation and the development of the World Coalition Against the Death Penalty which she presides since 2011. Deputy Secretary General of the FIDH in charge of the death penalty program, she contributes to oversee several fact-finding missions in countries that use capital punishment.

Attorney at law, member of the Paris Bar, he is specialized in business law. Member of the board of ECPM, he was a former general secretary of ECPM between 2004 and 2007 and a former representant of ECPM at the steering committee of the WCADP. He is one of the spokesman of the NGO. He participated actively in the Congresses of Montréal, Paris, and Genève.

She is an activist since her earliest days within the movement of prisoners' families in Morocco in the 70s and 80s. She has been the first women to direct an organisation for the defence of human rights in Morocco (OMDH.) Vice President of FIDH and founder of several associations of women's rights, development and fight against racism and hatred. As a staunch abolitionist, she is constantly providing support to coalitions against the death penalty. She has been designated member of the Advisory Committee of Revision of the Marocain Constitution.

Plenary session: The MENA region and the death penalty.



Chuan-Fen Chang

Taiwan



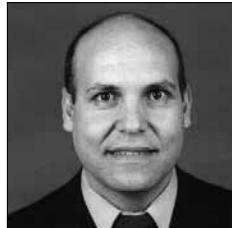
**Raphaël
Chenail-Hazan**

France



Shirin Ebadi

Iran



**Ahmed
El Hamdaoui**

Morocco

As a writer, Ms. Chang investigates death penalty cases, she meets and corresponds with prisoners and their families. Member of the Taiwan Alliance to End the Death Penalty, she is the author of two books on the subject, and is currently working on the third regarding a capital case of miscarriage of justice. Ms. Chang will be in Europe for her PhD on criminology 2013-2016.

Roundtable: Innocence and abolition: a strategic asset for the abolition?

General Director of ECPM and Vice President of the World Coalition against Death Penalty, as well as actor on the ground in the Arab World, Africa and Asia, he has always worked in the field of human rights, more specifically against the death penalty. His commitment, deeply rooted in certainty, grew stronger after having witnessed several tragic events (lynchings and public flagellations.)

Plenary session: The MENA region and the death penalty.

Nobel Peace Prize 2003 First woman to become a judge in Iran in 1974, Shirin Ebadi has been particularly involved in the fight for children's and women's rights in the Islamic Republic of Iran. Teacher at the University of Teheran, she is also a lawyer for several political dissidents and activists. She is the first Muslim woman to be awarded the Nobel Peace Prize for fighting for peace and democracy.

Scholar, psychologist, expert to several national and international bodies and consultant for various TV channels, he is a human right activist, specialized in sexual abused children representation. He is the author of several academic articles and books. In 2012, he realized a fact-finding mission on Morocco's death row for ECPM and the Moroccan organization of human rights (OMDH).

Workshop: Death penalty and torture.



Ariane Grésillon

France



Jenchun Hsieh

Taiwan



Andrea Huber

United Kingdom



Cándido Ibar

Spain

Deputy Manager of ECPM since 2009, she has coordinated and followed development programs in rural area, particularly with Veterinarians Without Borders. She is in charge of developing partnerships, finances and accompanying the strategies of the organization in connection with the management board of ECPM.

Roundtable: Europe:
Strategies for the future.

First a volunteer with the Taiwan Alliance to End the Death Penalty (TAEDP), he helped coordinate the 2nd Murder by Numbers Film Festival in 2007. He joined TAEDP in 2008 where he currently serves as the Office Director. Following the successful coordination of Murder by Numbers Film Festival in 2010, he is planning the fourth edition of the festival.
Workshop: Teaching abolition.

Policy Director at Penal Reform International, she is responsible for the development of policy and for advocacy at an international level. A lawyer, she started as a legal counsellor for asylum seekers, headed a department of Caritas Austria, and worked as a legal assistant at the Regional Higher Court Vienna. She fulfilled differing functions in Amnesty International Vienna, Brussels and London.

