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Office



Foundation for Human  
Rights Initiative



## CONFERENCE REPORT

**“Progressing toward abolition of the death penalty and alternative sanctions that respect international human rights standards”**

**19 to 20 September, 2011**

**EC Representation to the UK  
32 Smith Square, London SW1P 3EU  
United Kingdom**



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## INTRODUCTION

Over the past 20 years Penal Reform International (PRI) has undertaken a number of initiatives at the national, regional and international level to support abolition of the death penalty, and implementation of alternative sanctions that respect international human rights norms and standards.

PRI's current programme of work aims to positively challenge society's attitudes in relation to the effect and efficacy of the death penalty and to support governments and other stakeholders in progressing towards abolition through legal and policy reforms. It aims to challenge the unacceptable forms of life imprisonment and life without the option of parole as an alternative sanction to the death penalty, and to increase human rights safeguards and promote better transparency and accountability in criminal justice systems.

The programme of work is being carried out in 17 countries across 5 regions: Central Asia (Kazakhstan, Kyrgyzstan and Tajikistan); East Africa (Kenya and Uganda) with project partner Foundation for Human Rights Initiative (FHRI) based in Kampala (Uganda); Eastern Europe (Belarus, Russia and Ukraine); Middle East and North Africa (Algeria, Egypt, Jordan, Lebanon, Morocco and Tunisia); and South Caucasus (Armenia, Azerbaijan and Georgia).

To consolidate the outcomes of PRI's global programme of work, a global conference was convened in London (United Kingdom) on 19 and 20 September, 2011. This conference was part of a series of activities organised by PRI and its partners to provide a platform for debate and discussion, to increase public awareness, and exchange experiences and lessons learned.

The conference was hosted by the European Commission Representation in the United Kingdom and was implemented with the financial assistance of the European Union, under the European Instrument for Democracy and Human Rights (EIDHR), and also with the financial assistance of the British Foreign and Commonwealth Office (FCO).

The conference brought together over 100 representatives from 31 countries representing government, judiciary, lawyers, National Human Rights Committees, prison officials, academics, penal reform and justice experts, inter-governmental organisations (UN, OSCE, ACHPR, EU, ICDP), international NGOs, and other key global stakeholders working in the fight against the death penalty.

The conference concluded with the adoption of the London Declaration. The London Declaration echoed the determination of all participants to move towards the abolition and humane alternative sanctions, and called upon all retentionist states to take action to implement a moratorium on executions and sentencing, to work towards full abolition of the death penalty, and implement alternatives that are fair, proportionate and respect international human rights.

This conference report has been produced with the financial assistance of the European Union and the Foreign and Commonwealth Office. The contents of this document are the sole responsibility of Penal Reform International and can in no circumstances be regarded as reflecting the position of the European Union.

***Jacqueline Macalesher***  
**Death Penalty Project Manager**  
**Penal Reform International**

## London Declaration

The participants of the London conference<sup>1</sup> “Progressing toward abolition of the death penalty and alternative sanctions that respect international human rights standards” held on 19 and 20 September 2011, at the European Commission’s Representation to the United Kingdom, organised by Penal Reform International are,

- *Convinced* that the death penalty undermines human dignity and can amount to cruel, inhuman and degrading treatment or punishment;
  - *Noting* that there is no convincing evidence that the death penalty deters criminal behaviour any more effectively than other punishments;
  - *Recalling* that where the death penalty is retained at all, it should only be imposed for the “most serious crimes”<sup>2</sup>, and after a fair trial<sup>3</sup> has been granted to the accused;
  - *Mindful* that the death penalty creates additional victims – the family members of those who have been executed – who are often forgotten, marginalised or stigmatised by society;
  - *Mindful* that the essential aim of the penitentiary system should be the “reformation and social rehabilitation”<sup>4</sup> of prisoners;
1. *Call upon* those states that still retain the death penalty, pending full abolition, to:
    - a. fully comply with the United Nations General Assembly Resolutions 62/149 (2007), 63/168 (2008) and 65/206 (2010) calling for a moratorium on executions;
    - b. ensure that laws and policies at the very least fully comply with the UN Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty<sup>5</sup>;
    - c. reduce the number of death penalty applicable crimes to only the “most serious crimes”, which is limited to an intention to kill resulting in a loss of life;
    - d. abolish mandatory death sentences, and establish sentencing guidelines for capital cases where there are none;

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<sup>1</sup> Over one hundred participants attended the conference, including government officials, and representatives of civil society and inter-governmental organisations from 31 countries (Algeria, Armenia, Austria, Azerbaijan, Bangladesh, Belarus, Belgium, Canada, China, France, Georgia, Jordan, Kazakhstan, Kenya, Kyrgyzstan, Lebanon, Morocco, Nigeria, Poland, Qatar, Russia, Switzerland, Syria, Tajikistan, Tanzania, Tunisia, Turkey, Uganda, Ukraine, United Kingdom and United States of America).

<sup>2</sup> Article 6(2), *International Covenant on Civil and Political Rights (ICCPR)*, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 and entry into force 23 March 1976, in accordance with Article 49.

<sup>3</sup> Article 14, ICCPR

<sup>4</sup> Article 10(3), ICCPR.

<sup>5</sup> Approved by the UN Economic and Social Council resolution 1984/50 of 1984.

- e. prohibit the use of the death penalty against juveniles, persons who were juveniles at the time when the crime was committed, pregnant women, mothers with young children, and those suffering from mental disabilities;
  - f. provide training for judges and professionals working in the criminal justice system to ensure they are fully aware of the relevant international standards relating to the death penalty;
  - g. provide education programmes and awareness raising activities to ensure people are generally aware of the human rights standards, which apply to the death penalty.
2. *Call upon* those states that have an official or *de facto* moratorium on executions, or a partial abolition, to:
  - a. establish a moratorium on sentencing;
  - b. commute sentences for prisoners on death row, taking into consideration the time already spent in prison;
  - c. take the necessary steps through legislative or constitutional reforms to abolish in law the death penalty for all crimes.
3. *Call upon* those states that have abolished capital punishment to enact legislation guaranteeing that it cannot be re-instated.
4. *Recall* the International Covenant on Civil and Political Rights, the Second Optional Protocol to the International Covenant of Civil and Political Rights, the Convention Against Torture, and the Optional Protocol to the Convention Against Torture; and *recommend* that all states ratify and implement these human rights treaties, and other relevant international and regional instruments.
5. In recognition of the important role that regional inter-governmental bodies play in forming standards and norms
  - a. *call upon* the Arab League and the African Commission on Human and Peoples' Rights to initiate negotiations to explore the possibility of adopting regional protocols aiming at the abolition of the death penalty;
  - b. *call upon* the Arab League to amend Article 7 of the Arab Charter for Human Rights to absolutely prohibit the sentencing to death and execution of those under the age of eighteen at the time of the commission of the crime.
6. *Recall* that "all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person"<sup>6</sup> and that death row and life/long-term prisoners are entitled to the same basic civil and political rights as other categories of prisoners.

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<sup>6</sup> Article 10(1), ICCPR.

7. *Call upon* states to:
  - a. implement alternative sanctions to the death penalty that are fair, proportionate and respect international human rights standards, including the right to adequate accommodation, food, water, medical and psychiatric care, education, employment, fresh air, visitation, and access to religion;
  - b. humanise alternative sanctions to the death penalty by reducing the number of life/long-term offences to only the “most serious crimes”; ensure that there is a realistic right of parole for all life/long-term sentenced prisoners, and that the parole system is transparent and respects due process principles.
8. *Call for* full, accurate and public reporting on the use of the death penalty and its alternative sanctions, including the number of sentenced prisoners, age, sex, crimes, length/type of sentence and place of sentence, in recognition of the importance of transparency to prevent errors and abuses, to safeguard fairness in the criminal justice system and to inform national debates.
9. In recognition of the suffering of victims of violent crime and their loved ones, *call upon* states to:
  - a. ensure that all victims be treated with dignity, respect and equality throughout the criminal process, regardless of their beliefs about or position on the issue of the death penalty;
  - b. establish a victims’ compensation fund where there is none;
  - c. address the rights of victims to reconciliation or mitigation with the offender where appropriate, and provide any other psycho-social support.
10. *Call upon* the states that retain the death penalty to:
  - a. provide the family and lawyers of prisoners on death row with advance notification of the date, time and place of execution, permitting final visits and final personal preparation;
  - b. inform the family of the place of burial and allow the body of the prisoner to be handed over to the family.
11. *Emphasise* the importance of civil society organisations, including journalists, to engage in advocacy and campaign activities, and civil education on criminal justice issues, including on the effect and efficacy of the death penalty and its alternative sanctions, and encourage full collaboration between governmental bodies and civil society.
12. *Strongly encourage* relevant international organisations and donor states in a position to do so to promote and support the fight against the death penalty and the implementation of humane alternative sanctions at both the financial and political level.

*Adopted 20 September 2011, London, United Kingdom*

**This Declaration has been endorsed by the following organisations and individuals:**

1. Amnesty International (global)
2. Mr Antony Tang, penal reform expert and PRI Board Member (Hong Kong)
3. British Foreign & Commonwealth Office (UK)
4. Centre for Capital Punishment Studies, University of Westminster (UK)
5. Dr Catherine Appleton, penal reform expert (Leeds University, UK)
6. Commissioner Catherine Dupe Atoki, Special Rapporteur for Prisons and Other Places of Detention in Africa, Member of the African Commission on Human and Peoples' Rights (Nigeria)
7. Mr David Daubney, penal reform expert and Chair of the PRI Board (Canada)
8. Mr Dirk van Zyl Smit, penal reform expert and PRI Board Member (Nottingham University, UK)
9. Foundation for Human Rights Initiative (Uganda)
10. Harm Reduction International (global)
11. International Centre for Prison Studies (UK)
12. International Commission Against the Death Penalty (global)
13. Legal Resource Consortium (Nigeria)
14. Mr Paul English, Justice & Prisons (UK)
15. Mr Paul Flodman, penal reform expert (UK)
16. Penal Reform International (global)
17. Mr Rob Allen, Justice & Prisons (UK)
18. Ms Vera Tkachenko, penal reform expert and PRI Board Member (Kyrgyzstan)
19. Vienna Alliance of NGOs for crime prevention and criminal justice (Austria)
20. World Coalition Against the Death Penalty (global)



## Opening Session

### **Ms Francesca Manchi, Political Officer, European Commission Representation in the UK (UK)**

(COPY OF PRESENTATION REPLICATED IN FULL)



I am pleased to welcome you today to this multi-regional conference on the abolition of the death penalty and alternative sanctions that respect international human right standards. I would like to thank the organisers of this event, especially the Foreign and Commonwealth Office and Penal Reform International, who have convened participants from at least 25 countries around the world as representatives of the highest international organisations, universities, national jurisdictions and forums in charge of the enforcement of human rights and which are committed to the abolition of the death penalty worldwide. In addition, I would like to address special thanks to all speakers and in particular the African Union's Honourable Commissioner for Human Rights, Catherine Dupe Atoki, and the Honourable Chief Justice Augustino Ramadhani from the East African Court of Justice.

I would remind you that the European Union (EU) holds a strong and principled position against the death penalty and that the abolition of this practice worldwide represents one of the main objectives of the EU's human rights policy and a personal priority of the High Representative for Foreign Affairs and Vice-President of the European Commission, Catherine Ashton. The EU uses all its available tools of diplomacy and cooperation assistance to work towards the abolition of the death penalty and where it still exists, the EU calls for its use to be progressively restricted and insists that it must be carried out according to international minimum standards. In conclusion, the EU is the leading institutional actor and lead donor to the efforts made by civil society organisations around the world to abolish the death penalty.

Before leaving the floor to the other speakers, I would underline, from a factual point of view, that between 1993 and 2010, the number of countries that have abolished the death penalty by law for all crimes grew from 55 to 96.

With this encouraging worldwide trend towards abolition, I wish you a rewarding and productive discussion.

### **Ms Louise De Sousa, Head of Human Rights and Democracy Department, Foreign & Commonwealth Office (UK)**

(COPY OF PRESENTATION REPLICATED IN FULL)

Thank you for inviting me to speak at your conference. Penal Reform International does valuable work on penal and criminal justice reform, including towards global abolition of the death penalty. So I am delighted to be able to give an opening address today, and that the Foreign & Commonwealth Office (FCO) was able to contribute toward the funding of this conference.



I will talk about the UK Government's position on the death penalty, why we care, and how we are working towards global abolition.

It is the longstanding policy of the Government to oppose the death penalty in all circumstances as a matter of principle. We consider that its use undermines human dignity; that there is no conclusive evidence of its deterrent value; and that any miscarriage of justice leading to its imposition is irreversible and irreparable.

Global abolition of the death penalty is a key human rights priority for the FCO. 58 countries retain the death penalty – 58 too many.

As outlined in our strategy, published in October 2010, our three goals in order to work towards that ultimate objective of global abolition are:

- Firstly, we aim to further increase the number of abolitionist countries, or countries with a moratorium on the use of the death penalty;
- Secondly, we work for further restrictions on the use of the death penalty in retentionist countries and reductions in the number of executions; and
- Thirdly, we work to ensure that EU minimum standards are met in countries which retain the death penalty.

There is growing international momentum towards abolition of the death penalty. The past two decades have seen significant progress in numbers of countries abolishing the death penalty. Most recently the US state of Illinois abolished in March 2011. We have also seen this trend through the record support at the 2010 UN General Assembly Resolution on the Moratorium on the Use of the Death Penalty: 107 countries voted in favour, 38 against and 36 abstentions. This was an increase in those voting in favour by 2 and 10 fewer countries voted against it compared to the 2008 resolution. We are proud of the role we played to achieve this record support. Keen to see this trend continue, and hope to gain even more signatories at the next resolution in autumn 2012. These resolutions are an international driving force towards a global moratorium.

There are still major concerns. According to Amnesty International, in 2010 at least 23 countries carried out executions, and at least 527 executions took place, although this does not include the number of executions carried out in China, which is likely to be much higher.

We work to achieve our goals through three main channels – bilateral, EU and UN.

At the bilateral, the FCO undertakes high level lobbying - lobbying governments bilaterally, encouraging states to formally establish moratoriums with a view to abolition, political dialogue, raising cases of British nationals facing the death penalty, and our project work where we have seen many successes. The death penalty is also a personal human rights priority of FCO Minister Jeremy Browne and he has raised the death penalty with his counterparts on a number of occasions, including in Asia and the Caribbean. We consistently raise the death penalty at all levels at all appropriate opportunities

We have also seen some success in some of our consular death penalty cases. In 2010 Ministers intervened on behalf of Neil Revill, a British national on death row in the US. Subsequently the prosecution decided not to pursue the death penalty at trial. We currently have eight British nationals sentenced to the death penalty and awaiting execution, and a further thirty who are facing charges which attract the death penalty. We will use all appropriate influence to prevent the execution of any British national.

Lobbying through the EU, doing project work, and through political dialogues the FCO also raises cases of third country nationals: most recently we raised the case of Troy Davis with the US.

The FCO also works through the Universal Periodic Review process, raising the death penalty with retentionist countries through questions and recommendations

We are also looking at how best to achieve our objectives through the Commonwealth. Upcoming Commonwealth Heads of Government Meeting (CHOGM) will be important and we will be supporting the Eminent Persons Group recommendation for the creation of a new role for Commissioner for the Rule of Law, Democracy and Human Rights. We hope that this role will be able to raise the death penalty and

recommend action to the Commonwealth Ministerial Action Group. But the Commonwealth is a tough nut to crack.

In 2010, we identified a list of priority countries in our strategy for abolition of the death penalty including a top five for a variety of different reasons – China, Iran, the Caribbean, Belarus and also the US. There is also a second tier of priority countries against our three goals, which have been chosen for different reasons. For example China and Iran have been chosen with the goal of reducing the numbers of executions. The Caribbean was chosen as executions are rare and we consider there is scope for action; no executions for over a decade except for two in St Kitts and Nevis in 2008. There are also worrying developments in potential constitutional amendments in the region which would make it easier to carry out the death penalty or to disallow the opportunity for legal challenge. So far we have had much success in our project work here on restricting the use of the death penalty. US – largest democracy to retain the death penalty and if it abolished then it would have a significant impact on the rest of the world.

The FCO also has a Sub Group on the Death Penalty, which is a sub group to the Foreign Secretary's Advisory Group on Human Rights. This group consists of academic, legal experts, parliamentarians and NGOs and we seek their advice on death penalty issues in order to help shape the implementation of our death penalty strategy. We held a very successful meeting last week at which we discussed minimum standards and how to message on the death penalty in ways which might appeal to public sentiment. Their advice plays a fundamental role in the way we pursue our objectives.

Through the Human Rights and Democracy Programme Fund we are currently funding projects on the death penalty in the Caribbean region, China, Africa, and in the MENA region for this financial year.

Our project work includes working for restrictions on the use of the death penalty, for example making constitutional challenges to the death penalty. Barbados, Kenya and Uganda have all declared the mandatory death penalty for murder unconstitutional as a result of our past project work, and this has had a significant impact of hundreds of people on death row.

One of the activities we are funding this year is in Kenya, where legal experts are assisting in the development of new sentencing procedures after the mandatory death penalty was abolished. 500 prisoners will have their death sentences quashed and will be resentenced.

Another example in the Caribbean – in July we funded a forensic training seminar for over 70 mental health professionals from across the Caribbean in St Kitts. This should lead to greater understanding of mental health issues and improved assessments on mental health in death penalty cases in the Caribbean region.

We are also pleased to fund a project run by PRI in the Middle East and North Africa region, specifically Tunisia, Morocco and Jordan. The project aims to increase debate among civil society, the public and policy makers in order to move towards abolition of the death penalty. We are delighted to be able to jointly fund this conference as part of this project.

Next month, we are holding an event at the Foreign Office to mark the World Day Against the Death Penalty (10 October). At this event we are looking to highlight the issue of minimum standards on the use of the death penalty. While we oppose the death penalty in all circumstances as a matter of principle, abolition isn't going to happen overnight. In some countries an incremental approach is needed, e.g. Iran where stoning is used as a method of execution, or Japan where we are focusing on transparency and length of time spent on death row.

To mark the World Day, we will also be releasing a podcast on itunes which is a discussion by some of our experts – Jacqueline Macalesher from Penal Reform International, Professor Roger Hood from the University of Oxford, and Baroness Vivien Stern, the chair of the All Party Parliamentary Group for

Abolition of the Death Penalty. The podcast is on the theme of minimum standards and opportunities for future action on the death penalty. We will also be publishing a number of blogs from our death penalty priority posts, and tweeting on the day. The Minister will also be making a statement. I encourage you to download the podcast (<http://podcast.ulcc.ac.uk/accounts/Foreign-Office/fcohumanrights.xml>) and read our blogs.

We will also be publishing our revised strategy on 10 October which will take us to 2015. Our goals will remain the same but we have looked at our priority countries and will continue to revise the priority list annually.

I wish you every success for the conference.

**Mr David Daubney, Chair of Penal Reform International (Canada)**

(PRESENTATION NOTES TAKEN BY PRI RAPPORTEUR)

Over the past 20 years Penal Reform International has undertaken a number of initiatives at the national, regional and international level to support the abolition of the death penalty, and to raise the issue of humane alternative sanctions.

PRI believes that the death penalty violates the fundamental right to life, and amounts to torture, cruel and inhuman punishment. It has very little effect on changing or deterring criminal behaviour.

PRI's current programme of work aims to positively challenge society's attitudes in relation to the effect and efficacy of the death penalty and to support governments and other stakeholders in progressing towards abolition through legal and policy reforms. It aims to challenge the unacceptable forms of life imprisonment and life without the option of parole as an alternative sanction to the death penalty, and to increase human rights safeguards and promote better transparency and accountability in criminal justice systems.



PRI believes that the ultimate and maximum punishment in any criminal justice system should be fair, proportionate, respect international human rights and is focused on rehabilitation and social reformation, rather one based on punitive sanctions.

PRI's current programme of work is being carried out in 18 countries across 5 regions: Central Asia (Kazakhstan, Kyrgyzstan and Tajikistan); East Africa (Kenya and Uganda); Eastern Europe (Belarus, Russia and Ukraine); Middle East and North Africa (Algeria, Egypt, Jordan, Lebanon, Morocco, Tunisia and Yemen); and South Caucasus (Armenia, Azerbaijan and Georgia). This programme of work has been funded by the European Commission under the European Instrument for Democracy and Human Rights (EIDHR), started February 2010 and will finish January 2012.

The objective of this conference is to consolidate the outcomes of PRI's global programme of work, and to build-upon the current momentum toward moratorium and abolition. This conference is part of a series of activities organised by PRI and its partners to provide a platform for debate and discussion, and exchange experiences and lessons learned of working toward moratorium and abolition in each of the regions.

We hope that the conference will be an open forum to discuss the various issues surrounding abolition of the death penalty, and that we can bring together different ideas and strategies for positive steps forward. We are all here to work towards identifying the challenges and opportunities towards abolition in the various regions of the world that conference participants represent.

PRI hopes the conference will inspire delegates and introduce them to new ideas and ways of thinking or working.

**Keynote address - Mr Bryan Stevenson, Executive Director, Equal Justice Initiative, USA and Board Member of Penal Reform International (USA)**

COPY OF PRESENTATION AVAILABLE FOR DOWNLOAD HERE:  
<http://www.penalreform.org/pri-multi-regional-conference>



### **Session 1 - Abolition of the death penalty: recent trends from across the globe**

*The aim of this session was to share new information, statistics and case studies on recent trends towards abolition.*



**Chair - Ms Ioanna Kuçuradi, International Commission against the Death Penalty (Turkey)**

(COPY OF PRESENTATION REPLICATED IN FULL)

I wish to welcome all of you to this first session of our conference, organised with the purpose to enable participants to discuss steps toward the abolition of the death penalty and implementation of humane alternatives.

Human rights are the most significant issue of our times. Yet two discrepant tendencies characterise our times in this respect: on the one hand the efforts to protect human rights increase every day – the number of instruments for the protection of human rights increase every year – but on the other hand new flagrant violations of human rights are added to the old ones all over the world: terrorism and poverty play a key role in this increase.

But in connection with the death penalty there is a noteworthy change during the past 20 years, thanks to the men and women who have devoted their lives to this aim. In Europe, for the first time in the European Charter of Human Rights, we see a total rejection of the death penalty, without the compromise seen in earlier instruments.

The UN – in whose instruments there is the obvious compromise concerning the death penalty (article 6 of the International Covenant on Civil and Political Rights) – promotes this cause. As you know, after the voting in 2007 and 2008, the General Assembly of the UN voted in December 21, 2010 a resolution aiming at a moratorium of the death penalty. 109 States voted in favour, 41 States against it and 35 States abstained, while 7 States did not take part in the voting.

