

## DEATH PENALTY REPORT MID SEPTEMBER-OCTOBER 2016

---

*Date format: day/month/year*

### International Update (8.September – 12 October 2016)

- **Indonesia**
  - 8.9.16 - Criminal Law expert Muladi has said the Criminal Code inherited from the Dutch colonial era, which specifies the need for 'retribution' makes it unlikely that Indonesia could abolish the death penalty. In addition, the majority of Indonesians are Muslim, a religion which gives legal sanction to the death penalty. He does, however, go on to say that the current draft revision of the Code would rule out the death penalty for 'primary offences', restricting its imposition to 'extraordinary crimes'. The proposal would then be that any perpetrator of an 'extraordinary crime' should be given a 10-year probationary period. If at the end of the 10 years and they were judged to have been 'rehabilitated', their sentence would be reduced to life imprisonment or 20 years. (Source: The Jakarta Post)
  - 8.9.16 – Former National Commission on Human Rights Commissioner, Irdhal Kasim, has said Indonesia should not impose the death penalty unless it could ensure all defendants had received a fair trial. He said also the death penalty should be limited to 'serious crimes'. He did not believe drugs-related offences could be so classified as the negative impacts were confined to drugs users. (Note: According to the ICJR, 54 people were sentenced to death in between January 2015 and June 2016 – the majority for drug crimes. (Source: The Jakarta Post).
  - 8.10.16 – Supriyadi Widodo, Executive Director of the Institute for Criminal Justice Reform, (ICJR) has called for President Joko Widodo to issue a moratorium on the death penalty in the Government's forthcoming legal system reform package. He says, as the most severe criminal punishment, the death penalty must have a different standard from other punishments. A moratorium should be established until there are 'guarantees of effective legal assistance, no torture, strong evidence standards and legal certainty in the context of the law.' Note: Indonesia has been under international scrutiny following the executions of 18 prisoners convicted of drug-related crimes, and allegations of unfair trials.
- **Cyprus** – 9.9.16 – The House Plenum approved a Constitution amendment that would remove the possibility of legislation to impose the death penalty for specific crimes. (Note: The death penalty was abolished for all crimes in 2002 but at the time the Constitution was not amended). (Source: *Cyprus Mail*).
- **China** – 12.9.16 – The Government of China, believed to execute more people than the rest of the world combined, has claimed its use of the death penalty is restricted to 'a very small number of extremely serious criminal

offenders'. A report has been issued stating 'the authorities strictly control the death penalty and employ it with prudence'. A legal revision in 2015 removed a number of offences from the list of those punishable by death, but the Country continues to impose death sentences on those convicted of a considerable number of crimes, including treason, separatism, spying, arson, murder, rape robbery and human trafficking. HR Groups, including AI, say that death sentences are often issued after unfair trials, and too much weight is given to confessions obtained through torture. (Source: *The Indian Express*).

- **USA**

- *Support for the death penalty* – 29.9.16 – [The Pew Research Centre](#) has published a report showing the numbers of Americans who support the death penalty for those convicted of murder is now 49%, ie below half and the lowest figure for more than 4 decades. Please see the full report for details and figures based on politics, religion, age, education and ethnicity.
- *Nebraska* – 14.9.16 – In 2015 the Senate voted to repeal the death penalty, some Senators because of the cost, some through a conviction that it was wrong for the Government to kill its citizens. Governor Pete Ricketts, however, vetoed the decision, saying the death penalty gave justice to the families of victims. A ballot is to be held on 8<sup>th</sup> November to establish whether the death penalty should be retained for 'heinous crimes'. (Source: *The Economist*)
- *Texas* –
  - 20.9.16 – A report by the non-profit *Texas Defender Service* highlights 'multiple and severe' flaws in the appeals system that could result in innocent people being executed. These flaws include poor representation, plagiarised 'boiler-gate' legal arguments, cases where attorneys did not visit their clients, missed filing deadlines and even missed court hearings. (Source: *Houston Chronicle*).
  - 5.10.16 – The Supreme Court has reviewed the case of *Duane Buck*, whose sentence to death followed the Psychologist Walter Quijano's testimony that black defendants are more dangerous than whites. There is little doubt that the Court will support a new court hearing, but it is unclear whether it will throw out his sentence or order a new hearing.
  - 5.10.16 – Having instructed his lawyers not to file a last-minute appeal, *Barney Fuller* (convicted of murder) was executed by lethal injection. This has brought to an end a six-month period without executions. 253 prisoners remain on death row, with two further executions scheduled before the end of the year. (Source: *The Guardian, The Daily Mail*)