Round Table: Abolition and alternatives sanctions.

Father of Pablo Ibar, a death row prisoner in the United States (Florida), he is an American and Spanish citizen. His son has been sentenced to death for a triple homicide; however, he has denied any involvement in the crimes and his relatives testify that he was at a family gathering with them at the time when the killings took place. Cándido Ibar is fighting for a new trial for his son.

Roundtable: Legal and diplomatic strategies for foreigners sentenced to death.



Toshi Kazama

Japan



Mustapha Farouk

Ksentini

Algeria



Nicola Macbean

United Kingdom



Carles MacCragh

Spain

An internationally reknown photographer whose portraits of youth on death row, execution chambers, victims' family members, and perpetrators' family members in the U.S. and Asia have helped promote the abolition of the death penalty since 1996. Founding board member of Murder Victims' Families for Human Rights, he is the Program Director for Asia.

Workshop: Families of victims: An international network of action.

President of the National Advisory Commission for the Promotion and the Protection of Human Rights (CNCPPDH) since 2001, he is a lawyer and former President of the Bar of Blida. He holds licences in Law, Economics, and French literature, and he is a founding Member of the Algerian League for the defense of Human Rights.

Plenary Session:
The MENA region and the death penalty.

Former Director of the Great Britain-China Centre, she is founder and Executive Director of The Rights Practice, an NGO working with Chinese civil society to make human rights a reality. The activities support the reduced use of the death penalty and its abolition and the programme includes research, training and advocacy.

Workshop: China: Which communication tools for the legal community?

Born in Barcelona, he is a lawyer and a writer. He is the Vice-President of the Fundación Abogacía Española. Since June 18th 2010, he is the dean of the bar association of Gerona. He is the founder and the president of the humanitarian organization LiberPress, which awards every year the LiberPress Prizes since 1999.

Roundtable: Round Table: Legal and diplomatic strategies for foreigners sentenced to death.



Mme Mairead

Maguire

Northern Ireland



Emmanuel Maistre

France



Joaquin José

Martinez

Spain



Marina Nemat

Iran - Canada

Nobel Peace Prize 1976
Co-founder with Betty Williams in 1976 of the Community for Peace, Mairead Maguire and Mrs. Williams were awarded the Nobel Peace Prize for their action aimed at ending the conflict in Northern Ireland. She devotes her life to the promotion of peace and justice around the world. Together with political and religious leaders, she is committed to initiate dialogue and equality between different religious communities.

General Secretary of ECPM since 2007, he is the former director of the organization and was the coordinator of the 3rd World congress against the death penalty. As a qualified journalist, he is in charge of ECPM press releases to inform and heighten awareness of the wider public in order to teach the abolition.

Joaquin José Martinez
A spanish citizen and former death row prisoner in the United States, he was arrested in Florida in 1992 for a double homicide, after being falsely accused by his ex-wife. His case has been supported by different organisations and institutions, particularly by the Spanish Government and the Royal Family. On June 6, 2001, he was declared innocent and was released after being incarcerated for 4 years. He became the first European to walk out of an American death row.

Ancienne condamnée à mort iranienne, elle a été condamnée à Téhéran en 1982, à l'âge de 16 ans pour s'être opposée à une de ses enseignantes, garde révolutionnaire. Après avoir été mariée de force à l'un de ses interrogateurs et s'être convertie à l'islam, elle a été libérée en 1984. Elle vit aujourd'hui au Canada où elle enseigne à l'université de Toronto et a raconté son histoire dans son livre Prisonnière à Téhéran.



Liévin Ngondji

DRC



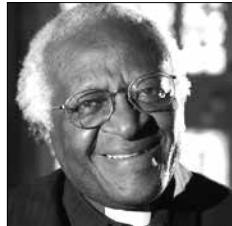
Bill Pelke

United States



Nicolas Perron

France



Mgr Desmond Tutu

South Africa

Lawyer at the Court of Appeals of Kinshasa-Gombe and at the International Criminal Court (ICC), he is the co-founder and President of Culture for Peace and Justice (abolitionist NGO). He is also the coordinator of the Congolese and Central and East Africa Coalitions against the Death Penalty, as well as member of the Steering Committee of the World Coalition against the Death Penalty.