Yet on March 11, 2011 53 States addressed a *note verbale* to the Secretary-General of the UN stating that they were against the resolution voted on December 21, 2010 and justified their attitude in a strange way

which can be summarised as follows: “Death penalty is not an issue of human rights, but an issue of criminal law. For a State to choose its criminal law is a domestic affair - it is ‘an inalienable right of a State’, so the UN may not interfere and impose a moratorium”.

It is really surprising how 53 States of the world put their signature under such text. Yet, when we look at the claims in this *note verbale* only from a legal view-point, these claims do not seem to be in discordance with the UN International Covenant on Civil and Political Rights (ICCPR). In other words: death penalty, though a violation of the right to life, is not a violation of article 6 of this Covenant.

It is noteworthy that this rejection of the moratorium is made in a time when international criminal tribunals have ruled out capital punishment as an eligible punishment. The former Secretary-General of the UN, Kofi Annan, in his report on the Rule of Law and Transitional Justice in Post-Conflict Societies, stated that due to normative boundaries set by the international community, international tribunals supported by the UN can never allow for capital punishment.

Yet to defend the moratorium and abolishment of death penalty with pragmatic reasons – as the “prestige of the country” or because of its very high expenses – is also very problematic for those who defend the abolishment of the death penalty with ethical concerns. We who promote sincerely the abolition of the death penalty, we have to reflect also on such problems in order to find more promising ways for our purpose.

In this session we shall listen to promising developments and we shall be informed about recent trends in various regions of our world. The most problematic regions, besides the USA, appear to be Asia, especially South-East Asia and the Middle East, with the exception of the Philippines, where the death penalty was abolished, and Mongolia, whose President is strongly abolitionist. This is also the case in certain African countries e.g. Benin.

All these make me think that we need additional ways of fighting against the death penalty and for the protection of human rights in general. I hope our International Commission Against the Death Penalty will contribute to this issue as well.

Our Commission established on October 7, 2010, on the initiative of Spain and supported by 15 countries and an efficient secretariat consists of 11 members, well known for their work on human rights and chaired by Federico Mayor, former Director-General of UNESCO. Its objectives are to promote the abolition of the death penalty and until this is achieved to promote the establishment of a global moratorium.

For this aim it calls for suspensions of executions, undertakes missions to selected countries, makes statements and appeals related to death penalty, participates in relevant meetings and thus tries to contribute to this cause, as well as to the work carried out by various international and regional organisations, civil society representatives and politicians.

This is why we are happy to participate in this initiative of Penal Reform International, which gives us the opportunity to learn more details on the worldwide efforts done for the abolition of the death penalty and to reflect on additional ways of promoting it.

**Speaker - Professor Roger Hood, Oxford University (UK)**

(COPY OF PRESENTATION REPLICATED IN FULL)



In the short time available to me I shall try to sketch the reasons why more and more countries have in recent years embraced the goal of universal abolition of capital punishment, first laid down by a resolution of the United Nations General Assembly 40 years ago in 1971. The key to the argument of whether abolition of the death penalty should now be regarded as a goal that all countries committed to human rights should pursue lies in the interpretation of Articles 6 and 7 to the International Covenant on Civil and Political Rights (ICCPR) which all but a few states, such as Saudi Arabia, have ratified. First it is necessary to understand the wording of this covenant in historical perspective.

When the Universal Declaration of Human Rights was promulgated in 1948, there were still only seven independent states that had abolished the death penalty for all crimes in all circumstances, under civil and military law in wartime as well as peacetime. The majority were in South America, and none but San Marino in Europe. Seven other European countries had abolished it for murder and other crimes, but retained it for treason and certain crimes committed in time of war. Fourteen countries hardly constituted a pressure group. So no wonder that there was no mention at that time of the death penalty in relation to article 3 of the Universal Declaration of Human Rights (that 'every human being has an inherent right to life') and that it was explicitly made an exception to the right to life when the European Convention on Human Rights was established in 1950.

Article 6 of the ICCPR which was adopted in 1966 and came into effect in 1976 was actually drafted as early as 1957, when there was still only a minority of abolitionist states. So it is hardly surprising that, in order to get agreement, an exception to Article 6(1) which had established the 'The right to life', had to be made in Article 6(2), for those countries that had not yet abolished the death penalty. This article nevertheless restricted its application only to 'the most serious crimes', but that of course, was a vague criterion, open to different cultural interpretations. Even so, it was made clear that this did not mean that retentionist countries could rely on this formulation as justification for the death penalty, for Article 6(6) signalled that abolition was to be the goal by declaring that 'Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the ...Covenant'. Furthermore, Article 7 of the Covenant proscribes any 'cruel, inhuman or degrading treatment or punishment'. With the development of international human rights law and ever growing evidence of the cruelties involved in the administration of capital punishment, ratification of the ICCPR appears to me to obligate those countries that still retain the death penalty, often on the grounds that they claim it is solely a criminal justice issue subject to national sovereignty, and not a human rights issue – as does Japan for instance – to move forward to embrace its ultimate purpose. In my view, there should be limits to the power that the state can be permitted to exercise over persons accused of and convicted of crimes, however serious: limits defined by universal human rights principles which apply to all citizens of the world. In other words the system of punishment *is* a matter of state sovereignty, but only in so far as it is compatible with human rights.

Just 22 years ago, at the end of 1988, only 52 (29%) of the then 180 member states of the United Nations had abolished the death penalty for murder and other common crimes, but only 35 of them – less than one fifth of all nations – had eliminated capital punishment altogether. Since then the number of abolitionist nations has doubled to 104 of the 193 UN Member States and the vast majority, 96 of them, have abolished it for all crimes in all circumstances. Thus many countries have moved swiftly from retention to complete abolition; and only one country since 1961 that abolished the death penalty resumed executions (the Philippines), but it soon abolished it again. As William Schabas has pointed out, we are moving towards the point where the death penalty 'once abolished is abolished forever'.

Among the 92 countries that retain the death penalty in law less than half (43) have executed anyone within the past 10 years and not yet announced a moratorium. The number carrying out judicial executions each year has shrunk drastically: in 2010 only 23 compared with 40 in 1997. With a few exceptions, such as Iran, the number of executions annually recorded appears to be falling almost everywhere: only a handful of countries now execute more than 20 persons a year. At the UN General Assembly in December 2010, only 41 of the 185 countries (22 per cent) voted against a resolution calling for a world-wide moratorium on death sentences and executions. Furthermore capital punishment had no place in the tribunals set up to try atrocities in the former Yugoslavia, Rwanda and elsewhere. Nor is it available to the International Criminal Court in dealing with the crime of genocide, other grave crimes against humanity and war crimes. This has provided a powerful argument: if it is not available for these atrocious crimes why should it be the punishment for lesser crimes?

A new dynamic, producing a new pattern of abolition, has been responsible for this extraordinary change. It has needed political leadership, particularly from the Council of Europe, the EU and individual European nations, from Constitutional Courts, backed up by NGOs, especially but not only Amnesty International, to bring about abolition. Political will has been the key. It has been marked and institutionalized by the insertion of protocols aiming at world-wide abolition of the death penalty into instruments of international human rights covenants and treaties (notably Protocol No. 2 to the ICCPR (1989) and Protocols Nos. 6 (1983) and 13 (2002) to the ECHR and the Protocol to the American Convention on Human Rights (1990)). Also new democratically inspired Constitutions in many countries, such as South Africa, have specifically banned the death penalty under their right to life provisions.

The human rights approach to abolition rejects the most persistent of justifications for capital punishment: retribution and the need to denounce and expiate through execution those whose crimes shock society by their brutality. It also rejects the utilitarian justification that nothing less severe can act as a sufficient deterrent to those who contemplate committing capital crimes. This is not only because the social science evidence does not support the claim that capital punishment is necessary to deter murder, but because even if it could have a marginal deterrent effect, it could only be achieved by high rates of execution, mandatorily and speedily enforced. This, abolitionists assert, would increase the probability of innocent or wrongfully convicted persons being executed and also lead to the execution of people who, because of the mitigating circumstances in which their crimes were committed, do not deserve to die.

Although public opinion is not to be ignored, a country concerned for human rights should not merely accept it as a reason for retaining the death penalty – especially when it may be based on misconceptions about the assumed deterrent effect of capital punishment, fairness of its application, absence of error, and other human rights considerations. A government committed to human rights should instead regard its task as informing and leading the general public to appreciate and then to accept the human rights case for abolition, namely that it “contributes to the enhancement of human dignity and the progressive development of human rights”. As the South African Constitutional Court declared when abolishing the death penalty, it was incompatible with ‘a human rights culture’ which would “protect the rights of minorities and others who cannot protect their rights adequately through the democratic process”.

So abolition has been embraced by many different political systems, peoples and cultures. For example: at the end of 1988 in the African region only Seychelles and Cape Verde had abolished capital punishment, whereas 16 countries are now completely abolitionist (the most recent being Burundi, Togo and Gabon) and another 21 have not carried out an execution for at least 10 years. In the Middle East and North Africa, where Islam is the dominant religion, three countries – Tunisia, Algeria and Morocco – have not carried out any judicial executions for over 10 years and the new government of Tunisia has promised to ratify the Second Optional Protocol to the ICCPR abolishing the death penalty. There is hope that the Arab spring will be a catalyst for more Muslim states to join those who have already joined the abolitionist movement: such as Albania, Azerbaijan, Bosnia-Herzegovina, Kyrgyzstan, Turkey, Turkmenistan and Senegal. In fact, only four retentionist Muslim countries now make regular and large scale use of capital



punishment as a crime control measure: Iran, Saudi Arabia, Iraq and Yemen. Overall, the prospects for a steady movement towards abolition in the Muslim world are not nearly as bleak as some may imagine.

While only four Asian states (Nepal, Bhutan, Cambodia and Philippines) have so far completely abolished the death penalty, six others are now abolitionist *de facto*, including most recently South Korea. In January 2010 President Elbegdorj of Mongolia called on the Mongolian Parliament to follow the path of the majority of the world's countries and abolish the death penalty. In India – with the second largest population in the world – the death penalty is in principle to be imposed in only the 'rarest of rare' cases: the last execution took place in 2004, the first since 1997. Three years ago the representative of the People's Republic of China at the UN Human Rights Council stated that 'The death penalty's scope of application was to be reviewed shortly ... with the final aim of abolishment'. That process has tentatively begun with the recent abolition of the death penalty for 13 non-violent economic offences, thus reducing the number of capital crimes from 68 to 55. The return of the review of all death penalty verdicts from the provincial High Courts to the Supreme People's Court at the beginning of 2007 has been of particular significance. According to former Chief Justice Xiao Yang, the aim is to impose the death penalty 'strictly, cautiously and fairly ... on a tiny number of serious criminal offenders.' And in its latest report the Supreme Court has instructed lower courts to suspend all death sentences for two years in all cases that 'do not require immediate execution'. It is regrettable that China still refuses to publish any statistics on the number of its citizens who are executed annually, but all agree that there has been a substantial diminution in executions – although the number remains high it may be half of the total prior to 2007. A vigorous debate on the 'reform' of the scope of the death penalty is now underway. As one Chinese senior scholar put it recently at an international meeting, abolition is now 'an inevitable international tide and trend.'

In the United States, to which many retentionist states point in support of their position, only 12 of the 51 US state jurisdictions executed anyone in 2010 and only seven of them more than one person. Texas alone accounted for 17 of the 46 executions. Indeed only 10 states have on average executed at least one person a year since executions were permitted to resume in 1976, eight of them in the south plus Oklahoma and Ohio. The number of death sentences imposed in the US has fallen from over 300 in the mid-1990s to only 114 in 2010. Two years ago, the influential American Law Institute decided that it would withdraw its support for the death penalty "in light of the current intractable institutional and structural obstacles to ensuring a minimally adequate system for administering capital punishment." Indeed, the growing disenchantment that the death penalty can be administered fairly and without racial discrimination, combined with the very high cost of administering it, the evidence that even lethal injection cannot be guaranteed to result in a non-tortuous death, and the incontrovertible evidence that innocent people have been sentenced to death, may well persuade yet more states to follow the example of New Jersey, New York, New Mexico and Illinois to abolish the death penalty. The impression often given, that in America there is enthusiasm everywhere for executions is now wide of the mark. We can hope that it will not be many years before the US Supreme Court will be able to find that the majority of states do not support the death penalty, and therefore rule that 'emerging standards of decency' will no longer tolerate the use of capital punishment in the USA.

The emphasis on the 'human rights' perspective on the death penalty has added greatly to the *moral force* propelling the abolitionist movement. Those who still favour capital punishment 'in principle' have been faced with convincing evidence of the abuses, discrimination, mistakes, and inhumanity which inevitably accompany it in practice, as has been revealed by death penalty scholars and human rights lawyers. In general it needs to be remembered that no countries have abolished the death penalty because of popular demand as reflected in opinion polls. Those who grew up with the expectation that death would be the punishment for murder are relatively slow to abandon this idea, but the next generation, growing to maturity with no such experience, is far more likely to regard capital punishment as a barbaric relic of the past, abandoned as civilization has progressed. The plain fact is that there are now very few nations that regularly execute their citizens: and where they do, so few are executed that retention of capital punishment appears to have no more than a symbolic political purpose. Such countries are being forced to reconsider, by the very weight of international opinion, whether their

system of criminal justice should allow the occasional elimination of convicted captive citizens. Abolition of capital punishment is clearly becoming the litmus test for the respect for human rights. Thus abolitionists have reason to be confident that the final destination is approaching when all countries will have agreed that the killing of captive criminals should be outlawed forever.

**Speaker – Honourable Commissioner Dupe Atoki, African Commissioner on Human Rights, African Commission on Human and Peoples’ Rights (Nigeria)**

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For thousands of years the death penalty was the keystone of all penal systems and the exemplary punishment. This form of punishment was justified on the ground that society needed to be purged of incorrigible, dangerous and undesirable persons. For ages, therefore, the idea of capital punishment was universally accepted without any question.



In 1948 when the United Nations General Assembly adopted the Universal Declaration of Human Rights - the first international human rights instrument to proclaim that "*everyone has the right to life*", only seven countries had abolished the death penalty. The Declaration proclaims a "right to life" in an absolute manner, any limitations being only implicit. However, knowing that international abolition of the death penalty was not yet a realistic goal in the years following the Universal Declaration, the UN shifted its focus to limiting the scope of the death penalty to protect juveniles, pregnant women, and the elderly.

Today, we however observe a worldwide trend towards the abolition of the death penalty: (96) states have so far abolished the death sentence for all crimes, (73) have ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty and (109) have voted in favour of the third UN Resolution adopted on December 21, 2010, calling on states to establish a moratorium on executions with a view to abolishing the death penalty.

On the African continent, 17 countries have abolished the death penalty, 19 are abolitionists in practice and 18 have voted in favour of the above mentioned United Nations Resolution. This abolitionist trend in Africa seems to be confirmed with 2 States waiting for the adoption of Bills proposing the abolition of the death penalty. Furthermore only nine African States are parties (and a further two signatories) to the Second Optional Protocol to ICCPR and about 31 Africa countries have ratified the Rome Statute of the International Criminal Court (ICC). The African continent is yet to adopt a protocol on the abolition of the death penalty.

Sub-Saharan Africa is the term which refers to the area of the African continent which lies south of the Sahara desert or those African countries which are fully or partially located south of the Sahara. There are about 47 countries in sub-Sahara Africa and all the African countries that have abolished the death penalty are from sub-Sahara Africa. Seventeen of the twenty two countries that are abolitionists in practice are from the region. These countries can be said to have a moratorium on the death penalty or abolitionists *de facto*.

As indicated earlier, African countries seem to have embraced the international trend for complete abolition of the death penalty. However, the effort to bring about the total abolition of the death penalty in Africa is embraced with challenges.

Firstly, African regional human rights instruments are silent on the issue of the death penalty. Although the death penalty constitutes a human rights concern, if not a human rights violation, the African human rights system is the only such system without a Protocol or any other African regional legal instrument on the death penalty. The silence of African regional legal human rights instruments on the issue of the death penalty is often used by African States to justify the retention of the death penalty in their domestic law.

The African Charter on Human and Peoples Rights (1989) adopted by the Organisation of the African Unity (OAU) is today the basic legal instrument to establish a system for the protection and promotion of human rights that is designed to function within the institutional framework of the African Union. The African Charter differs from the European and the Inter-American conventions on human rights. The differences include the fact that the African Charter proclaims not only rights but also duties; codifies individual as well as peoples' rights; in addition to guaranteeing civil and political rights, also protects economic, social and cultural rights; and is drafted in a form that permits States Parties to impose very extensive restrictions and limitations on the exercise of the rights in proclaims.

The African Charter makes no mention of the death penalty unlike other European and American systems. Like the other instruments, the African Charter provides for the right to life in Article 4 which states that *"Human beings are inviolable. Every human being shall be entitled to respect for his life and integrity of his person. No one may be arbitrary deprived of this right"*. Notwithstanding, it is noteworthy that generally speaking, the provisions of the African Charter reflect the influence of the UN human rights instruments and traditions and as such the language of Article 4 of the African Charter is similar to Article 6(1) of the ICCPR indicating a prohibition of the arbitrary use of capital punishment. The African Charter on the Rights and Welfare of the Child prohibits the use of the death penalty for persons under eighteen and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa also prohibits in Article 4, the use of the death penalty on pregnant or nursing women.

In the Arab world, the Arab Charter on Human Rights adopted in May 2004 by the League of Arab States is also an important treaty adopted to establish the necessary structures provided for in the Charter, for the protection and promotion of human rights. It gives effect to the provisions of the Charter relating to the death penalty.

Secondly there is strong popular support in the Continent for the death penalty. Capital punishment is popular in Africa because the general public has little confidence in the government and state agencies, universally perceived as corrupt, inefficient and ineffective. The judiciary, the police and the prisons administration are generally seen as ineffective, laid back and encouraging impunity. Public consultations in some countries show that the masses are generally in favour of the retention of the death penalty.

A third challenge is the influence of traditions and religions. In most African countries, customary law which is largely an unwritten law, and sometimes Islamic Law, co-exists with codified law inherited from Western colonisation. Both African customary law and Islamic law recognise the application of capital punishment for some serious crimes; and Christianity is not unequivocal on the subject.

Fourthly, there is a general ignorance of the human rights approach to the death penalty. Human rights experts themselves are divided on the issue of the abolition of capital punishment. There are two opposing schools of thought: the abolitionists and the retentionists (i.e. those who support the application of the death penalty). At the level of the masses, the ignorance of the human rights approach to the death penalty, exacerbated by illiteracy, makes the acceptance of arguments in favour of the abolition of the death penalty even more difficult.

These and many other challenges means that those governments that do not want to risk alienation from the masses for whatever reason prefer the middle of the road approach – a moratorium. A moratorium appears to be the middle point between abolition and retention and describes those states which have put on hold the carrying out of executions, but the death sentence is still available in their statute books as a valid penalty and trial courts are entitled and do continue to pass it. Usually, the moratorium is not on the death penalty as a sentence but on the carrying out of that sentence when passed by the courts. Thus, executions may still legally be carried out. In Africa at the end of 2010, the countries in that category are as follows: Algeria, Benin, Burkina Faso, Cameroon, Central African Republic, Congo

Brazzaville, Democratic Republic of Congo Eritrea, Ethiopia Gambia, Ghana, Kenya, Madagascar, Malawi, Mali Mauritania, Morocco, Niger, Tanzania, Tunisia, Uganda, Swaziland, Zambia and Zimbabwe.

One would have thought that the imposition of a moratorium on executions would be a first step towards the ultimate decision to abolish the death penalty. In other words, one would have assumed that after a number of years of moratorium it would be difficult for a state to resume executions and that a moratorium is a move that paves the way for complete abolition of the death penalty. This is probably the thinking behind various moratorium resolutions since the late 1990s adopted by the UN and regional human rights bodies. But the experience in Africa has shown that this is not necessarily the case. More often than not, even after a moratorium period of as long as a quarter of a century, the state with an embargo on executions may resume executions without any hesitation. For example, Libya resumed executions after 23 years of no executions, Comoros after 22 years, Chad after 12 years and Guinea-Conakry after 17 years. Among the reasons that states often advance for the resumption of executions are the sudden apparently inexplicable occurrence in criminality, a shocking event such as genocide or massacres, serious internal security concerns, treason, the demands of public opinion, and the settling of political scores.

The imposition of a moratorium on executions may be official or unofficial; it may be in consequence of an international commitment to do so; or it may be as a mere matter of grace by the Head of State. Even when the moratorium is publicly announced, as in Zambia and Malawi, it is not presented as official government policy but as the personal position of the incumbent President not to sign any execution warrants during his presidency. This then leaves the door open for his successor to resume executions, if minded to do so.

In the state with a moratorium in place, since the courts legally continue to pass death sentences but executions are not carried out, if the sentences are not systematically commuted this leads to an embarrassingly agonising situation whereby the number of inmates on death row keeps increasing without a corresponding increase in the improvement of holding facilities and conditions.

While debate on the death penalty is heating up across the continent, the African Commission, the main human rights mechanism established under the African Charter, adopted a resolution in its 26<sup>th</sup> Ordinary Session held in Kigali, Rwanda from 1 – 15 November 1999, urging States parties to the African Charter to consider a Moratorium on the Death Penalty. The resolution calls upon all States Parties that still maintain the death penalty to among other things, limit the imposition of the death penalty only to the most serious crimes; and reflect on the possibility of abolishing the death penalty.

Since the adoption of that resolution in 1999, the African Commission has moved towards engaging the African public in a debate on the death penalty with a view to adopting a Common Position on the issue, including the possibility of adopting a Protocol to the African Charter on Human and Peoples' Rights on the Abolition of the Death Penalty in Africa.

As a prelude, a draft document on 'the question of the death penalty in Africa' was developed and discussed at a public session of the African Commission during its 36<sup>th</sup> Ordinary Session held in Dakar, Senegal in November 2004, and the views of human rights actors and other stakeholders such as States, National Human Rights Commissions, NGOs and other individuals and institutions, on this burning human rights issue, were sought to further enrich the document.

At its 37<sup>th</sup> Ordinary Session held in Banjul, The Gambia, in May 2005, the document was discussed at the private session of the African Commission where it was decided that a Working Group on the Death Penalty in Africa composed of members of the African Commission and independent experts be established. The experts are drawn from among African personalities with expertise in human rights in general and the death penalty in particular.

