



CRIME AND JUSTICE

A Monthly Newsletter for Strengthening Awareness
on the Abolition of Death Penalty



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IPS, the global news agency, brings you independent news and views on capital punishment. In this newsletter you will find in-depth reports by IPS correspondents from around the world and columns by experts, in addition to special sections for news from international NGOs and a review of the global media for a glimpse of what is happening on the ground. Join us in helping strengthen awareness about the abolition of death penalty – and encourage your friends and colleagues to subscribe to this free monthly newsletter.

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By Lansana Fofana

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RIGHTS-SIERRA LEONE: Activists Will Accept Only Full Abolition

By Lansana Fofana

FREETOWN, Aug 28 (IPS) - Sierra Leonean rights activists have served notice on the government that they will campaign against any attempt to retain the death penalty in the new constitution and insist the recommendations of the Truth and Reconciliation Commission are fully adopted.

Murder and robbery with violence should continue to be capital crimes in the revised constitution, the currently-sitting constitutional review commission has advised the government.

But the death penalty for treason and mutiny should be abolished, as long as no loss of life is involved.

The recommendations are believed to reflect the government's position on the death penalty. They are expected to be incorporated into the country's revised constitution which will be presented to parliament for ratification shortly.

"It is not enough to restrict the death penalty to cases of murder or aggravated robbery," Brima Sheriff, Amnesty International's director in Sierra Leone, told IPS.

"The death penalty must be abolished in its entirety because it has never been proven to be a deterrent. Its maintenance on the statute books violates the spirit of the Truth and Reconciliation Commission (TRC)."

John Caulker of the rights monitoring group Forum of Conscience agreed. Nothing less than full death penalty abolition was acceptable to activists, he told IPS.

"The government says it is committed to the implementation of the TRC's recommendations yet it is backtracking on one key issue -- the abolition of the death penalty. This sends conflicting signals.

"The time is now to mount our campaign ... mobilising abolitionist campaigners and civil society to continue this campaign. The constitutional review commission must be made to understand."

At the end of the 11-year civil war, the TRC was set up in 2002 to investigate the reasons for the conflict and recommend ways of preventing a re-occurrence. Its goal was to lay the foundations for reconciliation and healing.

The TRC argued that since 1971, the death penalty had often been used by governments to eliminate political opponents.

The last executions in Sierra Leone were in 1998. Twenty-six senior military officers, convicted for their alleged roles in a coup that ousted civilian president Ahmad Tejan Kabba a year before, were executed by firing squad.

Attorney General and minister of justice, Abdul Serry Kamal, has denied that the maintenance of the death penalty would be a rejection of the TRC's recommendations.

"When you consider that we have come out of a war that consumed many lives, I think it is appropriate some of the punitive laws are kept on our statute books, though with some adjustments.

"The death penalty cannot altogether be abolished because crimes like murder are still being committed," he said.

Activists have accused the government of failing to implement other TRC recommendations on the welfare of prison inmates, including those on death row.

"There are no facilities for recreation and skills-training for death row inmates. This is inhuman and degrading. Once in the cell on death row, you are isolated, deprived of basic services and psychologically tortured," Caulker said.

But the government, which came to power a year ago, would do everything in its power to reverse the situation, he said.

Rights activists say the prison food is poor. Inmates are not issued with clothing or shoes. Cells are cold in the rainy season resulting in frequent outbreaks of diseases such as pneumonia and malaria.

But the acting director of the prisons department, Moses Showers, said all prisoners were being treated according to the rules.

"They all get normal rations of meals, toiletries and supplementary diets. In fact, the prisoners on death row get better diets than ordinary convicts. The prison laws do not discriminate against death row inmates."

The minister of the interior, Dauda Sulaiman Kamara, has agreed that prison conditions are "deplorable".

"There are no workshops, no libraries or recreational facilities for inmates and this in no way helps the prisoners to be reformed," he told IPS.

Sierra Leone's maximum security prison at Pademba Road in Freetown holds all the country's 14 death row inmates. Eleven of these were sentenced to death in 2003 for treason. They are still awaiting a decision on their appeals.

"We consider it mental torture and a clear denial of their rights to a speedy dispensation of justice," said Sheriff. "Justice delayed is justice denied. These people must have their appeals heard or be released without any further delays."

Kamara has promised the government will do its best "to ensure that death row inmates are not treated like lesser mortals".

But he said he would not support the TRC's call for death penalty abolition. (END/2008)

RIGHTS-SIBERIA: Young Ready to Change Mind On Death Penalty

By Kester Kenn Klomegah

MOSCOW, Aug 25 (IPS) - Young people in Siberia, the vast Russian region once notorious for its Soviet penal colonies, have shown readiness to give up their support for the death penalty as soon as they are exposed to views of opponents to capital punishment.

In an essay competition on the death penalty held in the region's

main cities, half the participants argued that the state should have the right to execute its most serious criminals, Victoria Sergeyeva, the director of Penal Reform International (PRI) in Russia, told IPS.

But when these supporters of capital punishment were invited to exchange opinions with essayists with contrary views, some changed their minds and supported abolition, Victoria Sergeyeva said. Four hundred young people between 18 and 25 took part in the competition for the best essays on capital punishment organised by PRI in six Siberian cities - Krasnoyarsk, Novosibirsk, Tomsk, Kemerovo, Novokuznezk and Barnaul. PRI chose the best three essays in each city.

"Many participants said they initially supported the death penalty mostly because of information they received from the mass media," Victoria Sergeyeva said.

Their change of mind at roundtable discussions after the competition winners were announced in April, showed the Russian press needed to publish a wider range of views on the death penalty issue, she said.

"Many participants were convinced that the continued presence of the death penalty in national legislation was a deterrent. They had not considered the opposite view that crimes were committed by people who were not thinking of the sentence at the time and were convinced they would escape justice.

"Many said the death penalty gave them a sense of security. They had not thought that street lighting everywhere and effective policing would give them this."

Since 1996, Russia has respected an official moratorium on executions. But the State Duma, the lower house of the Russian parliament, has stalled on passing a law abolishing the death penalty. Some MPs have said they would not support an abolition bill because the general public was not ready for it, Victoria Sergeyeva said.

"It is the authorities who are deliberately prolonging the road to abolition," Julia Mikhuno, a final-year student at the Altai Academy of Law and Economics and prizewinner in Barnaul, a city in southwest Siberia close to the border with Kazakhstan, Mongolia and China, told IPS.