Roundtable: Sub-Saharan Africa: evolution of practices and political influences.

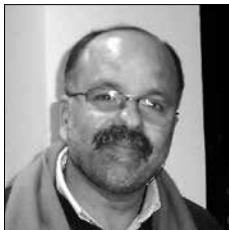
He has devoted his life for the abolition of the death penalty after his grandmother was murdered by four teenage girls in the State of Indiana and the ring-leader was sentenced to death. President of the organisation Journey of Hope... from Violence to Healing, led by murder victim family members, he spreads the message of non-violence and forgiveness as a way of healing through awareness actions.

Workshop: Families of victims: An international network of action.

Specialised in the field of international solidarity, he joined ECPM in 2008. As officer responsible for the association's programmes, he specifically manages the actions developed in Morocco and Central Africa. He was in charge of logistics organisation of the 4th World Congress against the Death Penalty organised in Geneva in 2010.

Roundtable: Regional parliamentary network in favour of the abolition.

Nobel Peace Prize 1984 Desmond Tutu obtained a degree in theology in London, in 1966 before returning to South Africa where he worked as a professor. He was the first black South-African to be named Dean of the Diocese of Johannesburg, and then Archbishop in 1986. He has devoted his life to fighting the apartheid and leads a peaceful fight for "a democratic and just society free from any racial division."



Mostafa Znaidi
Morocco



Chuang Lin-hsun (left)
Chien-ho Su (center)
Liu Bin-lang (right)
Taiwan

Journalist, he is currently the technical coordinator of the project for the reinforcement and structuring of the Moroccan abolitionist movement. He is also a member of the Moroccan Human Rights Association National Council and Assistant Coordinator of the Moroccan Coalition against the Death Penalty.

Workshop: Teaching abolition.

Accused of the double homicide of a couple in Taiwan, they were sentenced to death in 1992. The three accused people declared to have been tortured by the police and forced to confess to the murders. In 2000, the Supreme Court reopened the case and they were exonerated and released. The "Hsichih trio" spent 12 years on death row.

Roundtable: Innocence and abolition: a strategic asset for the abolition?

Roundtable: Innocence and abolition: a strategic asset for the abolition?

Statements and Speeches

Message from Ban-Ki Moon, Secretary-General of the United Nations

Madrid, 12 June 2013

I thank the organizers of the Fifth World Congress against the Death Penalty and representatives of government and civil society for mobilizing on this important issue.

I welcome the growing momentum against capital punishment since the General Assembly first voted on a moratorium in 2007. Full abolition of the death penalty has support in every region and across legal systems, traditions, customs and religious backgrounds. Currently more than 150 States have either abolished the death penalty or do not practice it. Last year, 174 United Nations Member States were execution-free.

Despite these positive trends, I am deeply concerned that a small number of States continue to impose the death penalty, and thousands of individuals are executed each year, often in violation of international standards. Some countries with a longstanding *de facto* moratorium have recently resumed executions. The death penalty is at times used for offences that do not meet the threshold of “most serious crimes,” such as drug crimes, and a few States impose capital punishment against juvenile offenders in violation of international human rights law.

Information concerning the application of the death penalty is often cloaked in secrecy. The lack of data on the number of executions or the number of individuals on death row seriously impedes any informed national debate that may lead to abolition.

The taking of life is too absolute and irreversible for one human being to inflict on another, even when backed by a legal process. Too often, multiple layers of judicial oversight still fail to reverse wrongful death penalty convictions for years and even decades. This problem will be discussed at a United Nations panel in New York at the end of this month. I trust it will benefit from your work.

More broadly, I wish you great success in advancing our global campaign against the death penalty.