- 5.10.16 – *Judge Elsa Alcalá* has expressed concern at ‘serious deficiencies’ in the State process, citing the poor quality of defendants’ lawyers in the course of the trials and subsequent appeals. (Source: *The Guardian*)
  - *California* – 30.9.16 – Voters are to decide on 8<sup>th</sup> November between repealing the death penalty all-together, or retaining it but accelerating the process, and requiring prisoners on death row to work in prison, and to pay restitution to victims’ families. (Source *Mic Daily*)
  - *Oklahoma* – 30.9.16 – Voters will decide on 8<sup>th</sup> November whether or not the death penalty is a ‘cruel and unusual punishment. (Source: *Mic Daily*)
  - *Ohio* – 3.10.16 – Ohio announced plans to resume executions in January 2017, using a 3-drug combination. The State had halted executions in 2014 following the alleged suffocation during the prolonged execution of Dennis McGuire, when a 2-drug cocktail had been used. The first execution will be that of Ronald Phillips, with two more planned for February and March. Attorneys representing prisoners on death row will be filing a new challenge to the plans.
  - *New Mexico* – 6.10.16 – The State House of Representatives voted by 36 to 30 to restore capital punishment by lethal injection for those convicted of killing children or police and corrections officers. Deliberations commenced at 2.45 am, and continued throughout the night, with many Democrats reportedly accusing the Republican majority of timing the vote to avoid public scrutiny. The measure will now go before the State Senate, where there is a Democrat majority, so the final outcome is uncertain.
- **UK** – 15.9.16 – International Development Secretary, Priti Patel, who said 5 years ago that she supported the death penalty, has said she no longer takes this view. (Source: *Mirror.Co.UK*)
- **Sierra Leone** – 15.9.16 -The International Affairs Minister, Paolo Conteh, has called for the death penalty to be reinstated for people found guilty of murder in order to curb gang violence. (Note: Sierra Leone has retained the death penalty for those convicted of murder and treason, but has executed no-one since 1998. (Source: *World Bulletin*).
- **Sudan** – 21.9.16 – The trial of Rev. Abdulraheem Kodi and Rev. Kuwa Shamal Abu Zuman has begun. Charged last December with a number of offences, including waging war against the State, espionage and undermining Sudan’s constitutional system, they could face the death penalty if found guilty.
- **Japan** - 21.9.16 -Due to concerns over miscarriages of justice, the Japan Federation of Bar Associations (37,000 lawyers and many other legal



professionals) have said that, for the first time, in early October they will declare their legal opposition to capital punishment. This opposition will be at odds with Prime Minister Shinzo Abe, whose administration has executed 16 people since it took office in late 2012. (Source: *South China Morning Post*) **Note: The Salisbury Group are**

**currently campaigning on behalf of death-row prisoner Matsumoto Kenji).**

- **Philippines** – 23.9.16 – Officials are reported to be considering bringing back the death penalty to enable them to execute Peter Scully, and Australian accused of sex attacks on children. (Source: *Yahoo News*). Note: the 1987 Constitution prohibited the death penalty but allowed for Congress to reinstate it 'hereafter' for 'heinous crimes'.
- **Zimbabwe** – 25.9.16 – The Constitutional Court will sit this week to hear the cases of Farai Lawrence Ndlovu and Wisdom Gochera's appeal to have their death sentences commuted to life imprisonment. No executions have taken place in Zimbabwe since 2003, and a new Constitution has given a reprieve to those under 21 and over 70 at the time of the crime. Human Rights defenders, including Amnesty International, are now calling for an official moratorium to be declared, with a view to the abolition of the death penalty.
- **Pakistan** – 27.9.16 – Imdad Ali, sentenced to death for the killing of a religious teacher in 2002, has lost his second appeal for the suspension of his execution on the grounds of his mental health. He has a history of paranoid schizophrenia, and this diagnosis was not disclosed to the Supreme Court at the time of his first appeal in 2015. His execution was scheduled for 20<sup>th</sup> September but was stayed to enable the Supreme Court to consider this evidence. Despite this evidence, the Court have rejected the appeal. (See Urgent Action below).
- **Iran** – 1.10.16 – the US and EU called for the release of Narges Mohammadi, journalist and activist, whose 16-year sentence for founding a movement against the death penalty was recently upheld by the Iranian Courts.
- **Saudi Arabia** – 7.10.16 – The United Nations called on Saudi Arabia to repeal laws that allow stoning, amputation, flogging and execution of children. Children over the age of 15 are tried as adults and can be executed. According to the UN Committee, of the 47 people executed on 2<sup>nd</sup> January for security offences, 4 were under 18. The Saudi HR Commission responded to the UN Committee's findings that Islamic Sharia Law was above all laws and treaties, including the Convention on the Rights of the Child.
- **World Day Against the Death Penalty – 10.10.16**
  - A joint declaration by the *EU* and the *Council of Europe* reaffirmed their strong and unequivocal opposition to capital punishment in all circumstances and for all cases. The death penalty was incompatible

with human dignity, had no proven significant deterrent effect, and allowed judicial errors to become irreversible and fatal. (Note: the abolition of the death penalty is a prerequisite for the membership of the Council of Europe, and an absolute ban is inscribed in the Charter of Fundamental Rights of the European Union. (Source: *EU News*)