"I know there is not just one argument in support of abolition. I tried in my essay to give many reasons for my opposition to capital punishment.

"Our country has reached a crucial moment in its history. We have to make a good choice now. We have to respect human rights and the dignity and value of human life."

She added that abolishing the death penalty would not be a break with Russia's tradition. Prior to the 10th century, the death penalty was not imposed by Slavonic tribes.

Alexander Ulyanov, a prizewinner studying at the Tomsk State University in southwest Siberia, recognised the suffering killers inflicted on the victims' family and children.

"Nevertheless, we must not be ruled by our emotions and allow ourselves to administer this ultimate punishment."

Fear and violence had never succeeded in keeping order for long, argued Andrey Manskiy and Demitry Zheltukhin, prizewinners studying at the Ministry of Interior Institute in the city of Kemerovo,

southwestern Siberia.

Capital punishment was now "obsolete", they told IPS.

Anna Shadrina, a prizewinner in the city of Novokuznezk, southwestern Siberia, also argued that the execution was not a deterrent to serious crime.

"For crimes to be kept to the barest minimum, it is important to guarantee employment and raise living standards in our society," she told IPS.

"Criminality is frequently caused by social inequality."

Approximately half the participants supported the death penalty before meeting with other essayist in their cities when some changed their minds. Thirty percent wrote essays against the death penalty. Twenty per cent were undecided.

In a countrywide PRI-poll last year, 11 percent of Russian citizens said they were against capital punishment.

PRI now intends to publish the essays in form of a book. END/2008)

RIGHTS-MOROCCO: Firing Squads Silent - But Death Hovers By Abderrahim El Ouali

CASABLANCA, Morocco, Aug 19 (IPS) - Morocco's death row prisoners -- some 150 inmates -- are living in sub-human, "life-threatening conditions", according to leading NGOs and rights activists.

"The general situation of Morocco's prison inmates, especially those on death row, is absolutely catastrophic and inhumane," Mohamed Kouhjal, a writer specialising in human rights issues, told IPS.

Conditions on death row were "even worse than execution itself", added Al El Ouakili, a well-known writer and death penalty abolitionist campaigner.

Kouhjal and El Ouakili are two of several activists who have written investigative reports recently on the situation in Moroccan jails. These have been confirmed by photographs smuggled out of prison showing inmates packed into cells like sardines without an inch of room to stand and step between dozens of prostrate bodies. These have appeared on Internet blogs.

On Jul. 8, ten NGOs also issued a joint statement calling on the government to introduce urgent reforms for the health and welfare of the prison inmates, especially those on death row.

The NGOs acted after the general delegate of the penal services Hafid Benhachem refused to meet them to discuss their "grave concerns".

Earlier, the Moroccan Prisons Watch, an independent organisation monitoring prison conditions, issued its own critical report on conditions in Moroccan jails. It highlighted the under-funding by the authorities which made it impossible to provide the minimum essential sanitary conditions for the health of inmates.

"Humidity is causing serious illnesses such as asthma, skin and eye

diseases," Khalid Dimal, a journalist on the al-Massae weekly, told IPS, adding that inmates were not being issued with clothing or shoes.

"The ever-present threat of execution for those on death row is also causing serious mental illnesses," Kouhlal added.

Dimal said the prison authorities often failed to provide adequate medical treatment for sick prisoners.

"It's up to the whim of the prison authorities whether medicines are authorised," he charged, "and when they are issued, it is always cheap medicines and weeks late."

The last execution carried out in Morocco was in 1993. But the courts continue to issue death sentences. In 2007, one death sentence was handed down, according to Amnesty International.

Kouhlal said the suffering and isolation of the death row inmates was made worse by imprisoning most of them in the central jail of Kenitra, 130 kilometres north of Casablanca.

"This is far from their families. It really amounts to a form of collective punishment." Most of their relatives were poor and the travel costs were a burden.

El Ouakili added that the families of death row inmates were also experiencing discrimination in their "professional and school careers".

Moroccan Prisons Watch, in its 2007 report, highlighted serious under-nourishment of prisoners. It said that this was mainly due to prison mismanagement.

"Prisoners are being served up food that's not even fit for sewer rats," Kouhlal said.

Women on death row -- and there are believed to be three -- were treated no differently than men, according to El Ouakili.

The state's only show of leniency to them was in Article 21 of the criminal code which stipulated that the execution of a pregnant woman should be delayed by 40 days after childbirth, he said.

Rights activists have also criticised the lack of vocational training programmes for death row prisoners and those who have had their sentences commuted to life imprisonment. By the mid-1990s, King Hassan II, who ruled Morocco from 1961 to 1999, commuted the sentences of more than 200 death row inmates to life imprisonment. Mohamed VI, who succeeded him, has also commuted death sentences.

"There are actually no education and reintegration programmes for these inmates," El Ouakili said.

The only exception was for minors who were able to attend handicraft classes in the Childhood Protection Centres.

This amounted to the state saying they were "beings of lower rank without any possible future", he said.

One of the most immediate reforms now being sought by human rights activists is for Morocco to set a maximum period of years in prison for a life sentence. This would mean that several hundred "lifers" could then expect to be released from prison before they die. It would also pave the way for eventual abolition of the death penalty. (END/2008)

Q&A:

'Innocent Persons Are Sentenced to Death' Interview with Bikram Jeet Batra, Indian rights lawyer

NEW DELHI, Aug 16 (IPS) - There are only estimates of the number of people facing the death sentence in India. The latest official figure is for Dec. 31, 2004 -- 563 people.

Amnesty International and People's Union of Civil Liberties (PUCL), an Indian rights watchdog, believe there could be between 3,000 and 4,000 today.

Their recent joint study -- a scrutiny of some 700 Supreme Court judgements over the last 56 years -- concludes the death penalty in India is a "lethal lottery". "The line between lack of information and secrecy is rather thin," says its main author, Bikram Jeet Batra, a lawyer and researcher, in an interview with IPS correspondent Ann Ninan.

IPS: Figures of the number of people sentenced to death or on death row are fuzzy in India. Is this indicative of secrecy or a general lack of information?

Bikram Jeet Batra (BJB): Secrecy in India is not of the same nature as, say, in China where information on the death penalty is a state secret. But it does appear that there is some effort to withhold information on the death penalty. The National Crime Records Bureau (NCRB) gives details of the number of persons sentenced to death and executed since 1995 in their annual "Prison Statistics", but claims to have no such information before that.