Message from Thorbjorn Jagland, Secretary-General of the Council of Europe

Madrid, Spain – June 2013

Distinguished Guests,
Dear Representatives of Civil Society,
Dear Friends,

I would like to start by thanking our Spanish hosts as well as the French, Norwegian and Swiss Ministries of Foreign Affairs for organizing this conference.

A special thanks, of course, also goes out to ECPM (Ensemble Contre la Peine de Mort), without whom this conference would not have been possible.

Today, 140 countries around the world – over two thirds – have abolished the death penalty in their legislation or in practice.

There is a gradual but committed shift towards the abolition of capital punishment on a global level.

Africa is heading, slowly, towards becoming an execution-free area, with only five countries having carried out death sentences last year.

In parts of Asia, China excluded, we have seen a decline in the number of executions.

In Latin America, the inter-American human rights system has been the driving force behind the decline of the death penalty.

There are of course setbacks. One of them is the recent reintroduction of the death penalty in New Guinea. This is why we need to remain vigilant and we need to remain combative.

In Europe, in the past sixteen years no death sentence has been carried out on the territories of our 47 Council of Europe member states.

This makes Europe a death penalty-free area for more than 800 million citizens.

It gives me great pride that the Council of Europe has been one of the main driving forces behind the abolition of the death penalty in Europe.

Two international treaties crafted by the Council of Europe form the backbone of our continent's success at clamping down on capital punishment: Protocol No.6 to the European Convention on Human Rights which prohibits the death penalty in times of peace and Protocol No.13 which prohibits it in all circumstances.

Distinguished Guests, Dear Friends,

Together, we have done remarkable work in scaling back the death penalty.

But there is still a lot of work to be done. And it will not be easy.

Last year, 21 countries carried out executions.

According to Amnesty International there are some 23,000 condemned prisoners around the world.

To date, there are still 58 countries or territories where the death penalty is still applied. This is 58 too many.

What is also worrying is the number of democracies that still use capital punishment, among them the United States, Japan and India.

Last year, the United States executed 43 people, making its executioners the world's fifth busiest.

We at the Council of Europe have repeatedly called on our American and Japanese friends to put an end to this inhumane practice. I am confident that the day will come when they heed our calls.

Closer to home we are also faced with countless challenges.

While Russia, a member of the Council of Europe, upholds a moratorium on the death penalty it has yet to abolish it by law.

Three other member states – Armenia, Azerbaijan and Poland – have still not ratified Protocol No. 13 concerning the abolition of the death penalty in all circumstances.

The ratification of that Protocol by Poland would be particularly welcome, given that it is the only remaining European Union member state that has not yet done so.

If the EU accedes to the European Convention on Human Rights in the near future, it will do so for the time being only with regard to those additional protocols which have been ratified by all EU member states.

The EU's ratification of Protocol No. 13 is also of high symbolic value, especially when dealing with countries such as Belarus.

Belarus remains the only European country that still carries out capital punishment. I hope that Belarus will join the moratorium on executions with a view to its complete abolition.

Dear Friends,

Another major challenge we face is that of misguided attitudes. There is a dangerous lack of awareness when it comes to the brutal reality of the death penalty.

Even for those states in Europe which have abolished the death penalty in their national legal systems, the challenge remains that many European citizens continue to be in favour of capital punishment.

Some political parties have introduced the reestablishment of the death penalty in their programmes.

This shows that there exists a continuing need to spell out exactly why the death penalty is wrong.

Getting rid of the death penalty for good is something that I feel very strongly about.

Since 1989, the European Court of Human Rights has ruled that the exposure to the fear of execution - the so called "death row phenomenon" – is as much a violation of the European Convention on Human Rights as the execution itself.

Three years ago, in the judgment of Al-Saadoon and Mufdhi v. the United Kingdom, the Court described capital punishment as inhumane and degrading.

It ruled clearly that the death penalty involves a deliberate and premeditated destruction of a human being by the state authorities. This causes physical pain and intense psychological suffering as a result of the foreknowledge of death.