Meanwhile, to maintain the momentum, at its 44<sup>th</sup> Ordinary Session held from 10 to 24 November 2008 in Abuja, Nigeria, the African Commission adopted another resolution in which it, among other things, “Urges State Parties that still retain the death penalty to observe a moratorium on the execution of death sentences with a view to abolishing the death penalty in conformity with Resolutions ACHPR/Res. 42 (XXVI) of the African Commission and 62/149 of the General Assembly of the United Nations; Calls on all State Parties that have not yet done so, to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights on the abolition of the death penalty; Calls on State Parties to the African Charter to include in their periodic reports information on the steps they are taking to move towards the abolition of the death penalty in their countries” .

To further enrich the initial draft document on the *‘The Study on the Question of the Death Penalty in Africa’*, members of the working group conducted research on the issue. The Working Group has since held a series of meetings to finalise the draft document on *‘The Study on the Question of the Death Penalty in Africa’*. This document was presented to the public for debate through the form of regional conferences and there are plans to organise a Continental Conference thereafter. The first regional conference organised by the African Commission was held from 23 – 25 September 2009 in Kigali, Rwanda for Central, East and Southern Africa. The conference brought together participants from a diverse background – States parties, NGOs, academics, organs of the African Union, to engage them on the question of the death penalty. The second regional conference grouping experts from West and Northern Africa was held from 12-15 April 2010 in Cotonou, Benin.

The Regional Conferences gave birth to the Kigali and Cotonou Framework documents, which detail concrete recommendations for the abolition of the death penalty including; strategies to abolish the death penalty and the necessity of a Protocol to the African Charter on Human and Peoples’ Rights on the Abolition of the Death Penalty in Africa, to fill the gaps in the African Charter on the inviolability and sanctity of human life. However the Conferences noted that religion and culture in some countries limit the progress on abolishing the death penalty but more and more African States are abolishing the death penalty, many others are observing a moratorium, and a few still retain the death penalty in practice.

The Working Group held a final meeting from 22 to 24 August 2011, in Pretoria, South Africa to finalise the draft document for presentation to and adoption by the African Commission at its 50<sup>th</sup> Ordinary Session scheduled to take place from 24 October to 7 November 2011, in Banjul, The Gambia. Thereafter the Working Group intends to launch and publish the document, start the process of drafting of a Protocol to the African Charter on Human and Peoples’ Rights on the Abolition of the Death Penalty in Africa, continue to seek further research to gather information on the issue of the death penalty and organise a Continental Conference on the Death Penalty for all stakeholders to examine the draft Protocol to the African Charter on Human and Peoples’ Rights on the abolition of the Death Penalty in Africa.

Cognisance of the challenges facing African states in their attempt to abolish the death penalty, the African Commission apart from organising the regional conferences on the death penalty, has also been encouraging national debates on the issue throughout the continent. Developments on the continent over the past few years therefore point to the fact that some States appear to be moving from retentionist or moratorium, to complete abolition. Many countries have taken measures to engage their people to discuss the question of the death penalty. In Kenya, Zambia, Sierra Leone, Liberia, Uganda, Gambia, Nigeria and Benin there have been national consultations on the abolition of the death penalty.

In February 2003, the Kenyan Government released 28 prisoners on death row and commuted the death sentences of 195 others to life in prison. There is debate in the Kenya to abolish the death penalty completely.

In February 2004, the former Zambian President, M. Levy Mwanawasa commuted the death sentences of 15 prisoners to prison terms and said he will not sign any warrant of execution as long as he remained President because he is opposed to the death penalty.

Important steps have also been taken by Sierra Leone towards the abolition of the death penalty. In October 2004, the Sierra Leone Truth and Reconciliation Commission (TRC) published its report and among its key recommendations were "to abolish the death penalty by repealing immediately all laws authorising the use of capital punishment." This recommendation is categorised as "imperative", that is, the government ought to implement it "without delay". Sierra Leone's TRC further recommended the introduction of a moratorium on all executions pending a vote on abolition of the death penalty by Parliament. It also urged that any pending death sentences should be immediately commuted by the President.

In Liberia, the United Nations Human Rights Committee expressed deep concern at new death penalty legislation authorised by Liberian President Ellen Johnson Sirleaf, contravening the Second Optional Protocol to the ICCPR. The Act signed by the President of Liberia on 22 July 2008 constitutes a clear breach by Liberia of its international legal obligations under the Second Optional Protocol. The new law in Liberia provides that "in the event death occurs during the commission of a crime of armed robbery, terrorism or hijacking, the accused ... shall be sentenced to death by hanging or imprisonment for life without possible parole." The Committee pointed out that as a signatory to the ICCPR's Second Optional Protocol since 2005, Liberia has committed to ensuring that, as the pact states, "no one within (its) jurisdiction (...) shall be executed." The Committee urged Liberia to revisit the Act for possible amendment as soon as possible and encourages it, in the meantime, to maintain the moratorium in place since 1979".

In Uganda, important progress was made in 2009 towards outlawing mandatory death sentences. On 21 January 2009 the Supreme Court of Uganda upheld the judgment of the Ugandan Constitutional Court, which held that the mandatory application of the death penalty is unconstitutional, although the death penalty itself remains constitutional. The court also decided that the mandatorily imposed death sentences received by the vast majority of more than 400 appellants in this case should be commuted to life imprisonment.

In Nigeria, former President Olusegun Obasanjo of Nigeria repeatedly declared his opposition to the death penalty and initiated the National Study Group on the Death Penalty with a mandate to conduct a national debate on the issue and to make recommendations to the Federal Government. However in June 2010, it was brought to the attention of the African Commission that Governors of the 36 Federated States of the Federal Republic of Nigeria have agreed to execute over 800 prisoners on death row with a view to decongesting the overcrowded prisons in Nigeria. Two urgent appeal letters were immediately sent to the President of the Federal Republic of Nigeria urging the government of Nigeria to take all necessary measures to ensure that those persons facing the death sentence are not executed, and that the Government initiates consultations on the complete abolition of the death penalty.

In the Gambia, although there have been no official executions since 1980, in December 2010, the African Commission received reports which indicate that the Gambian National Assembly extended the scope of the death penalty. The Drug Control Amendment Act 2010, the Trafficking in Persons Amendment Act 2010 and the Criminal Code Amendment Act 2010, extend the scope of the application of capital punishment to human trafficking, robbery and rape and drug related offences. An Urgent Appeal letter was immediately sent to the President of the Republic of The Gambia, urging the government of The Gambia to take all necessary measures to refrain from signing these amendments in order to keep these laws from coming into force, so as to respect international human rights standards and principles including the African Commission's own Resolutions, and that the Government initiates consultations on the complete abolition of the death penalty.

The African Commission has also sent Urgent Appeals in 2010-2011, to the Presidents of the Republics Sudan, Mauritania and Equatorial Guinea urging the governments to take all necessary measures to ensure that those persons facing the death sentence are not executed, and that the Government initiates consultations on the complete abolition of the death penalty.

The most recent development on the Continent on the issue of the death penalty is the fact that Benin joins other countries in moving towards the abolition of the death penalty in Africa, by taken an important step towards abolishing the death penalty after the country's National Assembly on 18 August 2011 voted in favour of ratifying the Second Optional Protocol to the ICCPR, which calls for the death penalty to be abolished.

From the above discussion it is clear that in Africa in general, there is sufficient evidence to support the notion that there has been a noticeable move from moratorium to abolition in law. Although there may be differences in the application of this move, the consistent drive by the African Commission on Human and Peoples' Rights is beginning to take effect and there is evidence of popular support throughout the African continent, more so in the Sub-Sahara Region.

African States are further urged to ratify and domesticate existing human rights instruments particularly the Second Optional Protocol to the ICCPR and are encouraged to commute existing death sentences for an effective moratorium and proceed to finally abolish the death penalty in their jurisdictions.

**Speaker - Mr Zaved Mahmood, Human Rights Officer, United Nations Office of the High Commissioner for Human Rights (Geneva)**

(PRESENTATION NOTES TAKEN BY PRI RAPPORTEUR)



Mr Mahmood provided a United Nations perspective, noting that while the death penalty remains legal in international law, there is still a strong resolution in international law that a ban on the death penalty is desirable.

In the last few years, many UN Member States that retain the death penalty have substituted that punishment for life without parole. States were making positive steps to move the discussion on abolition of the death penalty forward. For example, the High Court of India found the mandatory death penalty sentence for some drug offences was unconstitutional in June 2011. In 2010, Bangladesh also found the mandatory death penalty to be unconstitutional. Amendments to

constitutions to abolish death penalty have been made by some States.

The international community has been a force towards abolition. The UN General Assembly, for example, adopted its third resolution towards a moratorium in December 2010. The UN Human Rights Council has addressed this issue: of the 5,000 recommendations it has adopted, 235 were on the death penalty. Special procedures also continue to address the issue of the death penalty and Special Rapporteurs have found that the death penalty for drug-related offences violates international human rights law. In two recent cases, the UN Human Rights Committee found that a trial had not met international fair trial standards and therefore violated the ICCPR. The continued effort of the General Assembly and other UN bodies are crucial in providing appropriate guidance.

However, negative trends are also emerging. For example the expansion of the death penalty to offences for human and organ trafficking as well as drug-related offences continue to violate international law. According to a 2010 report to UN General Assembly, some Member States imposed the death penalty on minority groups. At least 10 countries retain the death penalty for same-sex consensual 'offences'.

There is also a lack of transparency regarding individuals executed, as it is considered in many countries a state secret. Furthermore, some countries who have opposed the death penalty in the past have recently re-established it.

To date, 140 States have abolished the death penalty in law or have implemented an official or non-official moratorium on executions, and approximately 70 States have ratified human rights instruments with the aim of abolishing it completely.

**Speaker - Ms Liane Adler, Human Rights Adviser, OSCE Office for Democratic Institutions and Human Rights (Poland)**

(COPY OF PRESENTATION REPLICATED IN FULL)

It is an honour and privilege for me to be here today, and to speak in such distinguished company. I represent the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Co-operation in Europe (OSCE).



With 56 States drawn from Europe, Central Asia and North America, the OSCE is the world's largest regional security organisation. As a regional organisation, under the UN Charter, the OSCE plays its role in fostering security through promoting democracy and respect for human rights in the region.

The OSCE is a political organisation and has over the course of the past two decades adopted numerous commitments, some also relating to capital punishment. The OSCE commitments are politically-binding and reached by consensus. They do not require the abolition of death penalty. However, OSCE participating States have committed themselves to carry out death penalty only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and in a manner not contrary to their international commitments. OSCE participating States have also committed themselves to make information regarding the use of the death penalty available to the public, and to keep the question of the abolition of capital punishment 'under consideration'.

As a forum for participating States to make such information available, ODIHR has since 1999 produced a yearly review entitled *The Death Penalty in the OSCE Area*, which is intended to provide a comprehensive overview of the use of the death penalty throughout the OSCE region. The background paper for 2011 will be released at the upcoming OSCE Human Dimension Implementation Meeting which will take place 26 September – 7 October 2011 in Warsaw, Poland.

As in many other parts of the world, capital punishment is also slowly but steadily disappearing from the OSCE region. In 1975, when – the Helsinki Act - the founding OSCE document was adopted, out of 35 participating States, 17 retained the death penalty in some form. When the Soviet Union collapsed in 1991, 15 retentionist states joined the OSCE. As of today, the death penalty has been abolished in 50 OSCE participating States. Most recently Uzbekistan abolished capital punishment as of 1 January 2008.

Out of 56 OSCE participating States, six retain the death penalty in some form out of which two still carry out executions. Allow me to introduce the status quo relating to the development around capital punishment of these six States to you.

Latvia is partly an abolitionist. Here, death penalty is retained for crimes committed in wartime only. The country has been for several years in the process of abolishing the death penalty in all circumstances. In May 2008, the Government of Latvia endorsed a draft law on the ratification of Protocol No. 13 to the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms, concerning the abolition of the death penalty in both wartime and peacetime. The approval of the parliament has been sought since then. In March 2011, several Parliament Committees gathered to discuss further this question with results yet to be seen.

In three OSCE States the death penalty is retained for crimes committed in peacetime, but executions are not carried out. This is the case in Kazakhstan, the Russian Federation and Tajikistan.



In Kazakhstan, the death penalty has been abolished for most cases, except acts of terrorism entailing loss of life and grave crimes committed in wartime. In June 2010, Kazakhstan passed a law expanding the list of crimes for which the death penalty can be imposed from eight to nine. The attempt to kill the president of Kazakhstan may now also be punishable by death. This development runs against the overall global trend towards the full abolition of the death penalty.

In the Russian Federation, a moratorium on the application of the death penalty has been in place since 1996. In 1999, the Constitutional Court ruled that the death penalty could not be applied until all of the country's then-89 regions had introduced jury trials. On 1 January 2010 Chechnya became the final Russian region to institute jury trials. Before the question of a reinstatement of the death penalty was to be discussed, the Constitutional Court upon a request from the Supreme Court on 19 November 2009 extended the moratorium on the death penalty until the Russian parliament ratifies Protocol 6 of Council of Europe's Convention on the Protection of Human Rights and Fundamental Freedoms which restricts death penalty to times of war. The Court Chairperson (Valery Zorkin) confirmed that an "irreversible process to abolish capital punishment" was occurring in Russia. With this, the Constitutional Court effectively outlawed the death penalty in the Russian Federation.

In Tajikistan, a moratorium on executions and the handing down of death sentences has been in place since July 2004. Since 2009 the Tajik government has publically stated the political will to fully abolish capital punishment in the future. For that purpose in April 2010 the President of Tajikistan established a working group to analyze the social and legal aspects of abolishing the death penalty. ODIHR has supported the developments by undertaking a public poll on the opinion of the public on the question relating to death penalty. The poll was carried out by the NGO Nota Bene and revealed that over 62 percent of the population are against the death penalty. The head of the working group Mr. Djumahon Davlatov, State Advisor on Legal Policy in the Executive Office of the President, is here today and will be chairing the next session, and I hope he will be able to share with us the latest details about the progress made by the working group.

Belarus and the United States of America are the two OSCE participating States, where the death penalty is retained and where executions are carried out. But also in these countries we see developments towards abolition.

In Belarus, according to official statistics provided by the Supreme Court, in average one to two individuals are sentenced to death every year. During the reporting period for the 2011 Death Penalty Update of the OSCE which was July 2010 to June 2011, one person was sentenced to death. An average of two persons is executed in Belarus every year. A broad discussion on the introduction of a moratorium has begun in 2008. And in the beginning of February 2010, the Belarusian parliament established a working group "on the issue of death penalty as an instrument of punishment" composed by members of both chambers of Parliament. ODIHR welcomes this positive development and if requested, will offer its assistance to Belarus to move towards the full abolition of capital punishment.

In the United States capital punishment can be handed down by state, federal or military courts, but *de facto*, death sentence are only passed at the state level. During the reporting period, 42 individuals were reportedly executed in the United States; all executions were done by lethal injection. It is noteworthy to mention that on 23 September 2010 for the first time since 2005 a women was executed in the USA: Teresa Lewis in Virginia. In 2010 we reported on 49 executed and in 2009, according to official statistics 60 persons. We therefore do see a declining trend also in the US.

In addition, more and more States follow the global trend and fully abolish capital punishment. Out of the 50 States in the US, 15 States as well as the District of Columbia have now fully abolished capital punishment. In May 2011, it was the State of Illinois which joined this ongoing trend.

Before concluding, I must, however, draw your attention to a worrying trend we observe whereby both countries which continue executing persons have recently done so in breach of international law. In the United States the Mexican national (Humberto Leal Garcia) was executed on 8 July 2011 without having been granted consular access. Under Article 36 of the Vienna Convention on Consular Relations foreign nationals enjoy this right. A day before that, the US Supreme Court denied him a stay of execution by a 5 to 4 vote arguing that Congress must enact legislation in order for international law to apply.

And in Belarus, two men, Mr Aleh Hryshkawsow and Mr Andrey Burdyka, were reportedly executed on 13 July of this year despite the fact that their cases were being reviewed by the UN Human Rights Committee. The Committee had explicitly requested to wait for results of their review. This is the second time in less than two years that individuals whose cases were pending before the Human Rights Committee have been executed in Belarus.

I look forward to discussing this phenomena and hearing your ideas and recommendations on how we can all further improve our efforts and how we can continue to support each other in our work.

### Session 1: Questions, Comments and Answers

**Comment:** The independence of the judiciary in relation to the death penalty is an essential requirement to counteract strong influence from the political arena.

**Ioanna Kuçuradi:** It is important that the judiciary are independent but also that the judiciary have independent minds as many human rights institutions are not independent of mind.



**Q:** How important is the prerequisite for establishing human rights prior to abolishing the death penalty?

**Ioanna Kuçuradi:** Both legal education and human rights education are needed. It is important to educate the public that *“killing someone who has committed a crime, you are committing another crime”*.

**Commissioner Atoki:** Each country needs to devise a separate system towards abolition and to reach consensus. Setting up a human rights commission just for death penalty related issues may not be necessary in all states. States should establish what is necessary for their country, in line with its social, cultural, religious needs.

**Zaved Mahmood:** There are issues of consistency in how the matter is addressed at the national and international level. The number of countries abolishing the death penalty has increased which should be acknowledged. There are organisations supporting this at the national level but we need to do more.

## **Session 2 - Restricting the scope and application of the death penalty in practice**

*This session focused on the various tools and strategies being used to reduce the application of the death penalty in practice.*

### **Chair - Mr Dzhumahon Davlatov, Chairman of working group on abolishing death penalty in the Republic of Tajikistan**

(PRESENTATION NOTES TAKEN BY PRI RAPPORTEUR)

Mr Davlatov explained how the death penalty has been applied in practice, and the progress being made towards abolition in Tajikistan.



Tajikistan is a member of the Council of Europe and has taken steps to abolish capital punishment, including the adoption of the ICCPR and a Parliamentary Charter which creates steps towards abolition of capital punishment.

Following independence from Russia, death penalty applicable crimes were reduced from 44 crimes to 15. In 2003, Tajikistan further reduced the types of crime that would have a mandatory death sentence to 5 crimes.

Where capital punishment is applicable, it is not as a mandatory sentence. There are a number of alternative sentences available to the courts, including life imprisonment (there are currently 51 life sentences prisoners). In addition, the death penalty is prohibited for women and juveniles.

The investigation of death penalty applicable cases involves various procedural guarantees to protect the defendant, and the hearings take place at the highest court in Tajikistan. The accused retains their right to appeal any sentence or to apply for a pardon.

Tajikistan's route towards abolition of the death penalty began in 2004 when the President announced an official moratorium. Those already sentenced to death in 2004 were pardoned or their sentences were replaced with life imprisonment. However there are still some people who are not aware that there is a moratorium in place, so there is always a possibility of its return. In 2010 the President established a Working Group on the Death Penalty. The Working Group is investigating the situation in Tajikistan as the moratorium has had limited effect and further action is need to take the final steps towards full abolition

### **Speaker - Mr Vladzimir Khomich, Professor of the Belarusian State University, and Head of the Institute under the General Prosecutor's Office (Belarus)**

(PRESENTATION NOTES TAKEN BY PRI RAPPORTEUR)



Mr Khomich provided a perspective on the death penalty in Belarus and its application. In his opinion, he believed that a time will come when capital punishment will become incompatible with human dignity in relation of serious crimes and will become a thing of the past. Mr Khomich advised that he had his own viewpoint on the death penalty, but would be presenting the official opinion.

International organisations lack tact when discussing the death penalty in Belarus and bring it into a political arena when it is in fact a universal issue. The issue of human rights and international standards should be resolved on the basis of human principles rather than political principles.

Belarus is a civilised society and there is potential to abolish the death penalty and implement human rights principles. Belarus has a complex political

situation but overall the balance should be based not on politics but on human rights and human dignity. If Belarus focused on those issues in cooperation with international organisations then Belarus will succeed, as both the political structures and society at large have recognised that the abolition of the death penalty is a necessity. However at present the situation remains a game, of which Belarus does not want to take part in.

The statistics regarding the application of the death penalty in Belarus are not worrying or an insult to human dignity. Belarus has a high value for human life. There are no multinational or multiethnic conflicts, there are no hidden wars and Belarus has succeeded in bringing its crime rate down.

In Belarus during the last 10 years the death penalty has been applied only when it was not possible to keep citizens alive: as a result of the crimes they had committed and the aggravating facts it was impossible to let them live and remain as part of society. However, the judiciary do have a number of alternative sentences available to them, and can apply those alternative sentences where the case allows it. In fact, in recent years 161 people were acquitted by the courts, a quarter of those were in relation to murder cases. While the 1980s was a rather bad period in Belarus, judges are now more careful in sentencing, which can be evidenced by the positive trend in acquittals. This is not just prevalent in the judiciary but also in government policy.

Public opinion is still a major factor in Belarus, however if the State is the cultural and political leader, then the State should decide this issue and not society. Abolition of the death penalty makes sense, and is a reasonable idea that is recognised by the world at large. But Belarus cannot be pushed to do it. There is a need to tread carefully and understand what is being done at the national level. There is a serious concern that abolition could lead people to implement death sentences themselves through acts of vigilantism if they believe the judiciary are not handing down appropriate punishments.

In 2008 a government Working Group was established in parliament and the constitutional court of to monitor trends in the abolition movement. If positive trends are in place then Belarus can reach a desirable situation where there is space to meet international norms and standards. While abolition of the death penalty is of a universal and global nature, it should be specified according to each country when being debated by the international community. For example, it is important to discuss the social, economic and cultural issues alongside abolition, as abolition is related to human nature, social and political issues of that particular country.

**Speaker - Mr Nikolaj Belorukov, Member of the Constitutional Council (Kazakhstan)**  
(PRESENTATION NOTES TAKEN BY PRI RAPPOREUR)

Mr Belorukov presented the situation regarding the death penalty in the Republic of Kazakhstan.

Although Kazakhstan gained independence from Russia, they inherited the Russian judicial system, which included the death penalty. In recent years, Kazakhstan has made legal amendments to take the country on the path towards abolition. In the first instance, Kazakhstan amended the former Soviet Code and abolished the death penalty for certain crimes such as theft, rape, forgery. Only two crimes retain the death penalty: acts of terrorism resulting in death, and felonies committed during war-time.



The new Criminal Code established a new life sentence to replace the death penalty in a number of crimes. The maximum length of life imprisonment was raised from 15 to 25 years, and as a result the number of people given a death sentence has drastically decreased. Judges are now in favour of long sentences as an alternative to the death penalty. Today, up to 90 citizens are now serving a life sentence,

but each could have been punished by death. Life imprisonment shows Kazakhstan can successfully use an alternative to death penalty. After 25 years imprisonment, parole can be applied for.