Since 1953, the very same NCRB has been publishing the "Crime in India" series with statistics on most offences. What this means is that while we can easily know the number of persons charged for forgery and those convicted for robbery in any of the years since 1953, we have no information on how many people were executed.

The line between lack of information and secrecy is rather thin.

IPS: Do you think innocent people may have been sentenced to death?

BJB: Of the 700-odd cases we studied for the Amnesty-PUCL report (The Death Penalty in India – A Lethal Lottery), in well over 100 cases people were acquitted by the Supreme Court after at least one of the lower courts had sentenced them to death. This leaves no doubt that innocent persons are sentenced to death.

Perhaps the most well-known case of an innocent person being hanged is Kehar Singh (in 1989) in the Indira Gandhi assassination case. Although it is still not officially accepted as an error, even many judges have agreed that the evidence in that case was shockingly insufficient and that an innocent man was hanged.

IPS: Is torture endemic in India and how does the Supreme Court react to allegations?

BJB: Torture is, in practice, an integral part of police interrogations. Unfortunately the judicial system does not take claims of torture very seriously. Even in cases where there is strong evidence of torture, the courts have turned a blind eye to it.

Although confessions are not admissible in courts anymore, there is a huge loophole: "discoveries" made by the police on the basis of "voluntary" information given by the accused are admissible evidence. For example, the police conveniently place weapons or other evidence at a certain location and "discover" these on the basis of a fabricated statement allegedly made by the accused. The courts are willing to accept the police testimony as "disinterested" or neutral, despite many well-documented instances that the police are not neutral -- particularly in cases where the bogey of national security and terrorism are raised.

IPS: Are many people being sentenced to death sometimes without adequate defence -- or even no legal defence?

BJB: Given how little legal-aid lawyers are paid, the bottom line is that most good and successful lawyers are unlikely to take up many legal-aid cases. That leaves usually the young and inexperienced or the unsuccessful lawyers taking up these cases. There are of course honourable exceptions, particularly in the Supreme Court. But most accused who are poor will invariably get inadequate legal defence in the trial court.

It is at the trial stage where all the evidence is required to be challenged. If this is not done properly, it is not easy for the evidence to be overturned in an appeal before the high court and the Supreme Court. While Afzal Guru's case (sentenced to death for the attack on Indian parliament in 2001) is well-known, the Amnesty-PUCL report refers to many cases of poor legal defence, including one where the accused were tricked into signing away their own land by their lawyer in the high court. There is no doubt that the conflict of interest may have played a vital role in the rejection of their appeal. The three men in this case were subsequently hanged.

IPS: Have children been sentenced to death?

BJB: In a number of cases there is strong reason to believe that juveniles were sentenced to death as the courts wrongly came to the conclusion that they were above 18 at the time of the offence. In fact, there is reason to believe that one of the accused presently on death row in the state of Uttar Pradesh was a juvenile at the time of the murder. His mercy petition is presently pending before the president of India after the courts rejected various petitions on his behalf, despite some of the judges themselves expressing concern of his youth.

IPS: Is there hope of abolition of the death penalty?

BJB: I think it is important to recognise the global move away from the death penalty. Despite what a small handful of nations say, there is no doubt that the absence of the death penalty from the International Criminal Court (set up in 2002 to prosecute the gravest cases of genocide and crimes against humanity) is a clear indicator of world opinion.

Last year the U.N. General Assembly passed a resolution calling for a global moratorium against the death penalty. India's vote against the resolution is an unfortunate result of short-sighted thinking. The Indian government (both the present and previous) has already shown that it is not keen to execute too many persons -- we have had only one execution since 1999. Supporting a call for a U.N.-led moratorium would be the obvious step forward -- along with setting up an inter-disciplinary commission to look into the question of abolition of the death penalty.

(END/2008)

DEATH PENALTY-CUBA: Sentences Commuted But Treatment Still Harsh

By Patricia Grogg

HAVANA, Aug 12 (IPS) - Prisoners in Cuba who were facing the death penalty but have had their sentences commuted to life imprisonment or 30 years in jail are still being treated like death row inmates, a dissident organisation complained on Tuesday.

"The announcement was made five months ago, but they're still being meted out the same punishment," Elizardo Sánchez told IPS after the launch of the Cuban Commission for Human Rights and National Reconciliation (CCDHRN)'s six-monthly report on human rights in this socialist Caribbean island nation.

Sánchez, the leader of the CCDHRN, said his statement was based on the testimony of family members and even some inmates who telephoned the organisation from jail.

The prison regime is austere, but the prisoners are allowed visits every four months, he acknowledged.

Cuban President Raúl Castro announced in late April that a group of convicts facing the death penalty, some of whom have been waiting for years for a pronouncement by the Council of State, will now serve life sentences or 30-year terms instead.

Sánchez said this decision was "positive," although he deplored the lack of "public information" about how many prisoners would benefit from the measure, and how many would serve 30 years or be behind bars for life.

"Our Commission had to make inferences to estimate that between 20 and 30 people sentenced to capital punishment had their sentences commuted, and about half of these will serve life sentences," says the CCDHRN report signed by Sánchez, where he is described as a "human rights observer and former prisoner of conscience."

The statement, distributed to foreign correspondents in Havana, says it is "disturbing" that prisoners who had their death penalties commuted are still being held under extremely harsh conditions, pointing out that some have been in isolation for more than 10 years.

The government's handling of the death penalty issue remains "very conservative," and there are still dozens of crimes to which capital punishment still applies. "It's a sword of Damocles hanging over Cubans," Sánchez said.

Nevertheless, the decision to commute the death penalty reaffirmed the de facto moratorium on capital punishment that has been in force in this country since 2003, after three men who hijacked a passenger ferry were executed by firing squad.

Since then no death sentences have been handed down by the courts and no new executions have been carried out.

The Cuban government argues in favour of keeping the death penalty on the books as a legal weapon to defend the country from foreign aggression and from possible domestic attempts to undermine the state, as well as to protect the population from the

most heinous crimes.

In line with this argument, Havana links the possible abolition of the death penalty to a cessation of the U.S. policy of "hostility and terrorism" and the four-decade U.S. economic embargo, according to official documents like a 2004 letter from Cuba to the United Nations Human Rights Council.