Death penalty is not only morally wrong, but it is also ineffective as a deterrent.

Let there be no doubt: there must never be impunity for crimes.

But capital punishment has never been proved to be a more effective deterrent than other forms of punishment.

The death penalty hurts everyone.

It hurts families of those executed, but above all it hurts society. It targets disproportionately the vulnerable members of society – including minors and the mentally impaired - and is often reserved to those who cannot afford a proper defense.

Justice and fairness never advanced in the taking of a human life.

No one said it better than Elie Wiesel, Nobel Peace laureate, author and human rights activist.

Wiesel lost both his parents and a sister in the Nazi death camps. He himself narrowly escaped death at Buchenwald concentration camp.

And yet when speaking to family members of murder victims his message was – and is – clear: “death is not the answer.”

If the death penalty could bring back the victims, Elie Wiesel said, maybe he would change his stance.

But it does not.

Thank you.

Thorbjorn Jagland

Message from Pope Francis

Vatican City, June 12, 2013

Mr. President of Together Against the Death Penalty,

His Holiness the Pope Francis having been informed of the 5th Congress against the Death Penalty in Madrid, vowed a fruitful development of the work and sends warm greetings to all the participants.

The Holy See has constantly promoted the abolition of the death penalty, in accordance with its basic teachings on the recognition of the dignity of the person and the protection of human life. Pope Francis would like, on this important occasion, to reiterate the calls by John Paul II and Benedict XVI stating that death sentences be commuted to a lesser punishment, which would provide time and encouragement for the rehabilitation of the offender. In addition, it would give hope to the innocent and ensure the moral well-being of those people who, in one way or another, have been involved in the fate of those on death row, as well as all civil society.

The Holy See asks with strength and conviction that a worldwide moratorium be reached, while all Nations now possess the means to defend themselves without any need to resort to cruel and unnecessary punishment. In addition, the growing awareness that it is time to “bury the death penalty” (John Paul II, *Urbi et Orbi Message, Christmas 1998*) provides an incentive for the moratorium.

It is essential, more than ever, to remember and affirm the need for recognition and universal respect for the inalienable dignity of human life in its immeasurable value. The Holy See is committed to the abolition of capital punishment as part of his defence of the life of all men and women at any time of its development, from conception to natural death, against the resurgence of a culture of death.

The universal abolition of the death penalty would require a vigorous reaffirmation of the conviction that humanity can cope successfully with crime. Thus, rejecting as much revenge as the temptation to succumb to despair in the face of criminality and the forces of evil, a new force of hope in humanity would be encouraged.

Therefore, His Holiness encourages all participants of the Congress to continue this great initiative and ensure them of his prayer.

Statement of Navi Pillay UN High Commissioner for Human Rights

15 June 2013

Excellencies,
friends and colleagues,

I am grateful to the organisers of the 5th World Congress against the Death Penalty for the invitation to this closing ceremony. I regret that I was not able to be present for your deliberations over the past three days, but I would like to take this opportunity to add a few observations to your productive and comprehensive discussions.

Let me begin by stating unequivocally that the United Nations system has long advocated the abolition of the death penalty in all circumstances. The death penalty is hard to reconcile with fundamental human rights, most notably the right to life.

It is also becoming increasingly obvious that, in practice, the death penalty invariably entails cruel, inhuman or degrading treatment or punishment. For the individual affected, the cruelty inflicted by the death penalty starts long before he or she is put to death. It begins at the time of their conviction, extends through an often indeterminate period in which the condemned person is caught in a terrifying limbo: trapped between the fear of death, and the faint hope that an appeal or plea for clemency may spare his or her life.

Almost everywhere, the death penalty is also linked to the darkest periods of history – conflict, foreign occupation and dictatorship. Remnants of the historical links between oppression and the death penalty remain visible even in the few democratic States that retain the death penalty. Its application tends to be discriminatory. The poor, the powerless and persons belonging to minority communities make up a disproportionate number of those who are executed.