By decree of the President an official moratorium was implemented in 2004, which resulted in all those prisoners on death row having their sentences commuted to a whole life sentence. The moratorium has now been in place for eight years. Following the moratorium in executions and the abolition of the death penalty for certain crimes, a rise in criminality did not result as opponents predicted. There has been no national campaign to restore the death penalty, and proponents of abolition have increased over the years. As such, the decision towards full abolition now requires the political will in the country. The majority seems in favour of a life sentence being sufficient to replace capital punishment in full.

**Speaker - Mr Elobaid Ahmed Elobaid, Head of the United Nations Human Rights Training and Documentation Centre for South-West Asia and Arab Region (Qatar)**

(PRESENTATION NOTES TAKEN BY PRI RAPPORTEUR)

Mr Elobaid monitors trends within UN Member States to identify entry points where abolition could be pushed forward.



140 States have abolished the death penalty in law or in practice, with only five countries carrying out 90 percent of executions. In the Arab states only Djibouti has abolished the death penalty and has ratified the International Criminal Court statute. There are a number of Arab states that have frozen the use of the death penalty and there might be a possibility for Tunisia to abolish in the future.

There are many States that haven't carried out the death penalty in years, but that are reluctant to take the final step to abolish it. For example, Lebanon is fluctuating.

Terrorism comes into the debate, and adds to calls for reinstatement of executions. In a number of countries the death penalty is not reserved to only the most serious crimes. In Yemen, for example, the death penalty is imposed for 300 offences. In Sudan the death penalty is used on two types of crime: trading in foreign currency or political attempts to overthrow the government with force.

In many cases convictions are obtained in problematic ways, often in the absence of a fair trial and carried out in conditions amounting to torture, inhumane or degrading treatment. The death penalty itself is not a deterrent; the issue is that it is irreversible. There should instead be a process of rehabilitation and reinsertion into society rather than retribution.

However there are still many traditional arguments regarding its deterrent effect and also cultural and religious arguments in its favour. But aspects of traditional beliefs should not be used to justify the use of the death penalty. Other arguments in favour of the death penalty also include what is best for victims are their families, however this argument needs to be discussed in more detail and is not something that can be dealt with intellectually.

There is a growing trend in the Arab region to limit the application of the death penalty overall, although it still remains on the law books. This means that there is a grey area, where the death penalty remains a sentence but is not carried out. It is hoped that the trend that has been set in Djibouti for abolition will lead the way for other countries in the region to follow. In particular new opportunities come in the form of the Arab Spring which will have some effect on the death penalty. Tunisia is the most hopeful in light of the speed of the ratification of the International Criminal Court treaty. But it is still imperative to change the current discourse on death penalty in the region, and go back to identity; using local tools of

argument to humanise the issue. It is important for states to invest time to show the victims of the death penalty and those marginalised by the death penalty.

**Speaker - Professor Frederick Ssempebwa, Senior Advocate, Katende Ssempebwa & Company (Uganda)**  
(PRESENTATION NOTES TAKEN BY PRI RAPPOREUR)

Of the five countries that constitute East Africa, Rwanda and Burundi have abolished the death penalty. Uganda and Kenya have had two constitutional reviews on the death penalty, but it is still retained in law.

In Uganda they consulted widely on whether to continue with capital punishment in the new Constitution. Under Idi Amin, Uganda went through much turbulence and a lot of politically motivated killings took place, for which people wanted to retain the death penalty. In 2005, there still maintained a slight majority in favour of the death penalty however people were interested in debating it as an issue. Those that thought the death penalty should be abolished wanted to see a real alternative punishment so that the rule of law was being properly upheld. People wanted a punishment that would be in line with the victim, which follows the African system which is based more on compensatory than punitive principles. The death penalty has therefore been retained for a number of crimes in Uganda, and in fact has one of the longest list of death penalty applicable crimes in the region, such as for murder and aggravated robbery. The death penalty is also being raised as a potential punishment for some forms of homosexuality. While the proposed homosexuality Bill was successfully fought in the last parliament, many parliamentarians continue to try to revive it.



At present, the Ugandan Courts have the power to impose the death penalty as a discriminatory sentence: the mandatory death sentence having been abolished recently, with Kenya following suit. It is thought that these recent decisions to restrict the application of the death penalty would encourage the judiciary to further restrict its application however that has not happened, and at least 14 people have since been sentenced to death in Uganda in the last year. The difficulty is re-orientating the judiciary to exercise their discretion and not to use the death penalty but to apply an alternative punishment. Most death penalty cases are implemented because the crime is so severe, but a great deal needs to be done to increase the restriction of the death penalty. The current challenges in Uganda are now issues related to mitigation hearings: psychology reports, social worker reports and other evidence etc. This can be very complicated and difficult to obtain, as well as very expensive.

### **Session 3 - Reconciling religious and cultural arguments in favour of the death penalty with international trends towards abolition**

*This session focused on how the international community can reconcile the right to life with various religious and cultural arguments in favour of the death penalty.*

**Chair - Mr Olawale Fapohunda, Managing Partner of Legal Resources Consortium, and Board Member of Penal Reform International (Nigeria)**  
(PRESENTATION NOTES TAKEN BY PRI RAPPOREUR)

Apart from deterrence, religion is one of the main issues cited as an obstacle in abolition of the death penalty. For those of us living in countries where religion dominates all aspects of public and private life, it is difficult to have a rational discussion on abolition. There is always a discussion regarding Islam and the death penalty, but it is not the only religion which allows the death penalty. If a poll was taken amongst the 60 million Christians in Nigeria, most would support the death penalty and cite the bible for their justification. As far as religion is concerned, the death penalty is not exclusively reserved to any religion. Traditional African religions have a huge number of supporters for the death penalty. Any



government taking difficult decisions on behalf of their population should therefore address this issue head on.

**Speaker - Dr Mohamed Al Habach, Parliamentarian and Islamic Scholar (Syria)**

(PRESENTATION NOTES TAKEN BY PRI RAPPORTEUR)

Dr Al Habach provided an analysis on Islam and the death penalty, stating that applying the death penalty in the Islamic world is not the best option and a wiser and more beneficial option exists.



The Koran provides that Man is derived from the spirit of God. This means that it is an assault on the human soul to assault its sanctity: someone that kills one soul is like someone killing all souls.

It is important to distinguish between capital punishment and retribution, which is not in the Koran. No man has a right to remove another man from existence. Capital punishment is not mentioned in the Koran or in authenticated tradition. The Prophet never used the term. Islam resorted to the term 'just retribution'. We must be clear in the distinction. 'Just retribution' aims to establish justice in punishment. 'Just retribution' is restricted to the crime of murder, which in the Koran is punishable by death. What we see now in Arab countries is the use of capital punishment for hundreds of crimes. Statistics show that in Yemen the death penalty has been applied for over three hundred crimes, in Saudi Arabia 312, and Morocco 321 death penalty applicable crimes.

In the Koran it states that "those who fight God and his Prophet and spread evil should be put to death, feet cut, crucified and banished from the land". It states there are punishments to choose from aside from death which leaves discretion for the State. Islamic scholars later added the death penalty as a punishment for other crimes that are not mentioned in the Koran, for example adultery. Some scholars also claimed death was appropriate for apostasy, which is a clear contravention of the Koran as no one can be forced to adopt religion. Some scholars also impose death on magicians, claiming connections with occult but the Koran only mentions the death as a punishment for murder.

The Koran urges for pardon at every instance on the mentioning of 'just retribution'. A companion of the Prophet said God always prefers forgiveness and pardon over just retribution. The Prophet always urged forgiveness and argued reconciliation of the victims' family with the offender.

Another method of Sharia law to oppose capital punishment is to prohibit the use of the death penalty if there is no rightful claim by the victims' next of kin, although the Attorney General cannot do this in a case of murder as there is no just retribution if there is no rightful claim of a victim's next of kin. Regarding juveniles, if one of the relatives of the victim is under 18, just retribution is delayed until the child grows up and decides if they what to carry out the punishment.

Another method to oppose capital punishment is where there is no consensus between all Islamic countries; the rule can then change. Consensus is however preferable between systems in Islamic countries.

Sharia also provides for the possibility of paying compensation to the relatives of a victim, which is one way to avert 'just retribution'. The judge must explain to the victim's family that it is not a capitulation, but is grace from the heart and a way for reconciliation and to avert capital punishment. Another method to oppose capital punishment is to make the tribe contribute to pay an indemnity. Sharia urges families to pay. Islamic law seeks reconciliation. A pardon for 'just retribution' is also possible.

The main point to remember though is that there is no death penalty in the Koran, rather there is 'just retribution' and that is only available for murder.

**Speaker - Honourable Justice Augustino Ramadhani, African Court of Justice and retired Chief Justice of Tanzania (Tanzania)**

(PRESENTATION NOTES TAKEN BY PRI RAPPOREUR)

Every society has its own rules which form customary law. In Africa, there are about 579 ethnic groups: for example, the Democratic Republic of Congo has around 200 ethnic groups; Tanzania has approximately 120 tribes, each of which has its own rules that overlap on some details.

African customary law aims to provide restorative justice to promote and prevent wrongdoing. There is a proverb, when a tribe wants to 'resolve a dispute you don't take a knife to cut, but a needle to sew'. In African customary law, restoration of peace and social harmony with the victim is a part of this guarantee of restoration and so African customary law tries to meet the victim's needs.

With regard to African customary law and the death penalty, in some cases, it is more than just murder. While the burden of proof is beyond reasonable doubt to ensure no mistakes in conviction happen, however no judicial system is perfect and mistakes do happen. Therefore, it is a requirement that the Head of State signs the death warrant and the Tanzanian Heads of State have not done so since 1995.

Customary law distinguishes between clan and non-clan members, but with globalisation there is only one clan and there should be no distinction. For loss of life, a clan member's primary focus is to maintain the clan and there is no room for the death penalty. If the goal of punishment is reformation of the offender, only abolition of the death penalty can achieve this. It is therefore fundamental that there is full understanding of this across Africa. There has been a massive civic education, and a number of steps taken to ensure that the welfare of victims and their family members are taken care of. These sort of steps, and by urging best practice under African customary law, will lead progressively towards abolition.



**Speaker - Ms Tanya Awad Ghorra, Lebanese Association for Civil Rights (Lebanon)**

(PRESENTATION NOTES TAKEN BY PRI RAPPOREUR)

Ms Ghorra provided an overview of the situation in Lebanon explaining that there are 19 religious factions so no one can assume to hold a majority in making the definitive argument in favour of the death penalty. Every issue is the subject of endless debate. Following many years of killings and war, people have lost their trust in one another.



When the first President was elected after the 1982 war he decided to reinsert the law 'the killer is killed', so in 1994 Law 32/94 was established and a long list of people went the gallows. Protests against executions took place, political parties and civil society campaigned, and strategies were developed to reach people from all sectors of Lebanese life, through activities such as street theatre, demonstrations, sit-ins and art exhibitions.

Studies carried out in 2009 showed 74 percent were in favour of immediate or gradual abolition of the death penalty. Lobbying created debate and discussion and allowed for work with victims' families as well as many creative and local exercises which lead students to send pleading letters to the President and Prime Minister. Lawyers and judges researched and took part in contributing to the debate as well as religious leaders. The campaigning all lead to the abolition of Law 32/94 on 25 July 2001. An alternative law has been drafted and is ready to be implemented.



Unfortunately, while Lebanon has taken positive steps towards abolition, including an unofficial moratorium, a new challenge arose in 2010. Following a large campaign against people accused of communicating with Israelis and allegedly spying on Lebanon, the President signed death sentences; the moratorium is therefore very fragile and needs continued work.

Work done with death row inmates was revealed at a press conference in 2011 and it showcased the letters from inmates to victims, it was emotional and led prison wardens to tears. There was a lot of gratitude for the work that was going on. As such it is important that convicts are humanised; if we work with victims' families some families will change their opinion as one crime does not justify another. Capital punishment is irreversible and we can be wrong. The most recent strategy of the Lebanese coalition is to undertake training within schools and within prisons. However there continues a lot still to be done in Lebanon, which is why we're here. Pressure will continue to be applied until Lebanon takes the final steps towards full abolition in law.

### Session 3: Questions, Comments and Answers

**Q:** What is the position of the Christian church on the issue of the death penalty?

**Tanya Ghorra:** In the bible no one has a right to take the life of another.

**Olawale Fapohunda:** There is no consensus on what the Christian church says on this matter. In Nigeria there are old Christian established churches and evangelical churches that would say 'yes' to death penalty, citing the Old Testament. In West Africa there is however no consensus on this issue.

**Justice Ramadhani:** There is no Christian stance that the death penalty is ever acceptable. Cain and Able was the first killing in the bible promoting an 'eye for an eye', but the New Testament says to 'turn the other cheek'.

**Dr Al-Habach:** Concerning the Catholic Church, St Thomas agreed on the sentencing of death, but the Catholic Church is now moving towards a more liberal position on the death penalty than in the past.

**Ioanna Kuçuradi:** To try to justify the use of the death penalty using religion is never appropriate. It would be better to try to defend our wish to abolish the death penalty by other methods. Otherwise it will always come to impasse.

**Q:** Islamic society has banned a lot of punishments, such as stoning and cutting off hands, why do you think they have gotten rid of these milder punishments and not the death penalty? Why do we have divisions between Islamic scholars with respect to the status of death penalty in Islamic Law?

**Dr Al Habach:** In a study that I am preparing, there is a chapter on the possibility of the progression of criminal law in Islamic law towards alternative sanctions to the death penalty. This is based on evidence from Sharia and prophetic traditions. We don't claim that we are conveying a consensus on this issue. There is no consensus, but I am presenting a vision. The punishment of stoning a female adulterer should be banned as it is so cruel. There has been a lot of evidence that this punishment was refuted by scholars during the enlightenment period. There is no other text in favour of this form of punishment.

**Q:** Between 2005 and 2011 it is known that at least 115 people were executed in Arab countries; what we can do to condemn these practices?



**Olawale Fapohunda:** Islam proposes so many solutions that are compatible with modern criminal law, for example where the offender is mentally unstable it proposes treatment not death. Within the Universal Declaration on Human Rights there are 30 articles that correspond with the Koran and you also find corresponding rules in the Bible. Religion is compatible with common sense. We can address capital punishment on the basis of values and not religions. It however does not work in the Middle East as issues are viewed as divine orders. When we conduct a study showing orders are compatible with modern law, then it will be a good tool for us.

**Commissioner Atoki:** I agree that there are new and different Christianities developing. But the principles are the same, such as the commandment “thou shalt not kill.” It is a challenge at the African Commission dealing with the rights of homosexuals so we need consensus on that issue.

**Q:** Given the challenges of the African legal systems, what role do you see for restorative justice? Is there a role for this in relation to death penalty?

**Olawale Fapohunda:** We don't have one African customary law, for example there are 120 tribes in Tanzania, which is not easy to resolve. It is a question of inheritance and harmony through traditional methods. There is no loser or winner in Africa, because this creates grudges against the winner.

**Tanya Ghorra:** With respect to Lebanon, there is a verbal moratorium but it is very fragile, and therefore still needs a lot of work. Education of the population is vital, as is awareness-raising. Religion is a very serious issue and we use it when it works for us.

**Olawale Fapohunda:** Across all religions we affirm the right to life.

#### **Session 4 -The declining use of the death penalty: implications for policy, legislation and sentencing of alternative sanctions**

*This session focused on what replaces the death penalty as the maximum and ultimate sentence when a moratorium is in place or when the death penalty has been abolished.*

**Speaker - Mr Yuriy Kalinin, Member of the Council of Federation of the Federal Assembly of the Russian Federation, and former Director of the Prison Service (Russia)**

(PRESENTATION NOTES TAKEN BY PRI RAPPORTEUR)

Mr Kalinin provided a brief overview of the use of the death penalty in Russia.

Measures to refrain from capital punishment started in 1996 when Russia became a member of the Council of Europe. A decree to prohibit the use of capital punishment was initially drafted as an amendment to Article 8 of the European Convention on Human Rights (ECHR). It essentially blocked the possibility of using capital punishment and for the last 15 years capital punishment has not been used in Russia

The prison service of Russia is repressive, especially towards those that commit premeditated murder. The maximum sentence is 25 years which applies to 3 percent of convictions which makes up approximately 13,000-17,000 people in total. There are also exit camps with special regimes housing those serving a life imprisonment; which is approximately 3.5 percent of the prison population.



Life sentenced prisoners have a right to exercise (walk) outside, visitation with family members, food, and access to medical and psychological assistance. They have a chance of being released on parole but they must serve at least half their sentence and have good references. The Russian Prison service follows the main principles of international law.

With the inclusion of community service, education and an effective trend towards abolition in Russia, there is the possibility that Protocol 6 of the ECHR will be adopted in the near future; this conference and other similar forums are steps which help improve the situation in Russia.

**Chair - Mr Peter Hodgkinson, Centre for Capital Punishment Studies, University of Westminster (UK)**

Mr Hodgkinson highlighted that he had been asked to look at a prison in Seransk (Russia) and it had been an interesting experience. The women's prison was run very progressively, but the director of the prison felt constrained and could not make similar changes to the men's prison.

**Speaker - Mr Givi Mikanadze, Council of Europe (Georgia)**

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Abolition of death penalty in the South Caucasus region consisting of three countries – Georgia, Azerbaijan and Armenia is directly related to the accession of these states to the Council of Europe. No capital punishment has been executed in Georgia since 1993. A moratorium was declared on capital punishment in late 1996, and capital punishment was ultimately abolished in 1997. 54 convicts sentenced to death were pardoned by Presidential Decree and they were subsequently sentenced to 20 years of imprisonment.

The death penalty has been abolished in Azerbaijan since 1998. In the period of the unofficial moratorium on executions (June 1993 - February 1998) the death penalty was imposed but not executed. In the case of replacing the death penalty by a court a definite period not exceeding 15 years was appointed. With the abolition of the death penalty in terms of pardon a death sentence was replaced with a term greater than 15 but not exceeding 20 years.

Although the death penalty, as an exclusive punishment existed in Criminal Code of Republic of Armenia, it has not been implemented since the 1990s. But before the repeal of this punishment from the Criminal Code, the courts were still delivering judgments involving capital punishment. In 2003 a new Criminal Code was adopted, which replaced the capital punishment with life imprisonment.

As was mentioned, in accordance with the obligation imposed by the Council of Europe all three countries have replaced the maximum sentence – death penalty with life imprisonment. Comparing cases applied by the death penalty with the cases applied by life imprisonment, the results are as follows: in Georgia 8 articles of the Criminal Code stipulated death and life is applied in 18 articles; Azerbaijan has 36 death penalty applicable articles and 20 for a life sentence is applied in 20 cases; Armenia has 20 articles which stipulate the death penalty and 20 articles for life.

It should be identified that the death penalty in all three countries was not applied against juveniles up to the age of 18 years at time of crime committed. Additionally, it did not apply to women in Azerbaijan, to pregnant women, women with young children in Armenia and pregnant women, who were pregnant at the moment a crime was committed, at the moment a sentence was passed, and at the moment a sentence was executed in Georgia. It is worth noting that the Georgian legislation did not prescribe any privileges for the elderly or for the women with minor children. However, Armenian and Azerbaijani legislation were excluding from the death penalty elderly people.

In accordance with acting Georgian legislation, a life sentence shall not be applied against those, who were not eighteen before a crime was committed, or who were sixty by the moment a sentence was passed, that is the lack of opportunity to apply life sentence against a pregnant woman was removed from the legislation.

Furthermore, Georgia is the only country in the South Caucasus region, where life imprisonment is practiced against females, and four life sentence women prisoners are being held in the penitentiary system as of today.

According to article 57.2 of the Criminal Code of Azerbaijan, "life imprisonment is not imposed to women, persons who by the time of the offense have not attained eighteen years of age, and men who have reached sixty-five years of age by the moment of sentencing."

According to paragraph 2 of Article 60 of the Criminal Code of the Republic of Armenia persons who were not eighteen years old before a crime was committed, and women pregnant at the time of commission of the crime or sentencing, cannot be sentenced to life imprisonment.

With respect to applying life imprisonment against those, who have mental problems, legislation of three countries do not make any specific reference pertaining to applying life sentence to the individuals falling into the above category, rather than the articles of the Criminal Codes regarding insanity due to the mental illness. However, the legislation identifies that forced medical measures can be imposed by the court with respect to the person who committed socially dangerous actions in an insane state.

Statistics shows that the number of life imprisoned persons has increased, as the courts impose such sanctions every year.

In Georgia the number of life imprisoned persons is equal to 91 (among them 4 females and 3 foreigners, citizens of Turkey, Azerbaijan and Bulgaria) as of July 2011; in Azerbaijan – 244 (among them 6 citizens of Russia and 3 citizens of Georgia) as of December 2010; and in Armenia – 99 (among them 2 foreigners – Lebanese and Georgian) as of January 2011.

There are 24 000 prisoners in Georgia; that means that the life sentenced persons constitute around 0.4 percent of the prison population; in Azerbaijan the lifers constitute around 1.2 percent of the prison population, and in Armenia around 2 percent.

It should also be noted that no life sentence can be applied without the opportunity of release in Georgia, both in practice and under the legislation. As per article 72 of the Criminal Code of Georgia "convict can be exempt from the life sentence, if he/she has actually completed a 25 year imprisonment term, and if the Local Board of the Ministry of Corrections and Legal Assistance does not deem it necessary for the convict to further serve the sentence". Furthermore, the amendment made to the Criminal Code in 2010 stipulates that "life imprisonment can be substituted by community service, if he/she has actually completed a 20 year imprisonment term, and if the Local Board of the Ministry of Corrections and Legal Assistance deems that the convict does not need to further serve the sentence".

According to Article 57.3 of the Criminal Code of Azerbaijan, the court can replace life imprisonment by a fixed-term or conditional release if a prisoner has served not less than twenty five years', has not committed any further crimes which serving his sentence, and the prison administration concludes that there is no further necessity to continue imprisonment.

In Armenia, a life imprisoned prisoner may apply for early conditional release or to replace the remainder of his sentence with a milder punishment if he has served 20 years imprisonment and has not received any disciplinary punishments against him during the previous 5 years. To make such an application, the prison administrative commission submits the case to an independent commission for approval, which

then submits the case to the court for approval. If the court refuses to release the application the prisoner may re-apply within six months.

The information presented above clearly identifies that the death penalty has been removed from practice in the South Caucasian region for more than 10 years, however the number of life sentenced persons increase every year. Accordingly, the situation regarding the implementation of life imprisonment needs to be focused and regularly monitored. The current legislation and practice in all three countries should meet European standards as established in the European Prison Rules, as well as in the Recommendations of the Committee of Ministers of the Council of Europe Rec. (2003) 22 on conditional release (parole) and Rec. (2003) 23 on the management by prison administrations of life sentence and other long-term prisoner. The three countries should take positive steps to implement these regional standards at their earliest convenience.