- The Head of the Delegation of the EU to *Lebanon*, Christina Lassen, urged Lebanon to abolish the death penalty. (Note: the last execution in Lebanon took place in 2004, but death sentences continue to be imposed.) (Source: *The Latin American Herald Tribune*)



- The UN Secretary General, Ban Ki-moon (pictured), stated that death sentences for terrorism are often imposed after unfair trials. While 65 countries retain the death penalty for terrorism-related offences, experience shows that executing 'terrorists' mostly fuels propaganda for their movements by creating 'martyrs'. He said the

death penalty has no place in the 21<sup>st</sup> Century – 'To be legitimate and effective, counter-terror measures, like all security operations, must be anchored in respect for human rights and the rule of law.'

(Note: According to UN experts, a number of countries have introduced or expanded the scope of capital punishment for terrorism-related offences. In 2015 the death penalty was imposed for such offences in at least 7 countries, mainly in the Middle East and North Africa.) (Source: *Mail Online*)

- The Head of the EU Delegation to *Belarus*, Andrea Wiktorin, urges Minsk to introduce a moratorium on the death penalty as a step towards its further abolition. Belarus is the only European country practising capital punishment. Activists report that 2 people have been executed since the beginning of 2014, with 2 more – sentenced in 2013 – on death row. (Note: According to the Country's Constitution, the death penalty is a 'temporary measure'. (Source: *Sputnik International*)
- 11.10.16 – Nigel Evans, MEP for the Ribble Valley, has backed calls for a global ban on the death penalty and made a plea to America and China to join the 2/3 of other states which have banned capital punishment. He said the death penalty was a denial of a person's right to life and there was no certainty a mistake had not been made. He was particularly concerned that the death penalty was employed in

countries such as Yemen and Sudan for homosexuality, which should never be a crime.

## Urgent Actions

- **Pakistan** – UA 222/16 – Despite a diagnosis of paranoid schizophrenia, Imdad Ali, has lost his appeal to the Supreme Court. His lawyers have now submitted a petition for mercy to the President, who has the direct authority to commute his death sentence. (*Circulated to DPLWG – 4.10.16*)  

- **Japan** – an email action was received on World Day from AI in Australia for 13 death row prisoners, members of the Aum Shinrikyo cult, convicted of involvement in the 1995 gas attack on the Tokyo subway. (*Circulated -10.10.16*)
- **Iran** – UA 227/16 – Zeinab Sekaanvand Lokran, an Iranian Kurdish woman, aged 22, is at imminent risk of execution following an unfair trial, at which she was convicted of the murder of her husband. Married at 15, she says she was abused by her husband and tortured into confessing his murder. She was under 18 at the time of the alleged crime. Subsequently marrying a prisoner, she became pregnant but lost the baby. She has received no medical or psycho-social report. (*Circulated to DPLWG 11.10.16*) *This month's Group DP Urgent Action*) Note: Email and text versions of this UA were received on 12.10.16.

## Campaigning

- **Word Day Against the Death Penalty** – 50 cards for Matsumoto Kenji were signed at the Conference held by the Salisbury Group of NWR<sup>1</sup> on 8<sup>th</sup> October. Although a street signing might have resulted in a greater number of cards, the response of the delegates was both informed and positive, with significant numbers taking additional information about Amnesty and the Group away with them. The majority were unaware that Japan continued to use the death penalty.  

- **Reggie Clemons** – The Group have now learned that Reggie is to face two trials next year – one a re-trial for the murders of the two sisters in 1991, and a trial in which he faces new charges of rape and robbery. Jury selection for the murder trial is set for 23<sup>rd</sup> February, 2017, with opening arguments expected on 27<sup>th</sup> February. The prosecuting attorney will be seeking the death penalty. The second trial is set for 20<sup>th</sup> March. (Note: Under Missouri law in effect at the time of the alleged crime, a first-degree murder charge must be tried separately.)

---

<sup>1</sup> National Women's Register

Reggie asked to be moved from the Potosi Correctional Center to the St Louis City Jail, and is expected to remain there until and for the duration of his trials.