Currently, more than 140 countries have abolished the death penalty or do not practice it. At the international level, States have been debating the desirability of the ultimate abolition of the death penalty ever since the 1960s. Support for universal abolition continues to grow. Just last December, for example, the General Assembly adopted for the fourth time a resolution (67/176) on moratoriums on the use of the death penalty, aiming to abolish it, once again with an increased number of States voting in favour.

Moreover, States that retain the death penalty are – albeit with some notable exceptions – significantly reducing the number of individuals executed, or reducing the number of crimes that can result in capital punishment.

The growing number of State parties to the Second Optional Protocol to the International Covenant on Civil and Political Rights also reflects the international community's move towards abolition. As of today, 76 States have ratified or acceded to the second optional

protocol, and another 36 States are signatories. This optional protocol is the key international human rights treaty prohibiting the use of the death penalty in all circumstances. I urge all signatory States, as well as all other States who have not yet signed it to move quickly to join those who have already ratified it.

Despite these positive developments toward the universal abolition of the death penalty, I will not hide the fact that there have also been setbacks.

In particular, I am deeply concerned that some States with long-standing de facto moratoriums have suddenly resumed executions, or are considering reintroduction of the death penalty in their legislation.

I am also saddened to see that some States continue to execute people in flagrant violation of relevant international human rights norms and standards, including fair trial standards. In many States, the death penalty is still used for a wide range of crimes, such as ones relating to drugs, which do not meet the threshold of “most serious crimes.” It is striking, and deplorable, that even well-functioning legal systems in States that retain the death penalty have sentenced to death persons who ultimately were proved to be innocent.

I urge all States that resume executions, or continue to impose the death penalty, to immediately stop this regression in human rights protection, and to impose a moratorium. We need to recognize that, all too often, national debates on capital punishment are mired in misinformation and fear. It is essential to debunk myths about the presumed deterrent effect of executing criminals. Research has shown that such an assumption is unfounded. Furthermore, we need to highlight more effectively the real danger of executing innocent people that exists even in the most sophisticated judicial systems. We must insist that the right to life – which is accepted by every State – is not undermined by the thirst for vengeance.