"We have been forced to choose, in legitimate defence, the route of establishing and enforcing severe laws against our enemies, but always strictly within the framework of the law and with respect for legal guarantees," Castro said in April at the closing session of a plenary session of the Communist Party Central Committee.

The Commission's report indicates that between January and July this year, the CCDHRN documented 219 cases of political prisoners, 15 fewer than the 234 it identified in 2007. But the real figure could be higher, due to the hermetic nature of the regime which does not permit "any kind of scrutiny," the dissident group says.

The authorities do not generally reply to the organisation's reports, nor do they provide any statistics on the prison population.

But Sánchez declared that "short-term" detentions have increased, and the CCDHRN has also documented mistreatment at the hands of the police, something he said had been avoided in the past.

The document names 219 people who are serving prison sentences or are awaiting trial, and also mentions 67 "Cuban prisoners of conscience adopted by Amnesty International who are still serving their sentences." Ten of these are under house arrest, rather than in prison, for health reasons.

The list includes three persons sentenced to death whose appeals to the Supreme Court will be analysed soon, Castro said in his April speech. Two are Salvadorans, Raúl Ernesto Cruz and Otto René Rodríguez, who were convicted of terrorism in 1998 after taking part in a series of bombings of tourist facilities in Cuba, one of which resulted in the death of an Italian businessman.

The third is Humberto Eladio Real, a Cuban arrested on Oct. 15, 1994 after disembarking on the island, committing a murder and stealing his victim's car. He was tried and convicted of murder and acts against the security of the state. (END/2008)

RIGHTS-ARGENTINA:

Last Vestiges of Capital Punishment Abolished

By Marcela Valente

BUENOS AIRES, Aug 8 (IPS) - The Argentine Congress eliminated the Military Code of Justice, thereby eliminating a special jurisdiction dating back to the 19th century, as well as burying the last vestige of the death penalty and ending punishment for homosexuality.

The Senate voted unanimously to revoke the Code, originally approved in 1895 and later converted into law in 1951, with very few later modifications.

Military crimes have now been incorporated into the standard Criminal Code, and a military criminal procedure in time of war has been created. In addition, a new disciplinary code excludes punishment for homosexuality, includes penalties for discrimination and sexual

harassment, and replaces time in the stockade or confinement with fines.

Until now, military personnel could be judged by their peers and did not have the right to a lawyer. Retribution for the most serious crimes -- treason, espionage, rebellion and mutiny -- was the death penalty, which does not exist in the country's civilian justice system.

Disciplinary action under the military code ran counter to respect for human rights as upheld by the constitution. Under the new law, approved on Wednesday night, which enters into force in six months' time, misdemeanours will merit a warning or fine, and the most serious crimes will result in dishonourable discharge.

"This law brings the military within the scope of the constitution. It's a big step forward for the democratisation of the armed forces and for the justice system in general," Gastón Chillier, the head of the Centre for Legal and Social Studies (CELS) and one of the legal experts who worked on the draft law, told IPS.

"It is a cutting-edge reform in Latin America," Chillier said. In some countries in the region, civilians may be tried by military tribunals, and in others common crimes may fall under military jurisdiction. "This is a better law, because it directly eliminates the special jurisdiction" of courts martial, he said.

New laws passed in 1984, during the administration of Raúl Alfonsín (1983-1989), gave civilian federal appeals courts powers to review the decisions of military tribunals.

This reform made way for the historic trials of the leaders of the 1976-1983 military dictatorship, accused of crimes that the courts martial had left unpunished.

But although the members of the dictatorship's military junta were convicted and sentenced by civilian courts, shortly afterwards they were pardoned and dozens of prosecutions were cut short under amnesty laws passed in the mid-1980s.

When the pardons and the amnesty laws were struck down in recent years, defence counsel for the accused military officers have continued to claim the jurisdiction of military tribunals, without success.

The repeal of Argentina's military code of justice and the extension of constitutional rights to the military sphere fulfils a commitment made by the government to the Inter-American Commission on Human Rights (IACHR), as part of an amicable settlement of a petition against the state brought to the IACHR by a retired military officer in 2004.

Army Captain Rodolfo Correa was arrested and sent to a military prison for 90 days in 1997 by a military tribunal, after testifying against superior officers in a civilian court in the case of the 1994 murder of a conscript soldier stationed at the same base.

Under the provisions of the military code that has just been repealed, he was not allowed a lawyer, and was not told what evidence was held against him.

Correa was captain of a regiment in Zapala, in the southern province of Neuquén, where soldier Omar Carrasco was murdered. Two soldiers and a junior officer were accused of the crime. The case caused such an outcry that the government of Carlos Menem (1989-

1999) was forced to end mandatory military service.

At his court martial, Correa was punished for publicly testifying about the responsibility of officers of higher rank in the murder and its cover-up. Shortly after, he retired from the army and became a lawyer.

Under the auspices of CELS and other jurists, Correa took his case to the IACHR, part of the Organisation of American States (OAS) justice system, in 2004. The petition maintained that Correa's punishment was unconstitutional because he was denied due process.

An amicable settlement of the petition was arrived at in 2006. The Argentine state apologised to Correa and promised to reform the Military Code of Justice. The Defence Ministry convened a group of military and civilian jurists which spent months working on the draft law.

One of the members of this group was Supreme Court Justice Eugenio Raúl Zaffaroni, a professor of criminal law.

In his view, just as the Criminal Code has special laws for prosecutors and judges, there should also be special laws for military personnel.

The law approved Wednesday provides that even in time of war, every effort should be made to use the ordinary justice system for cases involving military personnel. If that is not possible, the military judges in the case must abide by the Criminal Code, and their verdict will not be regarded as final until it has been ratified by a civilian court in peacetime. (END/2008)

Q&A:

'Many Would Prefer To Die Than Endure This' Interview with T. Akun, Kyrgyzstan's Ombudsman

BISHKEK, Kyrgyzstan, Aug 5 (IPS) - In the dungeons of Bishkek the summer temperatures are soaring. The air is thick and stagnant. Since the abolition of the death penalty, the threat of execution has been removed but inmates are living on the borderline of existence.

Kyrgyzstan's Ombudsman T. Akun, in an interview with IPS Central Asia correspondent Kuban Abdyman, tells of his immediate reform goals -- including bringing fresh air and paid employment to the former death row inmates.

