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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Joint written statement* submitted by Advocates for Human Rights, Amman Center for Human Rights Studies, Ensemble contre la Peine de Mort, International Federation for Human Rights Leagues, International Federation of ACAT (Action by Christians for the Abolition of Torture), International Harm Reduction Association (IHRA), Reprieve, Union Internationale des Avocats - International Union of Lawyers, non-governmental organizations in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[04 June 2020]

* Issued as received, in the language(s) of submission only.

COVID-19: CALLING FOR A WORLDWIDE MORATORIUM ON THE DEATH PENALTY WHEN STATES ARE TRYING HARD TO SAVE LIVES AND WHEN FAIR LEGAL REPRESENTATION IS IMPOSSIBLE

The World Coalition against the Death Penalty and supporting member organizations welcome the Report by the Special Rapporteur on extrajudicial, summary or arbitrary executions.

COVID-19 makes fair legal representation impossible

On 5 May 2020, following a trial in the Ikeja Court in Lagos, Nigeria, a man was sentenced to death for a murder committed in December 2018. The trial lasted only three hours and the sentence was handed down by videoconference via the Zoom app¹. 10 days later, using the same app, a Singaporean judge remotely sentenced a man to death by hanging for drug trafficking.² Since last November, the whole world has been living through a situation that is exceptional and has revealed to what extent public health is a major imperative. And while the situation has justified emergency measures, infringements on individual freedoms, and a freeze on most economic activities, the archaic, cruel and degrading practice of capital punishment is still being used.

COVID-19 makes access to prison and access to justice impossible

In Iran, convictions, although less frequent, have not ceased. In 19 Corrections Systems in the United States, because of the coronavirus, people sentenced to death can no longer receive any visits; in 33 other Corrections Systems, they are only permitted to see their lawyer.³ It is understandable that those sentenced to death should be kept safe from contamination (albeit rather cynical from a system that claims it wants to keep those incarcerated in good health until they are put to death by lethal injection). Yet this also results in increased suffering, endured by people on death row, their families and lawyers, who need to adapt to these restrictive conditions, which are worse than normal.⁴ In China, in 2020, as usual, we will have no accurate figures on executions. While some countries now sentence by videoconference, in others the prison restrictions have seriously infringed the rights of those awaiting execution because courts are stalled and law firms are closed. Options to help people whose lives are at risk are decreasing.

Executions in times of pandemic

One would have imagined that given the health crisis, countries worldwide would at least stop executing, if not handing down death sentences, but this has not been the case. There has been one execution in Taiwan on 1st April, one in Bangladesh on 11 April, three in Botswana on 28 March, four in India on 20 March, and in two months, twelve in Egypt, at least eighty-seven in Iran, up to eight in North Korea, at least twelve in Saudi Arabia, eight in Somalia, and six in the United States⁵ where the last one, in Missouri, was carried out while respecting social distancing measures...⁶

Commutations, pardons and reduction of scope of the death penalty

In this dire situation, which adds death to more death, there are some examples for hope. On 15 April, the Cameroonian President promulgated a decree granting pardons and commutations which also extended to those sentenced to death. Their sentences will be commuted to life imprisonment and those whose death sentence had already been commuted to life imprisonment will now see their sentences reduced to 25 years. Furthermore, those sentenced to death and having already benefited from a commutation of sentence will be granted a 5-year remission. Zimbabwe has also commuted the death sentences of people who had been sentenced over ten years ago. Kenya has released eight people who were on death row. In Chad, a new law on terrorism was unanimously adopted, removing the possibility of punishing those who are found guilty of "terrorist acts" with the death penalty. Saudi Arabia has finally banned the execution of juveniles, although we should not be too quick to rejoice because this only concerns a certain type of crime, the crimes of Ta'zir and not those

1 <https://guardian.ng/news/man-gets-death-sentence-as-lagos-holds-virtual-court-session>

2 <https://www.hrw.org/news/2020/05/27/singapore-judge-issues-death-sentence-zoom>;
<https://www.amnesty.org/en/press-releases/2020/05/singapore-death-sentence-zoom/>