Friends,

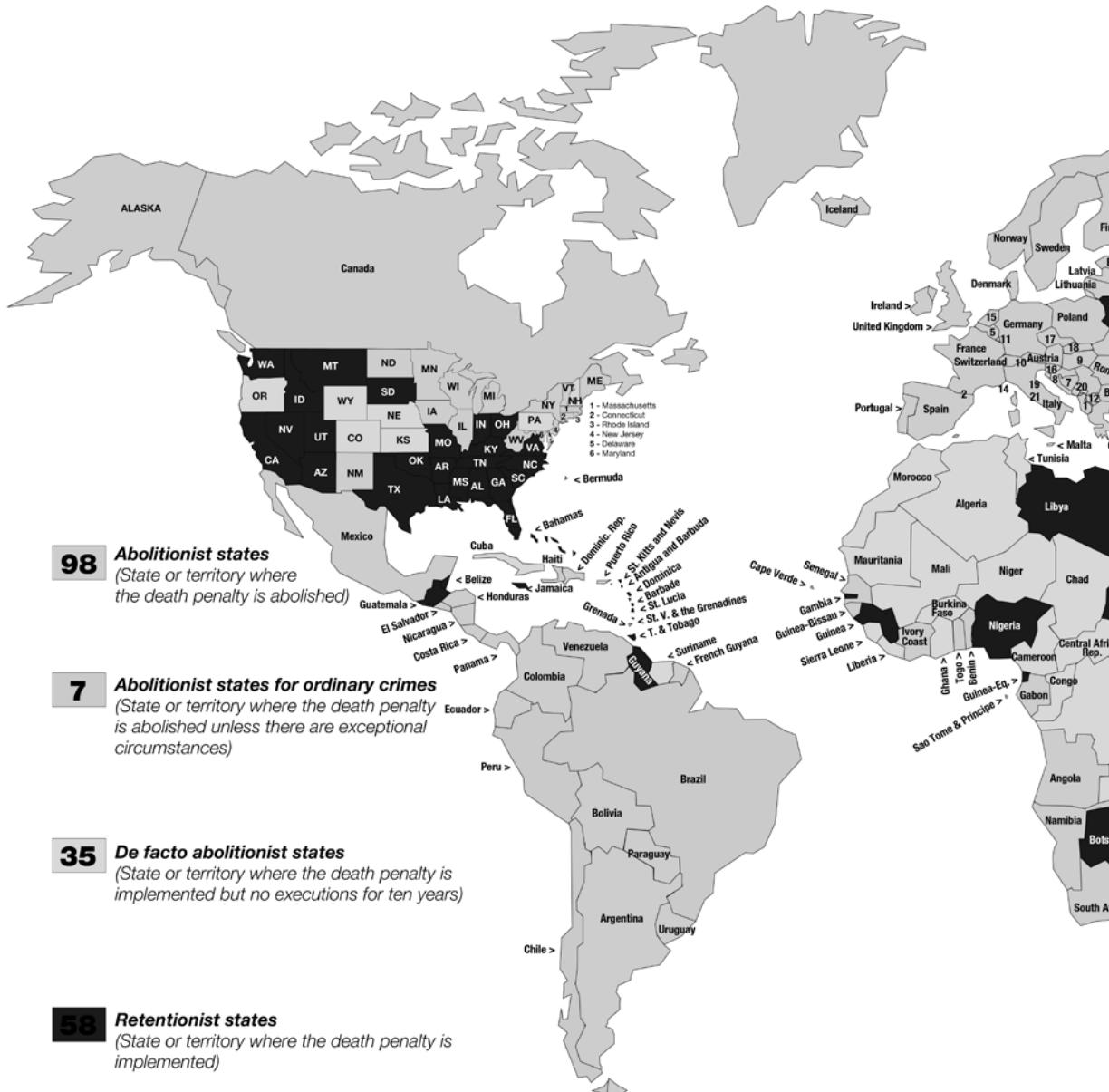
I would like to take this opportunity to urge States to increase their cooperation with one another, and with civil society, to foster the emerging global consensus to abolish the death penalty. It is crucial that leaders champion abolition, and encourage their neighbours and allies to follow the same path. Even though the great majority of states no longer apply the death penalty, this majority does not speak with a sufficiently strong and united voice. I encourage States and civil society to use all opportunities to do so. Your support for United Nations initiatives aiming for universal abolition is crucial.

My office will continue to support pro-abolition programmes and activities of States, civil society organisations and other stakeholders at the international and national levels. As High Commissioner for Human Rights, I will continue to unapologetically and remorselessly raise the need for the abolition of the death penalty in my engagement with leaders. In closing, I congratulate you on the successful completion of the 5th World Congress against the Death Penalty, which I believe will help advance our efforts to achieve universal abolition.

The death penalty is an affront to the right to life and the right to human dignity – our shared human dignity. Every time the State drags a fellow human being to the execution site and kills him or her in “the name of the people” – our name – a piece of our own human dignity is shattered. Let us all do our utmost to put a final stop to this inhumane practice.

Thank you for your attention.