IPS: It's almost two years since Kyrgyzstan became the second Central Asian nation to abolish capital punishment. Your critics argued then that you were giving up a deterrent to crime. Is it possible to assess now whether abolition has had any effect on the serious crime rate?

T. Akun (TA): That's a very difficult question to answer. There's been no research on this since the passing of new constitution excluding any mention of the death penalty. But we do know that the majority of the Kyrgyz population have supported death penalty abolition. They consider this as a step towards the democratisation of the country. It's quite another matter, though, whether those sentenced to death have welcomed abolition.

IPS: When the criminal code was amended last year to bring it in line with the constitutional ban on executions, it was set out that all the past death penalty verdicts should be revised. How are the courts progressing with this?

TA: In some cases the Kyrgyz courts have begun to revise of the old death penalty decisions to bring them into line with the constitution. However, the criminal code, as well as many other laws, is only now being coordinated with the constitution. As a consequence, not all past death penalties have yet been sent back for revision. The Kyrgyz Ombudsman institution is working on this issue because we are receiving a lot of applications. These are not just coming from inmates but also their relatives.

IPS: Did you have an opportunity to meet with death row prisoners before Kyrgyzstan abolished the death penalty?

TA: Unfortunately, I didn't have this opportunity before I became Ombudsman. I was appointed to this position by parliament only this year. Before that, I headed the commission on protection of human rights under the president of Kyrgyzstan. But I hope now to meet these inmates and play a useful role on their behalf.

IPS: Where are the former death row prisoners now being held?

TA: As far as I know, there have been no essential changes to where they were held before abolition. There are 136 prisoners in just one prison named SIZO-1, near Bishkek. It's a prison meant for just 32 inmates. In a second prison, SIZO-5, there are another 28. This has special two-man cells, though they hold three. In other cells there are even eight prisoners.

IPS: You hinted that there's been a mixed reaction to abolition from these inmates. What have you heard?

TA: Two years ago, the Ombudsman institution canvassed the views on death row. It found 125 prisoners were against the death penalty. But seven thought otherwise; they said it was inhumane to replace the death penalty with life imprisonment. They preferred execution to a life there in prison.

IPS: Did you question the death row inmates about anything else?

TA: We questioned them about their conditions in prison. In SIZO-1 they said they had access to a doctor after making a written application to the chief of a special unit. But sometimes they did not receive the appropriate treatment because of a lack of necessary medicines. They had no first-aid kits in their cells. But all had access to first-aid from a medical unit staffed with nurses. These also provided first-aid training. In the case of serious illness, inmates could be transferred to a medical unit or a separate cell. Those suffering from tuberculosis received a balanced diet, including sour milk products, oil and meat. We checked up on their diet. The prison administration does monitor the preparation and consumption of food. But because of lack of funding, the food is poor and monotonous; breakfast, liquid porridge from wheat; lunch, stewed cabbage, macaroni or borsch; dinner, a soup with ingredients defying the inmates' powers of description.

All these problems can be put down to the lack of state money. But one can expect that in the near future work will begin on a separate prison meeting international prison standards. At least, the minister of justice, Marat Kayipov, has spoken repeatedly of the necessity of building one.

At the moment, though, conditions do not meet "minimum international prison living standards". I have mentioned the reason for this. Our country is in the gradual process of democratising. But I do hope there will be an appreciable improvement.

IPS: Has there been any improvement in conditions since abolition?

TA: It's really impossible to say. As I have said, the conditions are minimal. Many inmates would prefer to die rather than go on enduring what they do. Their cells are approximately 16 square metres. The temperature in practically all cells is over 20 degrees. They are in the basement. There's no airing, installed ventilation or natural light. There is piped water and a toilet. It's possible to boil water and use electric stoves and radios; they can receive newspapers and books. But the prisoners have to pay for these facilities themselves or with the help of relatives.

IPS: Does the prison system have trained staff to prepare "lifers" for return to society?

TA: There's a need for professional training for wardens working with "lifers". But, unfortunately, in the absence of necessary financing Kyrgyzstan still has no specially trained prison staff.

IPS: There are a total of six articles in the revised criminal code providing for a life sentence. Isn't this extremely harsh?

TA: This really is too much. But Kyrgyzstan is moving forward and as it does, the public will see the need to reduce this number. You have to recognize that the death penalty, now replaced with life imprisonment, was not used for many years. The first steps towards the humanisation of criminal prosecution have already been made. I do think that in due course, Kyrgyzstan will have humane penal conditions for its prisoners. The Ombudsman institution will do everything to achieve this.

IPS: Have the families of those executed in the past now been informed where they are buried?

TA: State killings, even of the most hardened criminal, provoke different reactions. But it is inhumane towards the relatives of those executed to withhold information on where they have been buried. Up till now, I know of no case where the relatives have been informed on the location of the graves. All they have been told is that the execution has been carried out and issued with a death certificate.

IPS: Where are you intending to focus your efforts for reforms for the "lifers"?

TA: Prison conditions must be brought up to international standards. This means improving the sanitary conditions in the cells and the ventilation. As I said, there's no compulsory ventilation system to compensate for the lack of natural airing. This is intensifying the inmates' punishment, particularly in summertime.

As Ombudsman, I am going to press the government to introduce a system of paid employment for the prisoners. This would benefit the prisoners, the state and the society as a whole. The experience abroad has shown it can help with the maintenance of the prisons. It also helps realise the goals of the criminal justice. (END/2008)

News from International NGOs – August 2008

GRANT CLEMENCY FOR MENTALLY RETARDED MAN SENTENCED TO DEATH

Human Rights Watch (HRW) urged Aug. 1 in a letter to the Arkansas Parole Board and Arkansas Governor Mike Beebe to grant clemency to Frank Williams, Jr. - a mentally retarded man whose execution was scheduled for Sep. 9. Carol Chodroff, HRW's Advocacy Director, U.S. Programme said that in Williams' case, the death penalty was particularly inappropriate because of the clear evidence that he is mentally retarded and received ineffective assistance of counsel at his trial and in post-conviction proceedings.

The letter stated: "The inherent fallibility of all criminal justice systems assures that even when full due process of law is respected, innocent persons are sometimes executed. Advances in DNA evidence have yielded significant increases in exonerations from death row. Indeed, since 1973, 129 people in 26 states have been released from death row with evidence of their innocence. Because any miscarriage or failure of justice in the death penalty's implementation is irreversible, this evidence of fallibility in the system is particularly troubling."