#### **Chair - Mr Peter Hodgkinson**

Mr Hodgkinson added that he had worked in Armenia and Azerbaijan to revise the penal codes and the experience in Armenia had been very positive. They had worked on the less not more principle and talked about a formal alternative to the death penalty. In Armenia there were 17 homicide offences that were given a mandatory life sentence. In Azerbaijan it was decided that the replacement for the death penalty for homicide was 7 years which seemed disproportionate and so they recommended a review, from which the replacement penalty is now between 8-12 years. This illustrates how different the situation is in neighbouring states, perhaps because little or no attempt has been made to undertake policy and sentencing research into appropriate alternative sanctions following abolition.



#### **Speaker - Mr Yury Baulin, Judge of the Constitutional Court (Ukraine)**

(PRESENTATION NOTES TAKEN BY PRI RAPPOREUR)

Mr Baulin shared his experiences of Ukraine, including being part of the Working Group for the preparation of the new Penal Code for Ukraine and also working in the Constitutional Court when the death penalty was abolished.



The old Ukrainian Criminal Code was adopted in the 1960s and established the death penalty by shooting for serious and extremely serious crimes. The death penalty was applicable for 24 crimes including 19 wartime offences. On 3 February 1999, 51 people approached the court to advocate for the abolition of the death penalty and the Constitutional Court concluded that the provisions of the Criminal Code were unconstitutional. They decided this for 3 reasons; firstly the death penalty in the Criminal Code was against the constitution of Ukraine which specified that no one can be tortured. Second, the death penalty was not mentioned in the constitution of Ukraine and so was illegal. Third, the death penalty went against the aim of rehabilitation and could involve human error in sentencing, so once again was established as unconstitutional because the constitution specified that all citizens have a right to life and safety.

When the decision was taken to abolish the death penalty in 1999 there were 405 people on death row. Alternative sanctions to the death penalty were established, and in March 2000 the death penalty was abolished and life sentencing introduced. On 5 April 2001 a new criminal code was adopted that did not contain the death penalty, providing a less stringent law that had sentences of 10-15 years. There have been attempts to revive the death penalty in Ukraine, so further work is needed to raise awareness about the issues.

**Speaker - Justice Daniel Musinga, Judge of the High Court (Kenya)**

(PRESENTATION NOTES TAKEN BY PRI RAPPORTEUR)

In August 2010 a new constitution was established in Kenya. Article 26 of the new constitution made provisions for the right to life but made an exception for the death penalty.

However, section 204 of the Penal Code provided that any person convicted of murder shall be sentenced to death. This new provision created problems for the judiciary, as judges had been exercising their discretion in sentencing on death penalty cases; however the Penal Code had not been amended to reflect this and created a mandatory sentence.

Subsequently the court in the 2010 case of *Mutiso v. the Republic* abolished the mandatory death sentence, finding that it was arbitrary, inhumane and unconstitutional. The Attorney General considered the decision and conceded that a judge has discretion not to apply the death penalty and to apply another sentence according to the facts of the case. On assessment the Attorney General was persuaded that s.204 of the penal code was therefore unconstitutional. The Court of Appeal remitted the case to the court to consider an alternative sentence.



In many cases where the death penalty has not been imposed, long or life-term sentences are the alternative, however there is no clear sentencing policy on what “life” means. In a recent case a person was sentenced to prison for 30 years with no right to apply for parole until he had served 20 years. The life or long-term sentence is often based on the character and manner of the defendant and the circumstances surrounding the offence. Last month a judge overturned a sentence of death for robbery, substituting it with a penalty of five years imprisonment.

In Kenya, life imprisonment means imprisonment until death, which is compounding the problem of overcrowding in prisons. On petition you can exercise the discretion of mercy and the President may grant a pardon or substitute a lesser form of punishment. To the extent that the death penalty is still retained by the law, alternative sentences are more readily being passed now. The application of the death penalty is declining and more justices are getting convinced that the death penalty is degrading and inhuman.

Kenya is abolitionist in practice as the last execution was carried out in 1982, but it is still maintained in law. Most members of parliament want to retain it, as does the public. However many positive changes are happening in Kenya, such as the new constitution, a new Chief Justice and new judges, and there is every optimism that this will accelerate the movement towards abolition in law.

**Speaker - Dr Amor Boubakri, Member of the Tunisian Political Committee (Tunisia)**

(PRESENTATION NOTES TAKEN BY PRI RAPPORTEUR)

Dr Boubakri gave his view on alternative sanctions for countries in transition particularly Egypt, Libya and Tunisia.



These countries resorted to capital punishment to control individuals; the death penalty has been brutally implemented against the people, especially in Libya.

The moratorium in Tunisia is a result of foreign influence and to enable an association agreement with Europe. However, before the revolution of 2011 the Tunisian government was still implementing the death penalty; the last execution occurred in 2005. There are now new opportunities as far as the death penalty is concerned, but what is certain is things cannot remain as they are right now. The draft Tunisian

Constitution stipulates the abolition of the death penalty but we will have to wait for the election of the next political community to see what happens.

In Libya and Egypt abolition will take a little more time and maybe requires a progressive policy. But these countries are moving towards a moratorium in order to put an end to practices of dictatorial regimes. The judiciary in these countries are influenced by public opinion and they think it is a good thing to issue harsh punishments especially against the old regime, which is ironic that now the previous rulers are at the receiving end of their own practices.

This situation can be explained that the dictatorial regimes encouraged a culture of revenge instead of a culture of pardon. The regimes benefited from this culture. All these conditions do not deny that governments have the responsibility and have to work at tackling this culture of revenge and they did not do this.

Getting rid of the dictatorship and going towards a more democratic system would help to reopen a debate and put an end to the death penalty and open the way to discussions for an alternative sanction. Human rights organisations and civil society need to influence policy-makers in these countries and we are now looking to democratic institutions for change like the ones that are soon to be elected.

#### **Session 4: Questions, Comments and Answers**

**Professor Ssempebwa:** In Uganda after the *Susan Kigula* case, which abolished the mandatory death sentence, lawyers represented over 500 prisoners on death row arguing that they should have their sentences commuted. The Supreme Court ruled that those who had not exhausted appeals were entitled to a fresh hearing; those who had exhausted appeals and have been on death row for 3 years or more must have their sentences commuted to life imprisonment. In the majority of cases, the death sentences were quashed and lesser sentences imposed. In one case the prisoner was given two years imprisonment; the court took into account that he has been on death row for 10 years, had reformed and was remorseful. However there is a fundamental problem with the definition of life imprisonment in Uganda: the prison service know life as a maximum of 20 years (as set out in s. 20 of the Penal Code). In some cases this has meant that prisoners have successfully applied for and been granted parole after 20 years, however in some cases the courts have found the life means natural life. The Court recently sentenced a 60 year old man to 50 years in prison, so that is one way of guaranteeing that life is natural life. The judiciary needs to be educated on what life means, and ensure that there is a clear definition in law, so the prison service know what sentence to be implemented.

**John Arutu:** Adding to this case in Uganda, we questioned what the Constitutional Court meant by 'life' imprisonment, and received a letter from the Court that we should apply to the Attorney General to explain. The A-G could not, and we were subsequently sent back to ask the Court. The Chief Justice has advised judges to do what they think is right in these cases. Which raises the question, what is right? The interpretation of what life imprisonment is has been confusing as the judiciary has adopted a process of passing a sentence – without the government changing the law – so that the prison service can implement it correctly. The registrars working in the court then have to explain what this sentence effectively means to the convicted and his family.

**Q:** Is there harmony or a lack of harmony of punitive policies inside the penal code?

**Justice Musinga:** Agree that the Court of Appeal did not give a very definite decision to the extent that the penal code allows judges and magistrates to pass the death penalty and cannot say that they have moved completely away from the abolition of the death penalty, but it is important to give judicial officers discretion. True, Uganda does not have a harmonised policy, there are some cases where offenders have been convicted and sentenced to death and those sentences have been reviewed, some have been given 5 years and some 40 years, so a coherent sentencing policy is needed.

**Peter Hodgkinson:** For many years we have been challenging the ideal that success means halting executions. Until such time as the infrastructure that has supported the death penalty is addressed, we demean the intended outcomes of what most people think abolition is all about. I have accompanied Council of Europe missions and have been stuck on the fact that we haven't got the criteria right. Many countries have signed up to abolition however nothing then happens to improve the legal process, the prison service, due process etc in a holistic manner. In Uganda, for example, you find terrorists been sentenced to 25 years but others are sentenced to death for robbery. Something is not right. In the UK, following abolition, the alternative sentence was mandatory life with a chance of parole, however now that discretionary life sentences have been implemented the UK has more life sentenced prisoners than the rest of the Council of Europe put together. This is a huge cost on the UK's budget and a huge cost of life.

### **Session 5 - The role of the European Union in the fight towards universal abolition and humane alternative sanctions**

*The aim of this session was to highlight the various tools available to the European Union in the fight towards abolition, including the EU's strategy against the death penalty, the European Parliament, the EU Guidelines on the Death Penalty, and the EU as a donor.*



#### **Chair - Ms Vera Tkachenko, UNODC (Kyrgyzstan) and Board Member of Penal Reform International**

More than two-thirds of world has abolished the death penalty in law or in practice however on average there are 5,500 executions each year. One execution is too many therefore it is important to continue fighting against it. The EU is one such actor that does this.

#### **Speaker - Dr Maria Lensu, European External Action Service, European Commission (Brussels)**

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The European External Action Service (EEAS) was officially established in January 2011 to bring together the external action services of the European Commission and of the Council of Europe. It is a new institution but the policy has not changed.



The European Union has a very strong and principled position against the death penalty. The abolition of the death penalty represents one of the main objectives of the EU's human rights policy. The EU High Representative for Foreign Affairs and Security Policy and Vice President of the European Commission Catherine Ashton has on a number of occasions declared that the EU's work on abolishing the death penalty worldwide is a personal priority.

Where the death penalty still exists, the EU calls for its use to be progressively restricted and insists that it be carried out according to international minimum standards. The EU uses all its available tools of diplomacy and cooperation assistance to work towards abolition of the death penalty.



The EU is a leading institutional actor and lead donor to the efforts by civil society organisations around the world in the abolition of death penalty.

All EU Member States have abolished the death penalty. In terms of regional ensembles, Europe is in a unique position – only Russia has yet to formerly abolish the death penalty and only Belarus still carries out executions. There are commitments under accession to the Council of Europe to establish a moratorium and to ratify Protocols No 6 and 13 to the European Convention on Human Rights.

The EU Guidelines on the Death Penalty were adopted in 1998 (as the first EU human rights guidelines) and revised in 2008, forming the basis of EU action. They provide criteria for making general or individual representations and outline minimum standards to be applied in countries retaining the death penalty. This is a policy area where there is strong EU consensus. The EU is the only international actor to actively pursue the abolition of the death penalty as a policy goal.

The EU Death Penalty Guidelines state that “abolition of the death penalty contributes to the enhancement of human dignity and the progressive development of human rights”. The Guidelines establish the EU objectives as:

- to work towards universal abolition of the death penalty as a strongly held policy view agreed by all EU Member States;
- where the death penalty still exists, to call for its use to be progressively restricted and to insist that it be carried out according to minimum standards.

The Guidelines help the EU to intensify its initiatives, including declarations and demarches on the death penalty, on international forums and towards other countries.

In 2010, the EU issued statements on more than 10 individual death penalty cases and carried out 25 demarches and other measures regarding individual cases.

The EU will raise the issue of the death penalty in its dialogue with third countries (call for abolition, or at least a moratorium). Demarche when the policy of a third country is in flux / “countries on the cusp” campaign, or demarche on public statement where countries take steps towards abolition.

Other initiatives include:

- human rights reporting;
- encouraging third countries to accede to international (e.g. Second Optional protocol to the ICCPR) or regional (Council of Europe Protocols) instruments;
- raising the issue in multilateral forums: UN General Assembly (UNGA) Declaration 19 December 2006, UNGA Resolutions 62/149 (18 December 2007), 63/168 (18 December 2008), 65/206 (21 December 2010);
- EU and Council of Europe initiative for the European Day against the Death Penalty (10 October) and annual joint declaration.

The EU is the first regional body to have adopted rules prohibiting the trade in goods for capital punishment (and torture and ill-treatment) as well as the supply and assistance related to such goods.

The EU does not and cannot carry out demarches on all individual cases. The EU will consider a demarche only in cases which violate the UN minimum standards. Speed and facts are essential. Sources of information include EU missions and Delegations, international and local NGOs. The EU can intervene in *Amicus Curiae* briefs (“friends of the court”) in the US (on cases involving mental retardation, minors etc).

The EU Guidelines and the UN minimum standards provide that capital punishment may be imposed only for the most serious crimes (not for example financial crimes, religious practice, expression of conscience,

sexual relations between consenting adults, or as a mandatory sentence). Capital punishment may not be imposed on:

- persons below 18 years of age at the time of the commission of the crime;
- pregnant women or new mothers;
- persons who have become insane.

Capital punishment may be imposed only when guilt of the person charged is based upon clear and convincing evidence leaving no room for alternative explanation of the facts, and when due process / fair trials (article 14 ICCPR) are upheld, where there is an effective right to appeal to a court of higher jurisdiction, and where there is a right to seek pardon or commutation of the sentence. Capital punishment must inflict the minimum possible suffering: it may not be carried out in public or in any other degrading manner.

**Speaker - Mr Alessandro Valdambri, European Instrument for Democracy and Human Rights, European Commission (Brussels)**

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Launched in 2006, the European Instrument for Democracy and Human Rights (EIDHR) is the thematic financial instrument of the European Union replacing and building upon the European Initiative (2000-2006). Its aim is to provide support for the promotion of democracy and human rights in non-EU countries.

The EIDHR has five key objectives for a broad mandate:

1. Enhancing respect for human rights and fundamental freedoms in countries and regions where they are most at risk;
2. Strengthening the role of civil society in promoting human rights and democratic reform, in supporting the peaceful conciliation of group interests and in consolidating political participation and representation;
3. Supporting actions in areas covered by EU Guidelines: dialogue on Human rights, human rights defenders, the death penalty, torture, children and armed conflicts and violence against women;
4. Supporting and strengthening the international and regional framework for the protection of human rights, justice, the rule of law and the promotion of democracy;
5. Building confidence in and enhancing the reliability and transparency of democratic electoral processes, in particular through monitoring electoral processes.



Key features of the EIDHR include:

- Global approach: funding more than 1,200 projects around the globe, active in more than 130 countries outside the European Union;
- Concrete support to civil society and international organisations;
- Project approach: funds awarded to civil society through call for proposals (managed by EU delegations or HQ) – no core funding;
- Complementarity with other types of assistance;
- No consent required: actions may be granted and implemented without the agreement of the governments of third countries.

The EIDHR does not provide core funding as such, despite some flexibility in grants. The budget of the EU is €1.104 billion for 2007-2013 (approximately €157 billion per year including for electoral observations) and just 0.0013 percent of the overall EU budget is for the EIDHR and just 0.78 percent of EC Official Development Assistance.

Flexibility is an asset as it provides for the EIDHR to:

- finance entities without “legal personality” under the applicable national law;
- provide direct support to human rights defenders at risk;
- allow for small grants to be given to third parties for actions contributing to the overall objectives of the financed projects (sub-granting).

The political commitment of the EU to enforce moratorium and keep on fostering emerging trends towards abolition is matched by funding the civil society through the EIDHR.

Between 1994 and 2006 the EIDHR funded 28 death penalty projects, allocating €12.4 million. Between 2007 and 2013 the EIDHR funded 24 projects at an allocation of €18.2 million. There are 20 ongoing projects in 2011, 11 of which are managed by the European Commission in Brussels, and the other 9 by EU Delegations in country. A new global call for proposals was launched in June 2011 with an allocation of €7 million. Through the EIDHR, the EU is the lead donor in the fight against the death penalty.

Under the 2011 global call for proposals, the specific objectives include:

- to support activities aiming to restrict the number of offences for which the death penalty may be imposed;
- to insist on the application of the minimum standards when an execution is carried out;
- to advocate the establishment of a moratorium on executions, with a view to the eventual abolition of the death penalty.

The type of actions funded under the 2009 call for proposals included:

- Lobby for the implementation of the Moratorium / ratification 2nd Optional protocol ICCPR.
- Targeted campaigns to increase public pressure/awareness.
- Increase judiciary awareness on inefficiency of the death penalty in crime prevention.
- Promote restriction of number of offences for capital punishment and respect for “minimum standards” for death penalty when it is still applied.
- Development of a global abolitionist movement and capacity building for small organisations.
- Outreach to influence public opinion through research studies, surveys, etc.
- Carry out studies on how States’ death penalty systems comply with minimum standards.
- Development of new tools (e.g.: HR impact assessment, databases).
- Contribute to secure the access of death row inmates to appropriate levels of legal support.
- Train judges and lawyers to restrict the application and promote alternative sentencing in retentionist countries.

The expected results include:

- Increase in national government commitments on ending or restricting the use of the death penalty (laws, ratification of international instruments, moratoria, etc);
- Legal changes (number of capital offences, exclusion of the mentally ill/juveniles, right of appeal, etc);
- Improvement in conditions of detention for people at risk of, or awaiting, an execution;
- Implementation of criminal procedures and trial practice which enhance the right to a fair trial;
- Enhanced availability of public information about the death penalty, death sentences, executions, conditions of detention, possible judicial mistakes, etc.;
- Enhanced awareness of death penalty issues, and increase in media attention on the subject.

**Speaker - Mr Renny Cushing, Executive Director, Murder Victims Families' for Human Rights (USA)**

(PRESENTATION NOTES TAKEN BY PRI RAPPOREUR)

Penal Reform International facilitated a meeting at the second World Congress Against the Death Penalty in Montreal in 2004, out of which came a recommendation for a network for victims and survivors' for human rights. Murder Victims Families' for Human Rights (MVFHR) thank PRI and the EU for their ongoing support and leadership as it means we're much closer to abolition than ever, and hope that it comes in my lifetime.



The behaviour of the death penalty mimics behaviour which brought the pain of a murder in the first place and victims' and survivors have a right to be involved. What was needed in the global fight against the death penalty is to address issues of concern for victims of violent crime: issues of impunity, holding offenders accountable, protection from predatory people, supporting efforts towards reparation to repair damage done by those committing violent offences etc. MVFHR is a bridge between the death penalty abolition movement and victims' rights movements, which both have important human rights concerns but are often seen as being in conflict.

MVFHR have two ongoing projects to reduce the death penalty: firstly by working with allies in the mental health community to restrict the use of the death penalty for those with mental illness; and secondly trying to put a human face on the impact the death penalty has on the families of those executed. We challenge execution states by saying it's an abuse of power to execute people. Survivors of those who have been executed should get recognition.

MVFHR takes a moral and practical perspective, by working in solidarity with other countries' victims' rights organisations.

There's a perception in government that all victims' families want the death penalty but we're trying to break that notion. Part of our work is to reach out to other states where there are victims' families in pain because every country has victims like these.

Victims' voices are crucial to success. In every state where abolition has happened, it has been stated that the voice of the families of victims has been instrumental.

**Speaker - Mr David Sellwood, EC Project Coordinator, Reprive (UK)**

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Reprive provides legal assistance to European nationals who are prisoners in countries outside of Europe, in particular identifying EU nationals on death row in the USA and providing assisting where needed. This work is funded via the EIDHR and is a 3 year project. Reprive has 5 US-based researchers and 3 investigators working under the project.



Foreign nationals are often disadvantaged from the outset, including unfamiliarity with the local norms and customs; linguistic difficulties; cultural barriers; alienation and isolation; and vital evidence and mitigation documentation being only obtainable from overseas – for which consular assistance can be a remedy.

Many states have robust consular assistance for their nationals facing the death penalty overseas, for example Mexico does all possible to prevent its nationals being executed by diplomatic intervention and the filing of *amicus curiae* briefs. The Vienna Convention on Consular Relations 1963 (VCCR) is crucial to providing assistance to foreign nationals and ensuring notification.

Article 36 of the VCCR provides the right to consular communication and assistance for foreign nationals.

However, it is not easy to identify EU nationals on death row in the US as there are at least 3,251 people on death row and the numbers vary from state to state. 34 US states retain the death penalty, with California having the biggest death row population at 721.

To help identify foreign nationals, Reprieve provides lawyers in the US with a survey regarding heritage and provides outreach through law centres and public defenders' offices to the death penalty community. Reprieve also undertakes independent research and word of mouth to identify foreign nationals.

We assist EU nationals by undertaking mitigation investigations, including:

- Life history going back three generations;
- Medical history;
- Mental health history;
- Substance abuse;
- History of neglect / trauma;
- Ethnic, racial, cultural and community influences;
- Socio-economic, historical and political factors.

The narrative history of the client can be used to show how they ended up in that position, which can make the difference between life and death. Reprieve also identifies people that can testify to a person's good character.

Governments from the EU work with Reprieve through consular offices. Reprieve builds a bridge between consular staff and the defendant as early as possible, and also with officials in the defendant's home country. Reprieve can facilitate diplomatic representations.

Formal legal interventions can be provided by working with local lawyers in creative ways, for example by raising international treaties, conventions and other international minimum standards; through Mutual Legal Assistance; and by bringing cases to international and regional forums such as the Inter-American Commission on Human Rights or the UN Special Procedures.

The EU has a strong and principled position against the death penalty and Reprieve work with the EU in a number of ways, for example interventions in individual cases (written representations, demarches, amicus curiae briefs etc), and also through invention regarding the control of exports of equipment that can be used for capital punishment, such as the drugs (sodium thiopental) used in lethal injections. It was found that a UK company was exporting sodium thiopental to the US to be used in executions. Thanks to targeted lobbying and judicial steps by Reprieve, there is now an export ban in the UK which prohibits the export of such drugs to the US. Reprieve hopes that such controls will be extended to the EU in the very near future.

## Session 5: Questions, Comments and Answers

**Q:** What obstacles do you face when you defend your arguments against the death penalty?

**Mr Valdambrini:** The Charter of Fundamental Rights in the Lisbon Treaty and other articles mean abolition of the death penalty is a precondition to EU membership. The EU is often asked why we interfere in the domestic affairs of a sovereign states and it is because the EU has a mandate to continue working against the death penalty in all countries that retain it.



**Dr Lensu:** Many third countries ask this in political dialogues. Governments are expected to show leadership rather than 'going where the fence is lowest' and the EU are acutely aware of ideas such as murder victims having a voice.