Navanethem Pillay





33 countries implement the death penalty for drug trafficking

13

Countries using the death penalty for drug related crimes

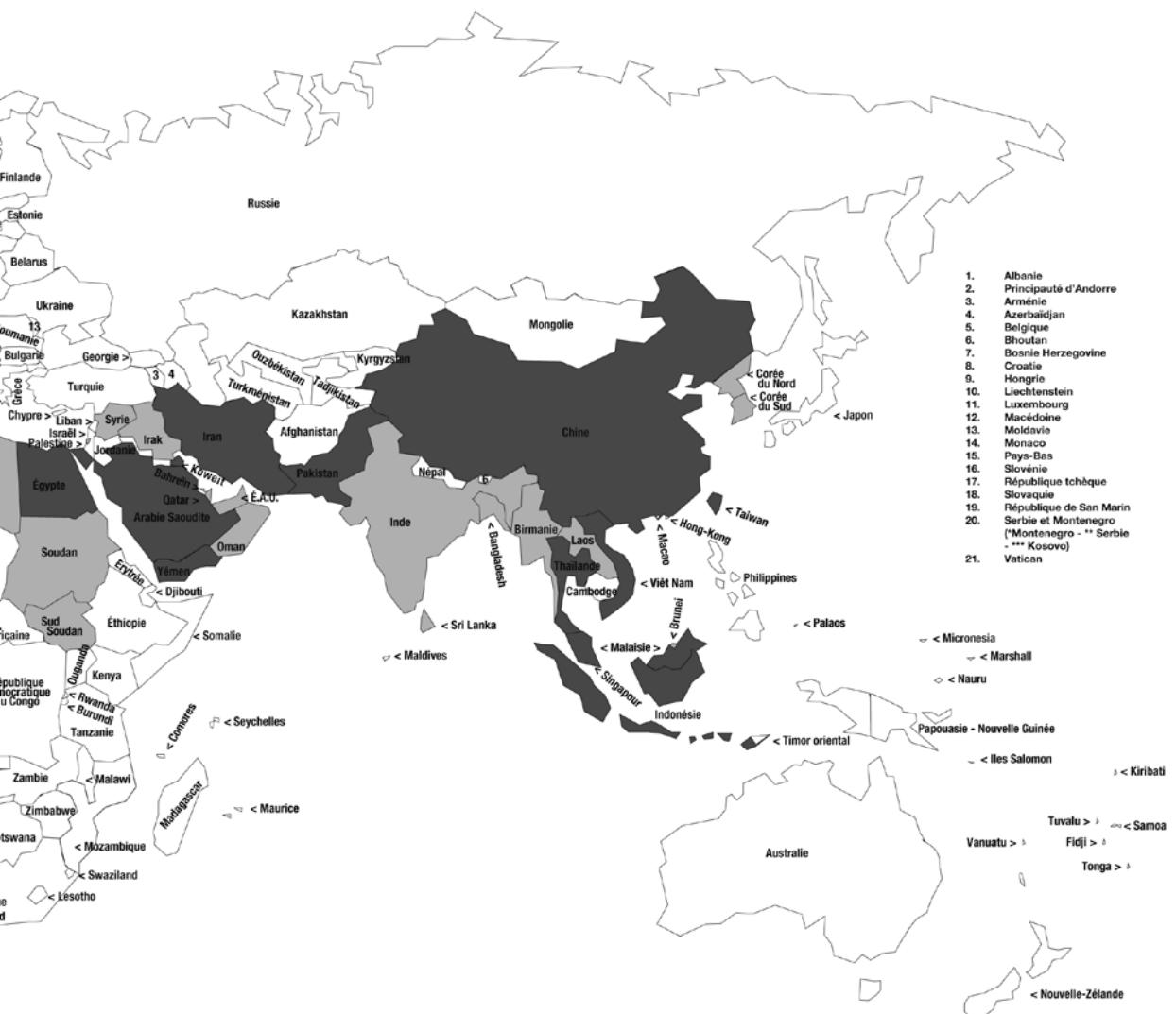
China, Iran, Vietnam, Saudi Arabia, Singapore, Malaysia, Thailand, Indonesia, Kuweit, Pakistan, Egypt, Yemen et Taiwan.

20

Countries where the death penalty for drug related crimes still exist but is seldom used

Oman, Qatar, India, Bangladesh, United Arab Emirates, Sri Lanka, Bahrain, USA, Gaza, South Korea, Myanmar, Laos, Brunei, Cuba, North Korea, Libya, Sudan, South Sudan, Iraq et Syria.





ECPM
November 2014