HRW also expressed deep concern that racial discrimination enters into the determination of who is executed and who is allowed to live. According to the Death Penalty Information Center, in 96 percent of the states where there have been reviews of race and the death penalty, there was a pattern indicating either race-of-victim or race-of-defendant discrimination, or both.

MEXICAN NATIONAL EXECUTED IN TEXAS

A Mexican national who was not informed of his right to consular assistance after his arrest, was executed in Texas on Aug.

5, according to Amnesty International (AI). José Medellín was put to death in violation of the USA's international legal obligations and despite worldwide appeals for the execution to be stopped, including one from the UN Secretary-General, Ban Ki-moon. A last-minute appeal to the US Supreme Court was also unsuccessful, with the Court ruling 5-4 against a stay. The execution went ahead at around 10pm, about four hours later than scheduled. One of the Justices dissenting from the refusal to stop the execution wrote that to allow it to go forward would leave the USA "irremediably in violation of international law and break our treaty promises".

"The execution of José Ernesto Medellín Rojas by the state of Texas is a violation of international law," said Rob Freer, AI's researcher on USA. "It undermines the authority of the International Court of Justice (ICJ) which had ruled in favour of a stay of execution."

José Medellín was sentenced to death in 1994 for his part in the murders of two girls, 14-year-old Jennifer Ertman and 16-year-old Elizabeth Peña, in Houston in 1993. Medellín was never advised by Texas authorities of his right as a detained foreign national to seek consular assistance, as required under article 36 of the Vienna Convention on Consular Relations (VCCR). Because of this treaty violation, Medellín was deprived of the extensive assistance that Mexico provides for the defence of its citizens facing capital charges in the USA.

The Mexican Consulate did not learn about the case until nearly four years after Medellín's arrest. By this time, his trial and the initial appeal affirming his conviction and death sentence had already concluded. On Aug. 4, the Texas Board of Pardons and Paroles unanimously voted against recommending that the state governor commute the death sentence or grant a reprieve. Governor Rick Perry was left with the option of granting a 30-day stay of execution, and calling on the Board to reconsider, to comply with a recent ruling from the International Court of Justice (ICJ). He refused to do so, AI said.

The ICJ had ruled in 2004 that the USA violated its VCCR obligations in the cases of José Medellín and 50 other Mexican nationals on death row in the USA. The ICJ ordered the USA to provide judicial "review and reconsideration" of the convictions and sentences, to determine if the defendants had been prejudiced by the VCCR violations.

The Government of Mexico issued a statement after the execution, which it said had been carried out "in clear contempt" of the ICJ order. The statement continued: "The Government of Mexico sent the US Department of State a diplomatic note of protest for this violation of international law, expressing its concern for the precedent that it may create for the rights of Mexican nationals who may be detained in that country. The Ministry of Foreign Relations reiterates that the importance of this case fundamentally stems from the respect to the right to consular access and protection provided by consulates of every State to each of its nationals abroad."

AFRICA TAKES A GOOD LOOK AT THE DEATH PENALTY

The Working Group on the Death Penalty of the African Commission on Human and People's Rights (ACHPR) is in the process of putting together a far-reaching document on the death penalty in Africa to serve as a foundation for its work – with help from the World Coalition Against Death Penalty, the organisation said Aug. 5.

At its first meeting since its creation, in Swaziland last May, the Working Group decided to expand on the terms of reference for its mandate from an earlier draft. The new document will examine historical aspects of the death penalty on the continent from the pre-colonial period to this day and explore the legal context of capital punishment, both within Africa and internationally. It will also expose the arguments for and against the death penalty and the perspective of a moratorium and outline possible strategies for the ACHPR.

The World Coalition, which has observer status in the Working Group, was asked to provide information for the experts in charge of drafting the document. Liévin Ngondji of Culture for Peace and Justice, a DRC-based member organisation of the World Coalition, took part in the Swaziland meeting to this effect. The International Federation of Human Rights Leagues (FIDH), another World Coalition member, also has observer status. Information, including that provided by World Coalition members, is currently being compiled and the document will be discussed at an open forum in Kigali in November before the Working Group formally adopts it.

The ACHPR first mentioned the death penalty in a 1999 resolution, calling on all African states to : "a) limit the imposition of the death penalty only to the most serious crimes ; b) consider establishing a moratorium on executions of death penalty; and c) reflect on the possibility of abolishing death penalty." It then established the Working Group on the Death Penalty in 2005. According to a 2007 report by Lilian Chenwi, a researcher at the University of Pretoria's Centre for Human Rights, "placing the death penalty in the Commission's agenda and establishing the Working Group on the Death Penalty are major steps towards the abolition of the death penalty in Africa". However, she also wrote that "resources constraints are already hampering the functioning of the group".

IRAN'S SUSPENSION OF STONING EXECUTIONS A WELCOME STEP IF CARRIED OUT

Amnesty International welcomed first August week announcement by the spokesperson for Iran's Judiciary that execution by stoning has been suspended and that several unnamed women who were facing the punishment have had their sentences commuted. "Stoning is a

horrific practice, designed to increase the suffering of those facing execution, and it has no place in the modern world," AI said on Aug. 15. "We look to the Iranian authorities to ensure that this dreadful punishment is never again used."

The majority of those sentenced to death by stoning have been women. Women do not receive equal treatment with men under Iranian law and before Iranian courts. Also, because illiteracy is higher among women they may be more likely to sign confessions to crimes they did not commit and to receive unfair trials. "The suspension of stoning is a welcome, if long overdue step, and a tribute to the courageous efforts of Iranian Human rights defenders," said Drewery Dyke of Amnesty International's Middle East and North Africa Programme. "However, an earlier moratorium on stoning executions was breached, so we shall be watching closely to see that this does not happen again."

In 2002, the Head of Iran's Judiciary announced that the use of stoning as a method of execution had been halted. However, in May 2006, a woman and a man were reported to have been stoned to death in Mashad. A further stoning execution was carried out on 5 July 2007 when a man, Ja'far Kiani was executed in Qazvin province after being convicted of adultery. "It is really over to parliament [which is currently considering proposed new penal legislation] to reform the law and ensure that stoning executions are never again permitted," Drewery Dyke added.