**Roger Hood:** The representatives from Tajikistan, Kazakhstan and Belarus have identified ideas that many want to change the status regarding the death penalty, but what replaces it? Is there an EU policy that sets out advice on what sort of alternative sanction should be established and the legal systems to implement? For example the UK government established a life penalty after the 7 July 2005 bombings, as terrorism seems to change the mindset of the public.

**Mr Valdambri:** PRI's project, which focuses on promoting alternative sanctions, is funded by the EU under the EIDHR. The EU has a project with China on training of judges on alternative sanctions. We also have a similar project in Egypt. And PRI's EU-funded torture project also provides additional training for the police employed in prisons.



**Taghreed Jaber (PRI MENA Director):** Many people who globally support the death penalty are not informed about the torture that occurs before they are executed, or that they can be executed for political reasons or following mistakes. We need to widen the global awareness of these issues and support the right of every individual to live freely. We need to make governments more responsible for making this decision on behalf of its citizens.

**Mr Valdambri:** The Death Penalty Information Centre in the US is working on a project regarding public opinion, how to make a survey and what kind of question should be asked.

**Renny Cushing:** Next year will be interesting in the US as states will be holding a referendum on the death penalty. It is controversial in the abolition movement. Many want to do the hard work to educate the public.

**Q:** How do you define abuse of power? You're using it to justify the abolitionist theory so we would be interested to know more.

**Renny Cushing:** A day will come when the whole world realises that an execution is a human rights violation. The power to kill someone is an abuse of power by a government.

**David Sellwood:** We were assisting someone from Germany on death row in Texas and the victims of his crime did not want him to be executed. They said to the Governor of Texas that he should listen to this and this was perhaps an abuse of power that he didn't listen.

**Jan Wetzel (Amnesty International):** Need to challenge the notion that a majority of the public are favour of the death penalty. However, when taking an opinion poll, it is important to consider how the question is phrased, who is asking the question and a question of time of when it happens. If you ask most EU populations now they would say they're against the death penalty. They're on the 'safe side of the yes'. But you shouldn't take for granted that any country that would be in favour just because a government wants us to believe this is public opinion.



## **Session 6 - A human rights framework on the conditions for, and treatment of, life and long-term prisoners and death row prisoners**

*This session focused on the treatment and conditions of prisoners (death row and life/long-term prisoners), highlighting the relevant international human rights standards and best practices.*



**Chair - Dr Mohamad Halaiah, Jordan Parliament, ex-Deputy Prime Minister (Jordan)**

This session will be covering the circumstances of prisoners and their environment. As a Member of Parliament, I have had to deal not just with the question of abolition but also with the treatment of prisoners and alternative sanctions to the death sentence. This is a very important topic and can't be ignored when looking at the broad issues surrounding abolition.

**Speaker - Mr Valery Bazunov, Representative on Human Rights' of Russia, Office of the Russian Federation (Russia)**

(PRESENTATION NOTES TAKEN BY PRI RAPPORTEUR)

Mr Bazunov provided an overview of Russia and the death penalty. While working as a prison official in Russia approximately 25 years ago, Mr Bazunov described how he prepared a prisoner for execution and has since never forgotten the face of that person. Mr Bazunov described the image of a white face, who understood what was about to happen to him; it was and still is a horrific image, and as such has shaped his view of the death penalty ever since.

During Russia's turbulent past the death penalty was used and abused. Figures indicate that approximately 600,000 people were sentenced to the death between 1936 and 1937.

A Presidential Decree was passed in the Russian Federation in 1999 calling for a moratorium on the death penalty, however it was not removed from the criminal code and courts could still sentence people to death. The death penalty was popular in the 1990's and some people did not even use their right to request a Presidential pardon. They thought that the sentence was fair and demanded and requested that they should be executed. Many thought a life sentence did not exist in the Russian criminal code and that it was not possible to substitute it for a death sentence.

The Constitutional Court resolved the matter by basing its decision on the premise that those who had committed a serious crime where death could be imposed could not be executed as that sentence had not been imposed by a jury trial; therefore a moratorium on both sentencing and executions was established until a jury system could be introduced across the entirety of the Russian Federation. Chechnya was the last area to implement jury trials in 2010. However, the courts reviewed the issue and despite the fact jury trials had been implemented, the moratorium was extended indefinitely in 2009. The death penalty is now not imposed or applied in Russia, but is still part of the criminal code which should be amended.

Life imprisonment in Russia does not mean a whole life sentence; a minimum of 25 years must be served before the prisoner has a right to apply for parole, so long as there has been no violation of his sentence or disciplinary hearings in the previous three years preceding the application for parole.

However, there continue a number of keys questions regarding the death penalty and life imprisonment which need to be resolved in Russia: is society ready to accept these people back into society, will they be rehabilitated? Is the Russian system prepared for that? Does the state still have a right to kill their citizens? Is a life sentence a deterrent? What do we do with people entitled to parole after 25 years? In a number of countries there are citizens without the right to parole – how do we distinguish who is entitled and who is not entitled?”

**Speaker - Mr Andrew Coyle, Director, International Centre for Prison Studies (ICPS), University of Essex (UK)**

(PRESENTATION NOTES TAKEN BY PRI RAPPORTEUR)

In preparation for today I cast my mind back to some of the experiences over the last 20 years. The 1990’s were an exciting time in terms of abolition of the death penalty, particularly in Central Asia and Eastern Europe. Specifically 1999 was quite a year. A number of participants in the room were in Moscow for a Council of Europe conference on abolition in June 1999, when without warning President Yeltsin announced a moratorium. This was a moment one never forgets. In December 1999 we had a similar conference in Kiev and the debate there was very heated and difficult. One agitated member of the Parliament of Ukraine said “if you are from the west and are so keen on these murderers why don’t you take them home with you?” Within a year Ukraine has also declared a moratorium.



As we now know, moratorium is not the end of the story. It leaves unanswered the question ‘how do we treat those who would previously have been executed?’ It is a question yet to be answered in many countries. I’ve been on several missions with the European Committee for the Prevention of Torture (CPT) and I’ve observed terrible conditions in which life sentenced prisoners are held, in virtual isolation and devoid of human contact. I have also appeared before the Inter American Commission on Human Rights (IACHR) to describe conditions in which life and death row prisoners are held in Caribbean. I contrast this with other countries in the same region and in sub-Saharan Africa, where life sentence and death row prisoners are held in common with others and given access to all available facilities. Treatment is varied and inconsistent. When we turn to the issue of long term imprisonment, the first issue is what do we mean by long term?

In Stakeville prison, Illinois (USA) I asked someone how long his sentence was and he said “500 years, but I get paroled after a third of that”. This raises a serious questions as lengthy sentences were inconceivable even a few years ago. In England and Wales a large percentage (approximately 15 percent of the prison population) are serving indeterminate sentences and they don’t know when they will be released.

One question we must find the answer to, is what about International standards with respect to life sentence and long term prisoners. As always the starting point is Article 10 of the ICCPR; there can be no question that the same standard should apply to all prisoners even those serving a lower standard applies to prisoners serving a long sentence. UN Recommendations state that all prisoners should be provided with opportunities for social interaction, work, religion, education, and other cultural opportunities. The Council of Europe report on the treatment of life and long term prisoners says they should be given the same opportunities to do something useful and to be treated with potential release in mind.

Managing prisoners and caring for those with indeterminate sentences is very complex for authorities, the fact they don’t know their release date means authorities face a particular set of issues.

Not all prisoners serving long sentences are necessarily dangerous. We can’t assume the fact that they are serving a long term sentence means that they are dangerous or will be difficult to manage. Some are very



dangerous prisoners who present a high risk inside prison and to civil society. It is a skill of prison management not to treat prisoners as a homogenous group but to identify those at risk. Prison administrations with the most difficulty in managing high security inmates are those with poor analysis of who presents a risk and who does not.

In many countries across the world the prisons are full of those who should be housed elsewhere: pre-trial detention, mentally or physically ill, those addicted to drugs. Lifers will generally have committed the most serious of crimes and are properly placed in prison. Therefore the greatest challenge is to treat our prisoners with humanity and dignity while at the same time protecting society.

**Speaker - Mrs Zhemis Turmagambetova, Director of “Charter for Human Rights” (Kazakhstan)**  
(PRESENTATION NOTES TAKEN BY PRI RAPPOREUR)

Mrs Turmagambetova described how she was the granddaughter of one of those who perished in a gulag. Her family and the experience of seeing pictures of executions on television in Kazakhstan have led her towards abolition.

Kazakhstan used to be a leader in prison reform but has in recent years taken a number of negative decisions, particularly a recent decision to move all aspects of criminal justice from within the Ministry of Justice to under the control of the Ministry of Interior.



While Kazakhstan has taken positive steps to abolishing the death penalty for certain crimes, what is needed most are amendments to the legislation regarding the use of life imprisonment.

Life imprisonment is applicable for 32 types of crime, whereas nearby Uzbekistan uses it for just 2 types of crime. Life sentences are given both for violent and non violent offences, which is not proportional. 31 people in 2007 who were on death row were pardoned under the moratorium and given a whole life sentence. While Article 44 specifies that the President has a right to decrease the term of a prison sentence or to pardon a prisoner, this issue has never been raised by the legal department of Kazakhstan for the 31 prisoners, and they continue to serve a sentence of life without the possibility of parole. The use of the life sentence without parole does not conform to UN norms and is degrading to human dignity.

Following the abolition of the death penalty for certain crimes, a new sentence of life imprisonment was established, with a right to apply for parole after serving 25 years (this does not apply to the 31 whole lifers who were pardoned under the moratorium). The penal code notes if there are multiple crimes then the maximum sentence is 30 years but there is no guarantee that a prisoner can survive this long a term. In Kazakhstan the legislation is secretive so there is no way to read and compare all the laws and identify the issues. The Ministry of Justice decreed on 1 July 2010 that correspondence was to be censored so prisoners are incommunicado and have no access to information. In extreme cases the head of the prison can permit one phone call a year for prisoners. These are the conditions for life sentenced prisoners and common solutions are needed.

**Speaker - Professor Dirk van Zyl Smit, Nottingham University and Board Member of Penal Reform International (UK)**

(PRESENTATION NOTES TAKEN BY PRI RAPPOREUR)

Professor van Zyl Smit began by raising the issue of what do you do with those who are convicted of dangerous crimes and pose a threat to society. This is one of the most difficult problems. Should there be a system where such people are given a proportionate sentence for their crime and some psychiatry based treatment to deal with their violence or other problems, although legally speaking they are not mentally ill?



In Germany there is a system of preventative detention for very dangerous offenders. Recently the European Court of Human Rights (ECtHR) analysed the case of prisoner 'M' that had been given a five year sentence, which was extended to ten years. Consequently 'M' ended up serving more than his initial sentence. This resulted in a retroactive application of the law, but the German Constitutional Court argued it was because 'M' was a danger to the public. The case went to the ECtHR who found unanimously that Germany was at fault. German courts questioned whether to release other prisoners like 'M' but instead made amendments to the law and remitted the case back to the Constitutional Court to reconsider this case in light of the ECtHR decision. It was decided that a two track system would be constitutionally acceptable, but the government would need to create a different sort of detention for those prisoners serving preventative detention, which would positively orient them to treatment and aim to cure their mental disorder with mechanisms to ensure that they not detained for longer than necessary. There are approximately 200 inmates serving preventative sentences in Germany.

The UK has a sentence of imprisonment for an indeterminate period for public protection (Indeterminate Public Protection Sentences - IPP). If someone commits two violent offences, they will receive an IPP which has a minimum period of half the sentence the judge would have imposed had he not imposed an IPP, with no maximum period. In one particular case in the UK: Mr Brett James received an IPP sentence with a minimum period of 18 months, after 18 months he was referred to the parole board, but could only be released if he was able to demonstrate that he was no longer a danger to the public and had attended a course in anger management. The problem was that, through no fault of his own, James was not able to attend the relevant course needed for his parole to be considered, so the parole board had no basis upon which to release him. James appealed this decision to the court, which ruled that the government has a duty to put in place necessary resources to enable an IPP prisoner to demonstrate to the Parole Board that he is of reduced risk, and that the government had failed to provide these resources, but it did not mean that the prisoner was subsequently released. The case was finally referred to the ECtHR, and Mr James was eventually released. This case demonstrates the truly uncertain and often discriminatory nature of IPPs. There are approximately 13,000 people currently serving an IPP in the UK.

## Session 6: Questions, Comments and Answers

**Dr Mohamad Halaiah:** The cases involving 'M' and Mr James were lucky in comparison with prisoners in developing countries where there is no constitutional court or regional court to defend them, no committee for pardon or amnesty. This entails a social responsibility in some countries which have not tasted democracy yet and in which human rights are still being developed.

**Ms Doreen Namyalo (FHRI):** On the issue of alternative sanctions for the death penalty we need to consider some of the negative responses. In East Africa, life imprisonment has created a huge problem for overcrowding and associated problems of health risks (tuberculosis and typhoid) amongst prisoners. Extrajudicial killings are also on the increase. While we insist on observing human rights in prisons it is a real challenge because of the cost impact. I ask for practical solutions where financial resources are a problem in many countries.



**Professor van Zyl Smit:** In South Africa for many years I was on the Committee for the release of lifers. There are no easy answers. In reality, there is no other

major penalty apart from life imprisonment. The best we can do is to ensure that it is applied to only the most dangerous of offenders. Courts should only issue a life sentence in those cases where you would have used the death penalty, for example premeditated murder. That way you reduce the number of prisoners serving a life sentence, without having an impact on the prison system. In South Africa the problem now is that life imprisonment has been expanded to other crimes, which has increased the lifers population. With regard to parole, international human rights standards argue that everyone should have a realistic right to apply for potential release; this is different than saying everyone should have a right to be released. We're talking about the worst crimes and whether such criminals still pose a risk. It is essential that governments put in place regimes which won't make people worse and create a basis for a decision on whether someone can be released back to society.



**Mr David Daubney:** Life sentences such be limited to murder and treason. For other serious crimes, the formula should be a minimum prison period of 7 years with a parole board deciding whether additional time is necessary depending on the dangerousness of the prisoner. When Canada abolished the death penalty in 1976 a compromise was made that it would be replaced with a 25 year minimum sentence. In 1976 the actual time served for most serious murders was 13 years, so this effectively doubled parole ineligibility for most. The key area to work on is having an effective parole system.

**Mr Andrew Coyle:** Can't consider the issue of life imprisonment without looking at other issues affecting the prison system, for example prison overcrowding in Africa is often caused by large numbers on pre-trial detention and not large numbers of lifers. If we reduced pre-trial numbers and others who shouldn't be in prison, the authorities could more effectively deal with those who should be in prison. It is also important to narrow the definition what is a 'long-term' sentence. Why have we picked 25 years as the normative figure? In the UK life is 20 years without parole; it used to be 7 years.

**Mr Wafa Saeed Yacoub Bani Mustafa (Jordanian Parliament):** I want to also affirm that sometimes prisoners must be imprisoned for life, not because of the type of crime they have committed, but due to other reasons such as dangerousness. Also, we need to take more consideration over female offenders: the environment and circumstances of female prisoners are poor across the world.

**Commission Atoki:** I have had the opportunity to visit several prisons across Africa. The main solution to overcrowding is to check the system which detains those who shouldn't be in detention, such as those on pre-trial detention. I also want to refer to the quick fix attitude of Nigeria to execute 800 prisoners on death row as way of dealing with overcrowding: this would have created space for 38,000 prisoners of which 80 percent are in pre trial. In Africa, the challenge of pre-trial congestion needs to be dealt with first, including improving the criminal justice system.

**Mrs Saule Mektepbayeva (PRI, Central Asia Director):** In Central Asia we have followed the experience of Russia, and have a specialised prison for those servicing a life sentence. This is a serious problem applicable to the region in general. It causes segregation for those serving life, there are no rehabilitation schemes for those who have a long term or life sentence, and a lack of risk assessment of prisoners. Segregation is based on seriousness of the offence and not dangerousness of the prisoners.



## **Session 7 - Back into society: social reintegration of serious offenders**

*The aim of this session was to highlight the importance of building a rehabilitation culture into life and long-term prisoner sentences, including on how to design and implemented effective sentence planning.*



**Chair - Mr Sergey Romanov, Director, Independent Center of Protection of Human Rights (Tajikistan)**

Mr Romanov introduced the discussion of reintegration back in to society and rehabilitation of serious offenders, with the aim of discussing various legal and psychological aspects.

**Speaker - Mrs Florence Kerubo Omundi, Director for Gender, NGO's and Sports, Kenya Prison Service (Kenya)**

(PRESENTATION NOTES TAKEN BY PRI RAPPORTEUR)

The prison population in Kenya currently has more than 53,000 inmates and around 22,000 staff, yet the total prison capacity for Kenya is 22,000 inmates, a staggering overcrowding rate of 200 percent.

There are currently 4,757 men and 55 women serving a whole life sentence in Kenya. Of this we also have over 1,100 prisoners on death row. This includes 6,516 men and 419 women on capital remand. In 2003 the president commuted the sentences of a number of death row prisoners and 29 were released. The prisoners on death row are not put on any programme apart from spiritual and psychological counselling. The people serving a life sentence receive work and training and the majority take adult literacy classes. The others are given counselling to deal with the transition from death row to a different programme.



The prison service interviewed life prisoners and a number of them stated that they would prefer to be executed as they have lost faith in the system, as life imprisonment does not mean anything for them. What we need is to have a determinate sentence so prisoners are not imprisoned indefinitely. Furthermore, given the increased level of security for death row and lifers, many feel like they are treated as a different category of prisoner and do not receive the same basic rights as other prisoners. What they want is to be given proper beds, food and mattresses to protect their health etc.

Prisoners say they need productive programmes. We are looking at ways the Kenyan Prison Service can improve the prison regime. For example, we are currently undertaking a project on remote parenting whereby prisoners are visited by their families. We are also working with victims and their families, to help them move closer to reconciliation. Mostly this has worked positively. It is a new project that has helped to promote reintegration into society and also strengthen family ties as well as community integration.

One of the problems which the Kenyan Prison Service has with its population is one of poverty: 95 percent of prisoners are from very poor backgrounds, meaning their families on the outside are really struggling. For example a woman who has a life sentence and has her baby in prison may often have other children

left outside who could turn to crime. While prison deters this one woman from committing a crime we are leaving her other children in the community, in poverty, turning to crime. It is more complicated when the father is in prison as the law does not allow for a father to bring their child into prison. The government has no allocated resources for taking care of these children but civil society is trying to shoulder the burden. For successful reintegration we need to look at how we can make the justice system work as a system that is complete with social and economic requirements.

On a more positive note, last year the prison service managed to recruit over 400 professionals such as psychologists and doctors to try and deal with serious and sexual offenders, including drug addicts.

What is the way forward for Kenya? Technical support for institutions to reduce overcrowding is badly needed. Life sentences need to be defined as the sentencing guidelines are ineffective and taking too long to clear cases. Prisons should not be for short-term sentences. The idea is to reform and rehabilitate; those serving a short-term sentence should be given fines, community services, probation etc. This will allow staff to have time and resources to work on proper rehabilitation and reintegration of really serious offenders.

There is also a need for capacity building, especially for those trained to work with condemned cases. The staff that deals with death row prisoners and lifers also need psycho-social support so that they do not become affected. We need to look at how we are handling the people who deal with prisoners on death row.

The prisoners in Kenya know of this meeting in London and they have asked to know the recommendations that might come out of it. The prisoners have said *"don't come back from London without something that gives us hope"*, so please give us something to take back home.

#### **Chair – Mr Sergey Romanov**

When we talk about the reintegration of those on death row or serving a life sentence there are a lot of problems. Those activities and events that are carried out in Kenya are very important for giving people some hope and help. There will come a point when we have to humanise our penal code.

#### **Speaker - Mr Rob Allen, Prison Reform expert, and former Director International Centre for Prison Studies (UK)**

(COPY OF FULL PRESENTATION REPLICATED)

Thank you for the invitation to speak at this important conference. It is a good topic for me as I have recently returned from a conference in Singapore called "Unlocking the Second Prison" organised by the International Corrections and Prisons Association. Participants from 70 countries discussed how to build a culture of rehabilitation and reintegration into prison systems- the second prison refers to the barriers that face prisoners, particularly long term prisoners in the community when they have left the first prison.



The event was held to coincide with Yellow Ribbon Day, an annual campaign to promote a second chance for offenders when they leave prison. Part of it was a 10K run in which 9,000 people took part ending up in Changhi prison. There is a paradox; Singapore is a death penalty country and has a high rate of imprisonment although it has fallen by a fifth in the last 5 years or so. And there is still caning. But alongside these violations of human rights there is a serious commitment to rehabilitation at the level of prisons, the broader criminal justice system and the even broader society. And it's these three levels I want to say something about.

As a first point I want to say that building a rehabilitative culture into prison has an instrumental purpose for those who are going to be released. For those who are subject to natural life terms or life with no possibility of parole there is also an instrumental case for rehabilitation – things may change, cases may be commuted, or reviewed, pardons considered, amnesties granted. But also a normative one. Because it is the right thing to do. To make life worth living. To make the conditions of captivity more bearable. As the German Federal Constitutional Court put it “prison institutions also have a duty in the case of prisoners sentenced to life imprisonment, to strive towards their resocialization to preserve their ability to cope with life and to counteract the negative effects of incarceration...”

What does this mean at the prison level? Of Course the ICCPR requires prisons to comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. This does not exclude life or long term prisoners. What is needed is what in the English speaking world we call a progressive system in which life and long term sentenced prisoners are given *planned opportunities to qualify for increasingly less restrictive conditions and levels of security so that ideally a life prisoner is released from Open Conditions*. Most will serve the first part of their sentence in high security. But this should only be for as long as this is justified by the risk of and the potential consequences of escape.

When I taught on a Masters Degree Course at Kings College (UK), one of the part-time students was a lifer from Latchmere House- a resettlement prison a few miles from here, sadly due to close shortly. If my lectures were overrunning he would point to his watch. He had to get back to the prison by 9pm to meet his curfew requirements. But like the rest of the 200 long term prisoners, including 16 lifers he was free to work or study during the day in the 18 month’s prior to release on supervision in the community.

Many countries have low security or Open Prisons to prepare prisoners for re-entry at the end of their sentence. In Africa many will be farms where prisoners can learn skills, take produce to market. Canada is getting rid of its Farm programme. In Rwanda, TIG (TIG is a Rwandan programme allowing people found guilty of participating in the genocide to serve all or part of their sentences doing community service) or community service is used for the second part of long sentences served in camps where prisoners do unpaid work and also have educational opportunities. Conventional classroom teaching takes place in many prisons while vocational skills, in this case fish filleting, can be particularly important in obtaining skills relevant to job opportunities .