3 <https://www.themarshallproject.org/2020/03/17/tracking-prisons-response-to-coronavirus>

4 <https://www.themarshallproject.org/2020/03/17/tracking-prisons-response-to-coronavirus>

5 <https://dpw.pointjupiter.co/country-search-post.cfm?147-9chk=on>

6 <https://deathpenaltyinfo.org/executions/upcoming-executions#year2020>

of Hudud or Qisas, the classification being at the discretion of the judge.⁷ In Morocco, thanks to civil society pressure, 5,654 and 483 vulnerable prisoners have been pardoned, including a woman sentenced to death.

Calling for concrete measures to guarantee the right to a fair trials and the right to legal representation during COVID-19, including by extending the time limits within which people sentenced to death can file an appeal and by imposing a moratorium on all sentences and executions

The current global health crisis has demonstrated how profoundly unfair the system has been on people already weakened by their heavy sentence. A lack of visits to people on death row and the inability for lawyers and judges to work normally are all unfair consequences of an ill-equipped system. By comparison, those countries that have had the courage during this time to take a step, big or small, towards abolition shows that our world is made better without this punishment, which should have been long consigned to the history books. States, which already have considerable work to do in coordinating public health efforts, have better things to do than to execute those convicted of a crime under the false pretext of satisfying public opinion. Public opinion which is, most of the time, ill-informed and even instrumentalized.

Against the nationalist retreat of States that do not respect international human rights, during a time when many feel that we can regress or, conversely, use the crisis to move more quickly towards the universal abolition of the death penalty, we call on all retentionist States to commit to extending the time limits within which people sentenced to death can file an appeal and to apply a moratorium on death sentences and executions.

This 10 October, civil society will mobilize to celebrate the 18th World Day Against the Death Penalty, which will focus on the right to legal representation and highlight the role of lawyers in protecting those facing the death penalty. A right that is fractured by the health crisis since lawyers are less able to assist their clients and who are also economically weakened.

The World Coalition Against the Death Penalty, Abdorrahman Boroumand Center for Human Rights in Iran, ACAT-France, Anti Death Penalty Asia Network (ADPAN), Arab coalition against the death penalty (ACADP), Association Justice & Mercy (AJEM), Avocats Sans Frontières France, Barreau de Paris, Capital Punishment Justice Project (CPJP), Cornell Center on the Death Penalty Worldwide, Children Education Society (CHESO), Coalition marocaine contre la peine de mort, Coalition tunisienne contre la peine de mort (CTCPM), COJESKI-RDC, Culture pour la Paix et la Justice (CPJ), Death Penalty Focus (USA), FIDU - Federazione Italiana Diritti Umani, Forum Marocain Vérité et Justice (FMVJ), German Coalition to Abolish the Death Penalty (GCADP), Hands off Cain, HURILAWS (Nigeria), Inmates' Voices, Japan Innocence and Death Penalty Information Center, Jordan Coalition against the death penalty (JCADP), Justice Project Pakistan, Kenya Human Rights Commission, Lawyers For Human Rights International (INDIA), Legal Awareness Watch (LAW), Lifespark, Magistrats Européens pour la Démocratie et les Libertés (MEDEL), Malaysians Against Death Penalty and Torture (MADPET), Observatoire Marocain des Prisons, Parliamentarians for Global Action (PGA), Planète Réfugiés-Droits de l'Homme, Puerto Rico Bar Association, REJADD TOGO, REPECAP, Rescue Alternatives Liberia (RAL), SHRDO (Sierra Leone), SYNAFEN (Niger), Taiwan Alliance to End the Death Penalty, Texas After Violence Project, The Rights Practice, Witness to Innocence NGO(s) without consultative status, also share the views expressed in this statement.

⁷ https://www.lemonde.fr/international/article/2020/04/27/apres-la-flagellation-l-arabie-saoudite-abolit-la-peine-de-mort-pour-mineurs_6037828_3210.html