The announced suspension of stoning follows concerted action by Iranian human rights defenders, who have mounted a Stop Stoning Campaign since October 2006. Their efforts, together with the local and international publicity they have generated and the support of Amnesty International and other organisations, is believed to have helped save at least five people from stoning. While welcoming the announcement on stoning, Amnesty International continues to call on the Iranian authorities to end other cruel and inhuman punishments, such as flogging and albeit rarely used provisions prescribing the amputation of limbs, and to take other steps to reduce use of the death penalty.

Iran's existing Penal Code provides for the execution by stoning as the penalty for adultery by married persons. It even states that the stones be large enough to cause pain, but not so large as to kill the victim immediately. Iranian human rights defenders continue to face arrest, harassment and intimidation at the hands of the authorities. Thirty-three women, including members of the Stop Stoning Forever campaign, were arrested while protesting in March 2007 about the trial of five women's rights activists in Tehran.

THAI SEMINARS EXPLORE RELIGIOUS PERSPECTIVES ON THE DEATH PENALTY

Thai human rights activists led by the Union for Civil Liberty (UCL) have been organising a series of seminars with religious leaders throughout Thailand to raise their awareness and discuss their perspectives on the abolition of capital punishment, the World Coalition Against Death Penalty reported Aug. 4. Four meetings on religious support for the abolition of the death penalty had taken place in the previous weeks at different locations in Thailand, with one more seminar scheduled in August. Between 25 and 80 people attended each of the events.

Buddhist monks and academics joined lawyers and human rights activists in Chiangmai on Jun. 30, in Ubon Ratchathani on Jul. 7 and in Bangkok on Jul. 15 and 16, while Muslim representatives and scholars attended another seminar on Jul. 12 in Bangkok. Discussions also took place between the UCL and Christian clerics. According to the 2000 census, Thailand's population is 94.6 percent Buddhist, 4.6 percent Muslim and 0.7 percent Christian.

Most of the Buddhist monks who attended the seminars said that they had not given much thought to the issue of the death penalty before, as it is important for them not to get involved in political issues. However, when confronted with the reality of capital punishment, they deemed it incompatible with Buddhist principles. Although Buddhists believe that those who behave badly will be punished, they reject any form of killing. They also promote the reformation of human beings who have committed evil acts, as illustrated in the story of Angulimala – a murderer who repented and became a monk after meeting the Buddha. "If we wish to promote Buddhism, and are Buddhists, we should abolish the death penalty to follow the Buddha," said one participant.

However, many expressed doubt that Thailand's society and legal system could get rid of the death penalty quickly, and made the point that the abolition of capital punishment should be part of a wider effort to reform society according to Buddhist principles. The participants in the seminar on Muslim perspectives, which took place at the Foundation of the Islamic Centre of Thailand, stressed that the death penalty in itself could not be abolished according to Islamic law. A legal scholar explained that capital punishment is enjoined in the Koran by the word of Allah and cannot be challenged. Although they disagreed with the Buddhist view that individuals can reform themselves, they shared the Buddhist view that "compassion and loving kindness" can lead to mercy.

A discussion took place on the Muslim practice of commuting a death sentence after the payment of compensation if the family of a murdered victim approve, and on the need for undeniable evidence involving four witnesses before a death sentence can be passed under Sharia law. A Muslim scholar later said that he would have no difficulty with the idea of a moratorium on the death penalty in the present rule of imperfect law.

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UN ENVOY NEEDED TO APPLY THE RESOLUTION, SAYS BONINO

"The moratorium was achieved, now it needs to be applied," Emma Bonino, Senate Vice President, said during a television interview, ANSA reported Aug. 30. "To this effect, on October 10, the World Day Against Capital Punishment, there will be a big initiative by the Chamber of Deputies, promoted by the other Radicals and Hands Off Cain, to ask the UN Secretary General to create a special envoy to travel the world and convince countries and parliaments to apply the Resolution on the moratorium in their territory," ANSA quoted her saying. "Certainly the role of Italy is important." Bonino then added that "the event on October 10 will be a big occasion for our country to confirm its rightful commitment' and one hopes that 'it is Italy that carries forward the battle to have this envoy." Regarding China that recently closed the Olympic Games, Bonino commented that "definite reform by Xiao Yang, the President of the Supreme Court, will evidently lead to a reduction in the number of death sentences, but in China it is more important to fight for greater transparency."

ELA GANDHI SIGNS APPEAL FOR NOT EXECUTING TAREQ AZIZ

Mahatma Gandhi's nephew, Ela Gandhi signed the appeal for Marco Pannella's non violent initiative for the 'Moratorium on capital punishment, even for Tareq Aziz'. Ela Gandhi signed after a meeting Aug. 25 with the Transnational and Transparty Non Violent Radical Party delegation at L'Aquila for the 714/a 'Perdonanza celestiniana.' The delegation was comprised of Pd Radical Parliamentarians Rita Bernardini, Maria Antonietta Farina Coscioni and Maurizio Turco. Democratic Party Parliamentarian Pierluigi Mantini also took part at the meeting.

FORMER IRAQI MINISTER SENTENCED TO DEATH

A former Iraqi cabinet minister was sentenced to death for ordering the murder of a Sunni politician's sons, CNN reported Aug. 23. Assad Kamal al-Hashemi, also a Sunni, resigned as culture minister and went into hiding in 2007 when he was first charged in the February 2005 attack on parliamentary candidate Mithal al-Alusi. Al-Alusi's two sons were killed in the attack. The Central Criminal Court of Iraq handed down a guilty verdict and death sentence in absentia for al-Hashemi, according to a court official. Two people who planned and carried out the attack confessed that they took orders from al-Hashemi, an Iraqi government official has said. The arrest warrant naming al-Hashemi was issued specifically for the killings of al-Alusi's sons, not the failed attempt against al-Alusi.

NIGERIAN MAN WITH 80 WIVES SENTENCED TO DEATH

An Islamic body in Nigeria issued a death sentence on a man who married 80 women when Islam allows a maximum of four, the Guardian newspaper reported, according to Montreal Gazette on Aug. 24. The Jamatu Nasril Islam, one of Nigeria's top Islamic bodies, said that Muhammadu Bello Masaba from the central Niger state stood condemned to death unless he divorced 76 of the women in four days.