Maintaining family contacts where it is possible to do this and providing treatment for specific conditions which may lie behind offending are also important tasks for the rehabilitative prison. In Mexico equestrianism is used for prisoners with mental problems. There is also a place for specific measures such as deradicalisation programmes to address the motivations of offenders who may be ideologically driven; and for restorative approaches which can bring home to offenders the human consequences of their actions and provide a positive experience for victims. But perhaps the biggest challenge is “normalisation” – providing experiences in long term custody which enable prisoners to live as normal a life in prison to prevent institutionalisation.

The second level which requires a rehabilitative culture is the broader criminal justice system. We saw a half way house in Singapore last week where the difference is clear in the amount of possessions prisoners can have compared to in prison. But necessary physical infrastructure is not the only requirement. There is a need for people. Research has shown the importance of relationships whether professional or peer in helping offenders to change.

Some insight into the difficulty involved is in literature of imprisonment for example Jimmy Boyle who changed from Scotland’s most dangerous man to a successful artist.

I was reading about the King of Morocco inaugurating the Marrakech post-prison support and reintegration centre set up by the Mohammed VI Foundation with some interesting features: wages generated by prisoners when they leave will be handed over to them when they complete their respective

prison terms and some forms of social insurance will be provided. The Ministry of Rehabilitation and Prisons Reforms is focusing on how the inmates can be *given a new life when they return back to society after concluding their respective prison terms.*

In most cases a new life is not something that can simply be given. It is a complex two way process. But in some cases a new identity and location do need to form part of a rehabilitative culture. How much that is so depends on the wider social acceptance of rehabilitation and whether measures can be taken to prepare communities for the safe return of serious criminals. Sometimes there will be cultural requirements to make amends to the family of the victim of a serious crime and indeed in some countries prisoners cannot be released until this is accomplished. Handling the return after serious and particularly after notorious crimes are difficult matters and require leadership.

An American Sheriff told us last week about an innovative programme in which prisoners returning to his county in New Orleans would be transferred from State Prison to undergo a resettlement programme in the county jail, close to their families. Knowing I was speaking here this week I asked him if this was an option for serious offenders. He said not really. The previous week an offender had been sentenced for multiple rapes to 210 years.

For many prisoners counting the days to release or to the possibility of release is what they do. When there is no real and tangible prospect of release many believe the punishment to be cruel and unusual. Replacing the death sentence with another form of penalty in which a prisoner inevitably will die in prison is only a partial success for those of us interested in reform. As abolition of the death penalty gathers momentum, working on what happens instead arguably becomes a more important issue.

In Singapore they told me that they can have a commitment to rehabilitation because the public is confident that the system delivers harsh and strict punishment and once the debt has been paid, then offenders deserve to be given a chance. The implication was that in countries that adopt a more measured approach to punishment it is harder to win public support for rehabilitation. The challenge for us is to help develop systems that do not require such harshness as a pre condition for rehabilitation and particularly in the case of the most serious offenders offer a much better balance between the various objectives of criminal justice than we see in many countries around the world.

**Speaker - Mr Alexander Balamut, Russian researcher on psychological aspects of life imprisonment (Russia)**

(PRESENTATION NOTES TAKEN BY PRI RAPPORTEUR)



Mr Balamut shared his experience and expertise of psychological support needed for those serving a life sentence. There are no doubts that this is a pertinent issue, the number of lifers is constantly increasing. Certainly what takes place in society is a reflection of the society itself.

There are positive changes taking place in Russia for lifers. At the legal level the Penal Code provides a right for all prisoners to psychological assistance. This support may come from the prison, from human rights activists, or from other independent organisations, but the consent of the prisoners is paramount.

International experience in psychological treatment is also very useful if adapted to the cultural and social background of a certain country. It helps assist rehabilitation and reintegration.

The basic treatment should be to provide support to a person in a difficult situation. It is important that prisoners desire psychological assistance and are not forced into it. When we asked, 129 out of 200 prisoners requested psychological help. There are certain challenges in providing psychological support which make psychological assistance which make it difficult to provide.

Some of the challenges are: attitude of the officials in prison; regime in prison; conditions in prison; hopelessness that many life prisoners experience; difficult conditions in cells; lack of any kind of activity; boredom; illnesses that develop or are aggravated by prison conditions and the length of sentence. All these reasons lead to stress or some other kind of psychological syndrome for people who have been kept away from society and isolated for a long time. This can be very damaging to the human psyche. Personality destruction may follow, this needs to be taken in to account; we need to be aware of these stresses and changes in the human psyche of the prisoner in order to provide appropriate support.

Treatment should therefore be provided without delay. It should be on a one-to-one basis as it is essential for prisoners to talk to somebody face-to-face and have personal contact. Psychological help should be offered and can be short term, medium or long term, with clear objectives from the start. In the last three years we have managed to develop a model of social rehabilitation and reintegration for prisoners and a programme of anger management. Another programme that has been developed is called 'how do I see myself in the future', and these start in prison and are carried on until after release. So there are ways and means which are used to prepare people for going back in to society.

An average psychological profile of a lifer is aged 30-45, of low educational background, low intellectual development, high degree of internal psychological conflict, and other psychological anomalies. All these are aggravated by the conditions in prison and as a result we get a person with primitive requirements. They do not want much, they do not have high values, they want cigarettes, or clothing; very basic things. Certainly there is a degree of personality degradation. There are exceptions. There are certain people who develop such stress and complex situations and these can develop under the difficult circumstances. It is very important to form group therapies, support groups and contact groups that allow for certain dynamics and exchange amongst the prisoners. We use art therapy, cinema training (where we put together a number of films that demonstrate a positive nature or provide hope and good models for them to follow). There are also prayer rooms that are organised for the prisoners; belief is quite a strong support element for many prisoners. Keeping diaries is another option that allows prisoners to deal with stress. When a person pours out all the negative emotions and thoughts on paper and talks through the feelings with a psychologist, which can relieve stress.

The attitude of staff and prisons warders is also very important. Those people who are guarding them should believe in the positive, in the good nature of these people, so that psychologists can act as a bridge as well as a buffer between the prison authorities and the prisoner. We need to demonstrate that we are doing the same thing together, prisoners, wardens and psychologists.

As for going back into society, it is a very important question that we must ask, how do we maintain links with society? This is done though maintaining links with family, friends, human rights organisations etc. Prison warders should understand the importance of these links with civil society. It is therefore important to overcome the challenges, to reach the results, to bring those people back into society.

#### **Chair - Mr Sergey Romanov**

Tajikistan is the only country in Central Asia that has life imprisonment with no parole, so it has not been considered necessary to develop controls to effectively bring people back into society. There are also problems with human rights organisations having access to certain prisons so there are not reliable statistics on those that serve life sentences. Rehabilitation and reintegration is something we should be working towards that we should be doing in Tajikistan.

#### **Session 7: Questions, Comments and Answers**

**Q:** Does the Russian system use rehabilitation and/or reintegration programmes in prisons?



**Alexander Balamut:** Yes, we do use similar programs in prisons across Russia. These programmes are usually adapted to each prison but the results are good.

**Q:** Is there access to psychological assistance in prisons in Russia, for both staff and prisoners?

**Alexander Balamut:** Yes, I wanted to mention that. Among the prisons, some do not automatically have psychologists among the staff. Some do. One works with the staff and wardens and one works with the prisoners. Social workers also work across the prison system. Both groups (staff and prisoners) need support.

**Q:** You mentioned the follow-up procedures and support procedures for prisoners. What happens when a person reoffends once they are back in society? Have you ever recorded a case of a criminal who was receiving a programme of rehabilitation and then was released and committed another crime? Because there are certain risk assessments undertaken before you release a prisoner, to ensure they do not have a high risk of reoffending.

**Alexander Balamut:** This category of people (repeat offenders) are in a position of confrontation with society and confrontation with psychologists, but we understand that and they have a certain stance or attitude in life and they are always on the defence, always aggressive so we try to influence these people indirectly. There is no direct influence or impact on these people. We bring them into groups with a positive role model that might influence them indirectly. It is also essential to understand when prisoners are trying to manipulating the psychologist. Sincerity can be a good tactic as the person gets tired of being aggressive or defensive and then we can make contact. They understand being aggressive doesn't help. I want to mention a specific case where an offender has committed a lot of criminal offences and never thought about the future or how it will impact him: he had no family, no friends, no job, no profession, no prospects - who is to blame? So that person begins to understand that they have not achieved anything in life. They begin to feel suicidal at some point when they realise this and we have to support people at this stage. People learn to re-evaluate their position, their life, and it takes a different amount of time to achieve this, so a personal approach is necessary.

## **Session 8 - Monitoring prisons where death row, life and long-term prisoners are held**

*The session focused on monitoring prisons as a tool for stopping and/or preventing torture and ill-treatment for death row and life/long-term prisoners, and improving conditions of detention where necessary.*

**Speaker - Ms Evgeniya Krapivina, Project Coordinator of "Citizens against corruption" public fund (Kyrgyzstan)**

(PRESENTATION NOTES TAKEN BY PRI RAPPORTEUR)

In 1999 a moratorium period began in Kyrgyzstan, which was extended year by year. By 2006 the death penalty was removed from the constitution and in 2007 Kyrgyzstan adopted a new policy of 'humanisation of conditions of prisoners'. Currently the penal code is being amended to improve the conditions for those with life sentences. As such there are a number of working groups who are trying to improve prison conditions. There is also a special organisation that works directly with relatives of those imprisoned for a long term sentence.

We carried out interviews with those working within the justice system and found that they did not look at the problems of implementing a life sentence but just focused on public opinion, to avoid being seen as giving an 'easy sentence' or having been bribed. One example was a person who received a life sentence but claimed to have been tortured, during the



court hearing there was clear evidence of the marks of being beaten. When the verdict was delivered they the judge did not take this into account.

Life sentenced prisoners are kept under strict conditions, in detention centres and also in closed prisons. For example in Bishkek a cell is 2x3 metres in the basement with 3 men to a cell, no windows, no ventilation or access to daylight and a lack of sanitary facilities. Cells can also be used for 6 people. Prisoners have to share two bars of soap and bedding must be dried in the cell. There is limited access to medical services, no adequate psychological or therapeutic care, no access to a dentist or optometrist or access to a hospital, and there are no education programmes.

NGO's are working within Kyrgyzstan to lobby the government for shorter sentences and to have the right to parole reduced from 25 to 15 years with a request to review a lot of the current cases.

In addition a request has been made to review the information regarding people who have already been executed without the knowledge of their families so that they can be informed of the burial places.

**Speaker - Ms Irina Iakovets, Researcher at the Institute of Research of Criminology of the Academy of Legal Sciences (Ukraine)**

(PRESENTATION NOTES TAKEN BY PRI RAPPORTEUR)



In 2010 there has been an increase in the number of convictions in Ukraine, whereas in previous years there has been a reduction in figures. In 2011 there are 117,500 prisoners which is an increase of 7,500 from last year.

The Ukrainian Penal Code provides a minimum sentence of at least one year. 80 percent of prisoners in Ukraine have a sentence which is over three years. Ukraine does not have a special regime for prisoners depending on the length of sentence; all prisoners get the same conditions and treatment.

There are only a few rehabilitative initiatives being carried, and these are being done by NGOs.

The Penal Code has only four articles relating to lifers. In Ukraine there has been an increase in the number of life convicts: as of 1 July 2011, there are 813 lifers (461 in colony, 86 to be sent to the colony and 206 waiting for appeal). The number of prisoners sentenced to life is slightly higher than those sentenced to death as it is easier for judges to hand down a life sentence as there is less of a moral obstacle. Sometimes the verdicts are seen as unjust. We carried out an experiment and gave judges a description of certain crimes and asked what sentence they would have chosen, the results revealed that the sentences were a lot milder than in reality.

Those who have a life sentence have three basic rights:

- 1) To spend money they earn on their food. 50 percent of their salary is approximately 35 Euros which can be spent on food, but only 40 percent of prisoners actually have a chance to work. Their labour is not for profit but to keep them busy. They have to repay what the government is spending on their sentences so often nothing is left for them to buy food.
- 2) Short visits of up to 3 hours. Most prisoners are entitled to four visits per year but with no personal contact as there is a barrier between them and their relatives. Those convicts serving life usually have only two visits per year, which in 2010 was increased to four.
- 3) Unlimited receipt of parcels. Formerly this was the only way to supply medical and legal aid. Medical assistance is now given by prison staff; however there is no access to expert help from other specialists. There is practically no access to dentists, psychologists, social workers, surgeons etc.

In 2010 a new law was introduced which improved some conditions. The law proposed to allow, after 10 years have been served and the prisoner has good behaviour, 20 percent minimum salary, and after 15 years have been served, a transfer to normal living quarters where there are 6-8 people. After 5 years the prisoners can participate in some activities in the camp. This is positive as prior to this amendment the prisoners were totally isolated, losing the ability to adapt to society and then after 20 years there were attempts to integrate a prisoner.

Further work can be done with the warders and prison staff, and PRI has started working with governors in the Ukraine. Thought needs to go into creating mechanisms for bringing people back into society, and creating specific rehabilitation programmes for lifers. We want people to overcome their past and give people a chance to live as a productive member of society.

**Speaker - Mr Abdel Rahim Al-Jamai, Coordinator of the Moroccan Coalition against Death Penalty (Morocco)**

(PRESENTATION NOTES TAKEN BY PRI RAPPORTEUR)

Issues must be addressed concerning conditions in prisons as well as for those serving long-term sentences. The treatment of prisoners should be at the top of our list, as bad treatment of prisoners undermines human dignity. Depriving a person of their liberty does not mean that they should lose their dignity, which is not fully understood in MENA. Often people believe that being deprived of liberty means being deprived of their inherent dignity of being human. These issues concern us all as legal experts and activists and all who wish to help those suffering from inhumane conditions.



How can we address the negative aspects of imprisonment? There is no follow-up or observation of any kind in our countries. Monitoring of prisons is needed to improve conditions and present solutions. The UN Standard Minimum Rules for the Treatment of Prisoners make it clear that undermining human dignity is at the same level as torture.

When establishing a monitoring mechanism system we must take into consideration the specific needs of each country. The Moroccan judicial system does not permit monitoring. The judicial system could cooperate with the Ministry of Justice and with prison authorities, but judges do not suggest a way to treat prisons or stipulate treatment standards.

Pressure needs to be put on the legislature and committees to carry out their tasks and grant authority to monitor prisons, as having monitoring mechanisms in place is fundamental to preventing and stopping torture and other ill treatment. Civil society in the region do sometimes make use of UN mechanisms as the UN had now made 12 recommendations regarding the treatment of prisoners in Morocco, which has yet to be implemented by the Government. In 2012, Morocco will submit its fifth report to the UN, and NGO's will submit a shadow report, which make note of the fact that Morocco has not implemented previous recommendations and also highlight that there are secret detention centres with no monitoring.

There are many areas of improvement that are needed. Prisoners which house death row inmates are rat infested, with prisoners handcuffed to the wall and no contact with the outside world. This is in contravention of international commitments on minimum standards.

PRI had helped to achieve a lot in Morocco, as International agreements have been ratified by Morocco which provides a commitment to higher standards than local laws which is a very important step. It is important now to demand that those UN principles are enshrined in the Moroccan constitution and significantly the right to life has now been included, which is another step towards total abolition.

## **Session 8: Questions, Comments and Answers**

### **Chair - Dr Catherine Appleton, Leeds University (UK)**

Participants in the room represent very different parts of the world, but it seems that a number of the issues facing the criminal justice systems are similar. There is a lot of commitment in the room to take these issues forward and to implement human dignity for life and long term prisoners.



## **/END OF CONFERENCE REPORT**

Conference photos are available for free download here:

[https://picasaweb.google.com/105449648461108011393/PenalReformInternational02?authkey=Gv1sRgCP-Q6p-V\\_rLvnQE&feat=email](https://picasaweb.google.com/105449648461108011393/PenalReformInternational02?authkey=Gv1sRgCP-Q6p-V_rLvnQE&feat=email).



## **ANNEX I: Conference Agenda**

### **International Conference “Progressing toward abolition of the death penalty and alternative sanctions that respect international human rights standards”**

19 and 20 September, 2011

EC Representation to the UK  
32 Smith Square, London SW1P 3EU, United Kingdom

#### **AGENDA**

##### DAY 1: Monday, 19 September 2011

08.15-09.00 **Arrival, registration and coffee**

09:00-10:00 **Opening Session and keynote speaker**

##### Address by:

- Ms Francesca Manchi, European Commission Representation in the UK
- Ms Louise De Sousa, Head of Human Rights and Democracy Department, Foreign & Commonwealth Office, UK
- Mr David Daubney, Advocate, Department of Justice, Canada and Chair of Penal Reform International

##### Keynote address:

- Mr Bryan Stevenson, Executive Director, Equal Justice Initiative, USA and Board Member of Penal Reform International

10:00-11:30 **Plenary session 1: Abolition of the death penalty: recent trends from across the globe**

This session is for participants to share new information, statistics and case studies on recent trends towards abolition. This could include trends at the national, regional and international level. The aim of this session is to provide an opportunity for broad information exchange.

##### Chair:

- Ms Ioanna Kuçuradi, International Commission against the Death Penalty, Turkey

##### Speakers:

- Professor Roger Hood, Oxford University, United Kingdom
- Honourable Commissioner Dupe Atoki, African Commissioner on Human Rights, Nigeria

- Mr Zaved Mahmood, Human Rights Officer, UN Office of the High Commission for Human Rights, Geneva
- Ms Liane Adler, Human Rights Adviser, OSCE Office for Democratic Institutions and Human Rights, Poland

11:30-12:00 **Coffee break**

12:00-13:30 **Plenary session 2: Restricting the scope and application of the death penalty in practice**

This session will focus on and map out the various tools and strategies being used in countries and regions to reduce the application of the death penalty in practice. This may include how parliamentarians have been supported and encouraged to reduce the number of death penalty applicable crimes; how fair trial standards are being implemented; abolition of the mandatory death sentence; increasing transparency and scrutiny in the death penalty process; or other political, economic and social forces that may lead to abolition.

Chair:

- Mr Dzhumahon Davlatov, Chairman of working group on abolishing death penalty in the Republic of Tajikistan

Speakers:

- Mr. Vladzimir Khomich, Professor of the Belarusian State University, and Head of the Institute under the General Prosecutor's Office of Belarus Republic
- Mr Nikolaj Belorukov, Member of the Constitutional Council of Kazakhstan
- Mr Elobaid Ahmed Elobaid, Head of the United Nations Human Rights Training and Documentation Centre for South-West Asia and Arab Region, Qatar
- Professor Frederick Ssempebwa, Senior Advocate, Katende Ssempebwa & Company, Uganda

13:30-14:30 **Buffet lunch**

14:30-16:00 **Plenary session 3: Reconciling religious and cultural arguments in favour of the death penalty with international trends toward abolition**

Society often has its own values in connection with the use of the death penalty depending on religious or cultural norms. This can vary from country to country, as well as region to region. However the right to life is an international norm, which crosses all religious and cultural boundaries. This session will focus on how the international community can reconcile the right to life with the various religious and cultural arguments that have public support in retentionist states. In particular, participants will identify challenges and obstacles, but also opportunities and next steps for action.

Chair:

- Mr Olawale Fapohunda, Chair of the West African Human Rights Forum and Managing Partner of Legal Resources Consortium, and Board Member of Penal Reform International, Nigeria

Speakers:

- Dr Mohamed Al Habach, Parliamentarian and Islamic Scholar, Syria
- Hon. Justice Augustino Ramadhani, African Court of Justice and retired Chief Justice of Tanzania
- Ms Tanya Awad Ghorra, Lebanese Association for Civil Rights, Lebanon

16:00-16:30     **Coffee break**

16:30-18:00     **Plenary session 4: The declining use of the death penalty: implications for policy, legislation and sentencing of alternative sanctions**

This session will focus on what replaces the death penalty as the maximum and ultimate sentence when a moratorium is in place or when the death penalty has been abolished. It will focus on what is life/long-term imprisonment, what are the relevant international standards, and whether life without the possibility of parole is ever acceptable.

Chair:

- Mr Peter Hodgkinson, Centre for Capital Punishment Studies, University of Westminster

Speakers:

- Mr Yuriy Kalinin, Member of the Council of Federation of the Federal Assembly of the Russian Federation, and former Director of the Prison Service
- Mr Givi Mikanadze, Council of Europe, Georgia
- Mr Yury Baulin, Judge of the Constitutional Court of Ukraine
- Justice Daniel Musinga, Judge of the High Court of Kenya
- Dr Amor Boubakri, Member of the Tunisian Political Committee

18.00-18.10     **Closing session day one and objectives for day two**

Address by:

- Ms Jacqueline Macalesher, Death Penalty Project Manager, Penal Reform International, United Kingdom

18.10-19.30     **Drinks reception and launch of PRI's online Russian language torture prevention community**

PRI and its project partners the Human Rights Implementation Centre, Bristol University, and the Medical Foundation for the care of victims of torture are pleased to launch a Russian and English language torture prevention online community.

The community aims primarily to facilitate activities in Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Russia, Tajikistan and Ukraine aimed at prevention of torture in prisons and other places of deprivation of liberty.



Community members will be able to contribute to discussions, share resources and strategies, and inform each other about torture prevention activities, challenges and successes.

Launch of torture prevention community:

- Mr Mushegh Yekmalyan, Torture Project Manager, Penal Reform International, United Kingdom

DAY 2: Tuesday, 20 September 2011

08.30-09.00     **Arrival and coffee**

09:00-10:30     **Plenary session 5: The role of the European Union in the fight towards universal abolition and humane alternative sanctions**

This session will focus on various tools available to the European Union which have an impact on the abolition movement. This will include the EU's strategy against the death penalty; the role of the European Parliament; the EU Guidelines on the Death Penalty; and the EU as a donor.

Chair:

- Ms Vera Tkachenko, UNODC (Kyrgyzstan) and Board Member of Penal Reform International

Speakers:

- Dr Maria Lensu, European External Action Service, European Commission, Brussels
- Mr Alessandro Valdambrini, European Instrument for Democracy and Human Rights, European Commission, Brussels
- Mr Renny Cushing, Executive Director, Murder Victims Families for Human Rights, USA
- David Sellwood, EC Project Coordinator, Reprieve, UK

10:30-11:00     **Coffee break**

11:00-12:30     **Plenary session 6: A human rights framework on the conditions for, and treatment of, life and long-term prisoners and death row prisoners**

This session will focus on the treatment and conditions of prisoners, specifically vulnerable prisoners (such as those serving a death penalty or life/long-term imprisonment, women, the elderly, mentally-ill etc). The session will highlight relevant international human rights standards and best practices.