MALIAN MAN BEHEADED IN SAUDI ARABIA

A Malian man convicted of serial robbery and attempted rape was put to death by the sword in Saudi Arabia's holy city of Mecca, Agence France Presse reported Aug. 30. Hashem Daghali Suma Molla Ismail was found guilty of breaking into a house while drunk and trying to rape a woman before stealing jewellery from her. He was also convicted of stealing from other houses, businesses and cars, the Interior Ministry said in a statement carried by the official SPA news agency.

PAKISTANI BEHEADED IN SAUDI ARABIA FOR MURDER

A Pakistani man convicted of murder was beheaded by the sword in Saudi Arabia's holy city of Mecca after the victim's family refused "blood money", Agence France Presse reported Aug. 30. Dousat Mohammed Mohammed Baksh was condemned to death for battering a Saudi man to death with stones during a dispute, the Interior Ministry said in a statement carried by the official SPA news agency. It said the victim's son refused blood money or compensation allowed under Islamic law and demanded that the Pakistani be executed.

IRAN 'HANGS MAN FOR MURDER COMMITTED AS MINOR'

Iran hanged a man Aug. 19 for a murder committed at the age of 15, in violation of an international convention on child rights, Agence France Presse quoted reports saying. Reza Hejazi, 20, was hanged in a prison in the central city of Isfahan

for stabbing a man to death in a fight in 2003, according to the reformist Etemad newspaper. The execution came as several prominent film stars were summoned before a Tehran court over the launch of a campaign to raise "blood money" to save the life of another man on death row for a murder he committed when he was 17. Shortly before Hejazi was to go to the gallows, prison officials agreed to his lawyer's request to stay the execution so that he could negotiate with the victim's family, Etemad said. But the authorities went ahead with the hanging later in the day in the absence of his lawyer and family.

IRAN CONDEMNS KURDISH ACTIVISTS TO DEATH

Two Kurdish activists were condemned to death in a closed court hearing in the Iranian city of Sanandaj, media reported Aug. 7. The activists, Anwar Hossein Panahi and Arsalan Oliiai, both teachers, were found guilty of collaborating with organisations considered illegal by Iranian authorities. In a report released the previous week the human rights organisation, Amnesty International expressed concern about the increased repression of Kurdish Iranians, particularly human rights defenders. "We urge the Iranian authorities to take concrete measures to end any discrimination and associated human rights violations that Kurds, indeed all minorities in Iran, face," Amnesty said in its report.

AN INDIAN MAN GETS DEATH SENTENCE FOR DRUG PEDDLING

In only the second case of its kind in Ahmedabad state, a man was sentenced to death by a Nadiad fast track court on Aug. 29, Times of India reported Aug. 31. The convict, Anwar Shaikh Baig alias Raju Male, 30, a resident of Ahmedabad, was sentenced to death. According to Narcotics Control Bureau (NCB) officials, Baig was nabbed by seluths in July 2003 with a consignment of 40 kgs of charas when he was crossing Gujarat border near Balasinore. It was not his first offence. "Baig and his accomplice were arrested for trafficking 8 kgs of charas in November 1999. He was booked and sent to prison for ten years. However, he jumped his parole and started trafficking charas," said Ayushmani Tiwari, zonal director of NCB. Hidayat Khan Pathan and Gani Mohammed Shaikh, his accomplices, were awarded ten years' imprisonment and Rs 1 lakh fine.

PAKISTAN JERGA PUBLICLY EXECUTES 80-YEAR-OLD IN TRIBAL AREA

An octogenarian man was shot dead in public on the orders of a local jirga that found him 'guilty' of kidnapping a girl in the Kala Dhaka tribal area in Pakistan, BBC reported Aug. 8. Ramoos Khan, 80, allegedly kidnapped the daughter of Adil Mohammad two weeks earlier and reportedly sold her in the Allai area of Batagram district. The girl's family approached the Tilli Sydain jirga, when the accused returned to the area. The jirga found the elderly man "guilty" of kidnapping and selling the girl and ordered the execution. Zargul Khan, a former member of provincial assembly from Kala Dhaka said that the accused, Ramoos Khan, was shot dead in the presence of locals on the orders of the jirga after he "confessed" to having committed the crime.

TWO VIETAMESE SENTENCED TO DEATH FOR HEROIN DEALING

A court in Vietnam sentenced two people, including a woman, to death and jailed three others for trafficking heroin, the judge in the case said, Agence France Presse reported Aug. 28.

Ho Chi Minh City restaurant owner Dang Thi Nguyet, 58, and her male drug supplier Nguyen Van Lap, 32, received the death penalty in a one-day trial in the southern city. Two of Nguyet's sons, who had helped her sell heroin from the restaurant, received life prison terms, after her third son had died in custody since their arrests in October 2005. Another man was sentenced to 20 years in jail. They had been caught with 1.7kgs of the drug.

INDONESIA EXECUTES MAN FOR SERIAL MURDERS

Indonesia executed a man sentenced to death seven years ago for murdering four people, despite a call from international human rights groups to halt the execution, Earth Times reported Aug. 8. Rio Alex Bulu, 30, was executed by firing squad overnight in an open field in the Central Java district of Banyumas, said Sutrisno, an official at the provincial prosecutors office. Rio's body was handed over to his family for burial. Rio was sentenced to death by the Purwokerto district court in May 2001 for murdering a lawyer and three drivers from 1997 to 2001. While serving his sentence on Nusakambangan Island, off the southern coast of Central Java, he also killed a fellow inmate. Former president Megawati Sukarnoputri turned down Rio's request for clemency in 2004, and the Indonesian Supreme Court turned down his final appeal for a case review in April.

TRINIDAD & TOBAGO: 52 ESCAPE DEATH ROW

Fifty-two people in Trinidad & Tobago convicted of murder had their death sentences commuted to life imprisonment after Justice Nolan Bereaux at the Port-of-Spain High Court ruled in favour of a Constitutional motion brought by the prisoners, that they be removed from Death Row. Among them are female prisoners Chandroutie London, Natasha De Leon and Parbattee Dass, Newsday reported Aug. 16. London and her husband Kenrick were sentenced to death on April 4, 2003, for the killing of their five-month-old baby Vidya, who was thrown into a latrine pit while she was still alive. The prisoners who were convicted for some of the most gruesome killings will now spend their lives in prison. Filed on June 13, 2005, the motion was brought by Death Row prisoners Andrew Dottin, Mark Teeluck, Ramsingh Teeluck and Kelvin Dial on behalf of all prisoners sentenced to death before July 7, 2004.

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