Chair:

- Dr Mohamad Halaqah, Jordan Parliament, ex-Deputy Prime Minister

Speakers:

- Mr Valery Bazunov, Ombudsman on Human Rights' of Russia, Office of the Russian Federation
- Mr Andrew Coyle, Director, International Centre for Prison Studies, University of Essex, UK

- Mrs Zhemis Turmagambetova, Director of “Charter for Human Rights”, Kazakhstan
- Professor Dirk van Zyl Smit, Nottingham University and Board Member of Penal Reform International

12:30-13:30 **Buffet Lunch**

13:30-14:30 **Plenary session 7: Back into society: social reintegration of serious offenders**

This session will focus on the importance of building a rehabilitation culture into life and long-term prisoner sentences, including discussions on how to design and implementing effective sentence planning.

Chair:

- Mr Sergey Romanov, Director, Independent Center of Protection of Human Rights, Tajikistan

Speakers:

- Mrs Florence Kerubo Omundi, Director for Gender, NGO’s and Sports, Kenya Prison Service, Kenya
- Mr Rob Allen, Prison Reform expert, and former Director International Centre for Prison Studies
- Mr Alexander Balamut, Russian researcher on psychological aspects of life imprisonment

14:30-15:00 **Coffee break**

15:00-16:00 **Plenary session 8: Monitoring prisons where death row, life and long-term prisoners are held**

The session will focus on the implementation of the Optional Protocol to the UN Conventional Against Torture (OPCAT) as a tool for stopping and preventing torture and ill-treatment for death row and life/long-term prisoners, and for improving conditions of detention wherever necessary.

Chair:

- Dr Catherine Appleton, Leeds University, United Kingdom

Speakers:

- Ms Evgeniya Krapivina, Project Coordinator of “Citizens against corruption” public fund, Kyrgyzstan
- Ms Irina Iakovets, Researcher at the Institute of Research of Criminality of the Academy of Legal Sciences, Ukraine
- Mr Abdel Rahim Al-Jamai, Coordinator of the Moroccan Coalition against Death Penalty

16:00-16:30 **Closing session: adoption of London Declaration**

Address by:

- Ms Alison Hannah, Executive Director, Penal Reform International, United Kingdom
- Ms Jacqueline Macalesher, Death Penalty Project Manager, Penal Reform International, United Kingdom

## ANNEX II: List of conference participants

### List of conference participants

Progressing toward abolition of the death penalty and alternative sanctions that respect international human rights standards  
19 to 20 September 2011: EC Representation to the UK, London, United Kingdom

No.	Title	First Name	Surname	Job title	Organisation	Country
1.	Ms	Liane	Adler	Human Rights Adviser	Office for Democratic Institutions and Human Rights, OSCE	Poland
2.	Ms	Maryam	Al-Attiya	Secretary General	National Human Rights Committee	Qatar
3.	Mr	Mohamed	Al Habach	Parliamentarian Islamic Scholar	The People's Council of Syria	Syria
4.	Mr	Abdel Rahim	Al-Jamai	Coordinator	Moroccan Coalition Against the Death Penalty	Morocco
5.	Mr	Jamil	Al Zoubi	Projects Manager	Penal Reform International	Jordan
6.	Ms	Mediko	Alania			Georgia
7.	Justice	Imman	Ali	Judge & PRI Board Member	Supreme Court of Bangladesh	Bangladesh
8.	Mr	Rob	Allen	Prison reform expert and former Director International Centre for Prison Studies		United Kingdom
9.	Ms	Agnes	Annells	Criminal Justice and Torture Prevention Desk Officer	Foreign & Commonwealth Office (FCO)	United Kingdom
10.	Dr	Catherine	Appleton	Professor	Leeds University	United Kingdom
11.	Mr	John	Arutu	Deputy Registrar, Mediation	High Court	Uganda
12.	Hon Comm	Dupe	Atoki	Commissioner for Human Rights	African Commission on Human and Peoples' Rights	Nigeria
13.	Ms	Tanya	Awad Ghorra	Lebanese Association for Civil Rights		Lebanon
14.	Ms	Nada	Aziz	Arabic/English Interpreter	Today Translations	United Kingdom
15.	Mr	Alexander	Balamut	PhD candidate of psychological	Vologda Institute of Law and	Russian

No.	Title	First Name	Surname	Job title	Organisation	Country
				sciences and teacher	Economic of the Federal Service of Execution of Punishments of the Russian Federation	
16.	Mrs	Indira	Barykbayeva	Death Penalty Project Coordinator	Penal Reform International	Kazakhstan
17.	Mr	Yuri	Baulin	Judge	Constitutional Court	Ukraine
18.	Mr	Valery	Bazunov	Ombudsman on Human Rights of Russia	Office of the Russian Federation	Russia
19.	Mr	Nikolaj	Belorukov	Member	Constitutional Council	Kazakhstan
20.	Ms	Laura	Bevan	Programme Officer	Penal Reform International	United Kingdom
21.	Ms	Maria	Blake	Russian/English Interpreter		United Kingdom
22.	Dr	Amor	Boubakri	Member	Tunisian Organization for Penal and Security Reform	Tunisia
23.	Ms	Louise	De Brisson		Reprieve	United Kingdom
24.	Mr	Timothy	Bryant	Advocate		Kenya
25.	Ms	Tsira	Chanturia	Regional Director	Penal Reform International	Georgia
26.	Ms	Jenny	Clarkin	Programme Officer	Penal Reform International	United Kingdom
27.	Mr	Andrew	Coyle	Director	International Centre for Prison Studies, University of Essex	United Kingdom
28.	Mr	Renny	Cushing	Executive Director	Murder Victims Families for Human Rights	USA
29.	Mr	David	Daubney	Chair of PRI	Former-Department of Justice	Canada
30.	Mr	Dzhumahon	Davlatov	Chairman and State Adviser	Presidential Working Group on Abolishing Death Penalty	Tajikistan
31.	Ms	Louise	De Sousa	Head of Human Rights & Democracy Department	Foreign & Commonwealth Office (FCO)	United Kingdom
32.	Mr	Esenbek	Djumakadyrov	First deputy of the Chairman	Public Service of Execution of Punishments	Kyrgyzstan
33.	Ms	Maria	Donatelli	Coordinator	World Coalition Against the Death Penalty	France
34.	Mr	Elobaid Ahmed	Elobaid	Head	United Nations Human Rights	Qatar

No.	Title	First Name	Surname	Job title	Organisation	Country
					Training and Documentation Centre for South-West Asia and Arab Region	
35.	Mr	Paul	English	Penal Reform Expert		United Kingdom
36.	Mr	Olawale	Fapohunda	Managing Partner & PRI Deputy Secretary of the Board	Legal Resource Consortium	Nigeria
37.	Prof	Paul	Flodman	Expert in human rights and police detention		
38.	Ms	Maya	Foa		Reprieve	United Kingdom
39.	Mr	Patrick	Gallahue	Human Rights Analyst	Harm Reduction International	United Kingdom
40.	Ms	Judy	Gitau	Death Penalty Project Coordinator	International Commission Jurists (ICJ)	Kenya
41.	Ms	Hannah	Gorman	Academic	Former intern Reprieve's EC Project in New Orleans	United Kingdom
42.	Dr	Mohammed Ahmad Salamah	Halaiah	Government Minister	Jordanian Parliament	Jordan
43.	Ms	Claire	Halperin	Security, Justice and EU External Team Leader	Foreign and Commonwealth Office	United Kingdom
44.	Ms	Alison	Hannah	Executive Director	Penal Reform International	United Kingdom
45.	Mr	Peter	Hodgkinson	Director	Centre for Capital Punishment Studies, University of Westminster	United Kingdom
46.	Prof	Roger	Hood	Professor	Oxford University	United Kingdom
47.	Ms	Andrea	Huber	Policy Director	Penal Reform International	United Kingdom
48.	Mr	Aleh	Hulak	Executive Director	Belarusian Helsinki Committee	Belarus
49.	Ms	Irina	Iakovets	Researcher	Institute of Research of Criminality of the Academy of Legal Sciences	Ukraine
50.	Mrs	Taghreed	Jaber	Regional Director	Penal Reform International	Jordan
51.	Ms	Christina	Juman	Death Penalty Project Assistant	Penal Reform International	United Kingdom
52.	Mr	Yuriy	Kalinin	Member	Council of Federation of the Federal Assembly of Russia	Russia

<b>No.</b>	<b>Title</b>	<b>First Name</b>	<b>Surname</b>	<b>Job title</b>	<b>Organisation</b>	<b>Country</b>
53.	Ms	Seema	Kandelia	Lecturer	University of Westminster	United Kingdom
54.	Ms	Maia	Khasia	Project Manager	Penal Reform International	Georgia
55.	Mr	Aleksandr	Khechumyan	Research Assistant	Penal Reform International	Armenia
56.	Mr	Vladimir	Khomich	Head of Institute	General Prosecutor's Office of Belarus	Belarus
57.	Mr	Petro	Kochergan	Head	Department of the Ministry of Justice on Interaction with the State Department of Ukraine on Execution of Punishments	Ukraine
58.	Mrs	Evgeniya	Krapivina	Project Coordinator	NGO "Citizens against corruption"	Kyrgyzstan
59.	Ms	Ioanna	Kuçuradi	Member	International Commission against the Death Penalty	Turkey
60.	Ms	Galina	Ladyzhenskaya	Russian/English Interpreter		United Kingdom
61.	Mr	Alfred	Le Prevost	Research and Campaign Assistant	Amnesty International	United Kingdom
62.	Dr	Maria	Lensu	European External Action Service	European Commission	Belgium
63.	Mr	Budiman	Lutfi	Phd Student (death penalty in Malaysia)	Nottingham University	United Kingdom
64.	Ms	Jacqueline	Macalesher	Death Penalty Project Manager	Penal Reform International	United Kingdom
65.	Mr	Zaved	Mahmood	Human Rights Officer	UN OHCHR	Switzerland
66.	Ms	Francesca	Manchi	Political Officer	European Commission Representation to the UK	United Kingdom
67.	Ms	Saule	Mektepbayeva	Regional Director	Penal Reform International	Kazakhstan
68.	Mr	Givi	Mikanadze		Council of Europe	Georgia
69.	Mr	Abderrahim	Mokhtar-Jamai			Morocco
70.	Ms	Amelia	Montgomery	Volunteer	Centre for Capital Punishment Studies, University of Westminster	United Kingdom
71.	Mrs	Alla	Mukshimenko	Head of Public Advocate	Public Advocate (NGO)	Ukraine
72.	Ms	Mary	Murphy	Detention Adviser	International Committee of the Red Cross (ICRC)	Switzerland
73.	Ms	Tara	Murray		Reprieve	United Kingdom

<b>No.</b>	<b>Title</b>	<b>First Name</b>	<b>Surname</b>	<b>Job title</b>	<b>Organisation</b>	<b>Country</b>
74.	Justice	Daniel	Musinga	Judge	High Court of Kenya	Kenya
75.	Ms	Wafa Saeed Yacoub Bani	Mustafa		Jordanian Parliament	Jordan
76.	Ms	Doreen	Namyalo	Death Penalty Project Coordinator	Foundation for Human Rights Initiative	Uganda
77.	Ms	Sultana	Noon		Repreieve	United Kingdom
78.	Ms	Florence	Omundi	Director for Gender, NGOs and Sport	Kenya Prison Service	Kenya
79.	Mr	Frank	Othembi	Secretary/Chief Executive Officer	Uganda Law Reform Commission	Uganda
80.	Mr	Abdellatif	Ouammou			Morocco
81.	Mrs	Hayley	Peters	Law Student	Open University	United Kingdom
82.	Mr	Michael	Platzer	Chair	Vienna NGO Alliance	Austria
83.	Ms	Tina	Puryear	Training and Capacity Building Manager	Freedom from Torture	United Kingdom
84.	Justice	Augustino	Ramadhani	Judge	African Court of Justice	Tanzania
85.	Ms	Becky	Randel	Research Assistant	Penal Reform International	United Kingdom
86.	Ms	Mervat	Rishmawi	Human Rights Consultant		United Kingdom
87.	Mr	Sergey	Romanov	Director	Independent Center of Protection of Human Rights	Tajikistan
88.	Mr	Nikhil	Roy	Programme Development Director	Penal Reform International	United Kingdom
89.	Ms	Fiona	Salem	Wider World Division, International Directorate, Justice Policy Group Ministry of Justice	Ministry of Justice (UK)	United Kingdom
90.	Mr	David	Sellwood	EC Project Coordinator	Reprieve	United Kingdom
91.	Ms	Victoria	Sergeyeva	Regional Director	Penal Reform International	Russia
92.	Ms	Marwa	Shamy	Arabic/English Interpreter		United Kingdom
93.	Mr	Sergey	Shimovolos	Torture Project Coordinator	Penal Reform International	Russia
94.	Ms	Kirstie	Smith	Desk Officer (Death Penalty and Export Controls)	Foreign & Commonwealth Office (FCO)	United Kingdom
95.	Prof	Fredrick	Ssempebwa	Senior Advocate	Katende Ssempebwa & Co.	Uganda
96.	Mr	Bryan	Stevenson	Executive Director & PRI Board	Equal Justice Initiative	USA



<b>No.</b>	<b>Title</b>	<b>First Name</b>	<b>Surname</b>	<b>Job title</b>	<b>Organisation</b>	<b>Country</b>
				Member		
97.	Mr	Sanjay	Suri	Journalist	IPS	United Kingdom
98.	Mr	Antony	Tang	PRI Treasurer of the Board	Ex-Chief Executive, Society for the Rehabilitation and Crime Prevention	Hong Kong
99.	Ms	Vera	Tkachenko	PRI Deputy Chair of the Board	UNODC	Kyrgyzstan
100.	Mrs	Zhemis	Turmagambetova	Director	Charter for Human Rights	Kazakhstan
101.	Mr	Alessandro	Valdambrini	European Instrument for Democracy and Human Rights	European Commission	Belgium
102.	Dr	Dirk	van Zyl Smit	Professor & PRI Board Member	Nottingham University	United Kingdom
103.	Mr	Robin	Walker		Reprieve	United Kingdom
104.	Ms	Sophie	Walker	Investigator, Death Penalty Team	Reprieve	United Kingdom
105.	Mr	Jan	Wetzel	Advocate/Advisor, Death Penalty (Special Projects Unit)	Amnesty International	United Kingdom
106.	Mr	Mushegh	Yekmalyan	Torture Prevention Project Manager	Penal Reform International	United Kingdom
107.	Mr	Mikayel	Zakharyan	Head of Organisational-analytical unit	Criminal Executive Department of the Ministry of Justice for the Republic of Armenia	Armenia

## **ANNEX III: Biographies of conference Speakers and Chairs**

### **Biographies of conference Speakers and Chairs**

**“Progressing toward abolition of the death penalty and alternative sanctions that respect international human rights standards”**

**19 to 20 September 2011: EC Representation to the UK, London, United Kingdom**

#### **MS LIANE ADLER (Speaker Plenary Session 1)**

##### **Human Rights Adviser, OSCE Office for Democratic Institutions and Human Rights, Poland**

Liane Adler is currently working as a Human Rights Adviser for the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE). In this position she is supporting the OSCE participating States in their efforts to implement international human rights standards mainly in the areas of torture prevention, death penalty and by building the capacity of National Human Rights Institutions. Prior to that, she was working for the OSCE and the UN peace keeping operation in Kosovo, at the German Embassy in Nepal, the United Nations High Commissioner for Human Rights, and as a election observer in several countries of the Commonwealth of Independent States.

#### **DR MUHAMMAD AL-HABACH (Speaker Plenary Session 3)**

##### **Member of the Syrian Parliament, Syria**

Dr Muhammed Al-Habash studied at Damascus University where he obtained a master's study of Islamic law. He also studied at the University of Beirut from where it emerged with a degree in Arabic literature, then at the University of Tripoli whence it emerged degree in Islamic Studies. After returning to Syria, he obtained the highest distinction in the Koran memorization of the House of Fatwa (Dar al-Ifta). In 1988, he held the post of professor of Islamic sciences at the Islamic University of Damascus, then in 1992 he became professor ("Tafsir") at the University Usul Ed-din. He then served as secretary in the center of introduction to the Arab-Islamic civilisation. In addition to his teaching profession, he was in 1989 director of two institutes of the Koran in Syria. Elected to the Syrian Parliament, he is now an independent member and member of the administrative committee of parliament. In addition to representing Syria in international conferences, he participates in political broadcasts on television and radio. He has written more than twenty books, directs the Center for Islamic Studies in Damascus and led Friday prayers at the Al-Zahra mosque.

#### **MR ABDEL RAHIM AL-JAMAI (Speaker Plenary Session 8)**

##### **Coordinator of the Moroccan Coalition against the Death Penalty, Morocco**

#### **MR ROB ALLEN (Speaker Plenary Session 7)**

##### **Prison Reform Expert and former Director of ICPS, UK**

Rob Allen works on prison reform in the UK and internationally. From 2005 to 2010 he was director of the International Centre for Prison Studies (ICPS) at King's College London, undertaking research on imprisonment and assisting prison systems to comply with international standards. He has undertaken prison reform work in Africa, Latin America and Asia. Prior to joining ICPS in March 2005, he ran Rethinking Crime and Punishment, an initiative on to change public attitudes to prison and alternatives in the UK. Earlier in his career, Rob was director of research and development at UK charity NACRO. He was a member of the Youth Justice Board for England and Wales from 1998 to 2006 and a specialist adviser to the UK Parliament's Justice Committee. Rob has recently established an online forum [www.justiceandprisons.org](http://www.justiceandprisons.org) and is currently working with Penal Reform International to promote alternatives to prison in East Africa.

**DR CATHERINE APPLETON (Chair Plenary Session 8)**

**Penal Reform Expert, Leeds University, UK**

Catherine has been a lecturer in criminology and criminal justice at Leeds University since January 2009, having previously been a Research Officer for Criminology at the Centre for Criminology, University of Oxford. Catherine's current research explores 'ultimate penalties' and the question of how societies respond to their most serious crimes. Catherine's research interests lie in the areas of youth crime and justice, life imprisonment, the death penalty, desistance from crime, victims and the criminal justice system.

**HONOURABLE COMMISSIONER CATHERINE DUPE ATOKI (Speaker Plenary Session 1)**

**African Commissioner on Human Rights, Nigeria**

Commissioner Dupe Atoki has been in private legal practice since 1978 and has served her country Nigeria in various capacities including being a member of the Nigerian Human Right Commission; member of the Federal Government presidential committee on the review of laws discriminatory of Women and Committee on the reform of investment law. Ms Atoki has also served the African Union in diverse capacity as a legal consultant; member of election monitoring/observer team to several African countries: Commissioner of the African Union Commission on Human and Peoples Rights where she is currently the Special Rapporteur on prison and places of detention in Africa as well as the chairperson of the Committee for the prevention of torture in Africa. Ms Atoki has delivered several Papers in and out of Africa on diverse human rights themes.

**MR ALEXANDER BALAMUT (Speaker Plenary Session 7)**

**Candidate of Psychological Sciences, a teacher of the Vologda Institute of Law and Economic of the Federal service of Execution of Punishments of the Russian Federation, Russia**

Alexander Balamut graduated from the Ufa Law Institute of the Ministry of Interior of the Russian Federation; obtaining his PhD on "Psychological Assistance to Prisoners Sentenced to Life Imprisonment". He is author to 36 scientific researches reports and articles; and training manuals, including "Prisoners Sentenced to Life Imprisonment and Ways of Psychological Assistance to Them", methodical recommendations Organization and Conducting of Special Trainings for Prison Staff Dealing with Lifers and Those Sentenced to Long-Term Imprisonment". He has practical experience of work in Penitentiary Service of Russia for 5 years and 7 years scientific-pedagogical experience.

**MR YURY BAULIN (Speaker Plenary Session 4)**

**Doctor of Legal Sciences, Professor and full member of the National Academy of Legal Sciences of Ukraine, Judge of the Constitutional Court of Ukraine, Ukraine**

Yury Baulin graduated in 1975 from Kharkiv Law Institute named after F.E.Dzerzhinskii and worked as an assistant in Criminal Law Department. He has experience in working as senior lecturer, associate professor and an acting director and the director of the Institute for Study of Criminality Problems of the Academy of Legal Sciences of Ukraine in Kharkiv. In February 2008, Mr. Baulin was appointed Judge of the Constitutional Court of Ukraine by the President of Ukraine. He took oath on June 3, 2008. He was awarded a medal "For merits", 3rd degree, a National prize of Ukrainian the sphere of science and engineering, and a title of Honored Worker of science and engineering. He is an author of over 170 academic papers on criminal law and constitutional law problems. He participated in the development of draft Budget, Tax and Criminal Codes of Ukraine.

**MR VALERY BAZUNOV (Speaker Plenary Session 6)**

**Candidate of Judicial Sciences, Actual State Adviser of the Russian Federation of 3rd Class, the Deputy Head of the Department of State Protection of Human Rights, the Head of the Unit of Human Rights' Protection in Places of Detention of the Apparatus of Ombudsman on Human Rights in the Russian Federation, Russia**

Valery Bazunov obtained his Phd in 1996 from the Academy of the Ministry of Interior of Russia, focussing on "Legal and Organizing Issues of Regime of Detainees in Pre-Trial Detention Centers"; he is author of a number of scientific publications including Comments to Criminal-Executive Code of the Russian

Federation, Legal Regulation of Pre-Trial Detention in European Countries, Criminal and Criminal-Executive Policy of Russia: Necessity of New Approaches, Correspondence of Legislation and Law Practice of the Russian Federation to European Prison Rules. He has 10 years of practical experience in the Penitentiary Service of Russia.

**MR NIKOLAJ VASILYEVICH BELORUKOV (Speaker Plenary Session 2)**

**Member of the Constitutional Council, Kazakhstan**

Mr Nikolaj Belorukov has been a member of the Constitutional Council of the Republic of Kazakhstan since April 2005. Mr. Belorukov was the former Deputy Head of State and Legal Sector of the Presidential Administration, the Senior Inspector of the Judicial System Division of the State and Legal Department of the Presidential Administration, and the Senior Inspector of Law-enforcement and Judicial System Division of the Presidential Administration. Mr Belorukov graduated from the Kazakh State University Law Faculty.

**DR AMOR BOUBAKRI (Speaker Plenary Session 4)**

**Associate Professor in Public Law at the University of Sousse, Tunisia**

Dr Amor Boubakri is Assistant Professor at the Faculty of Law, Economics and Politics, the University of Sousse, Tunisia. He is also a Cooperating Professor at some other Tunisian academic institutions, lecturing on Public Law subjects. He has previously worked as a consultant with UNHCR, primarily doing research on the Refugees Status in Tunisia. Dr Boubakri holds a PhD in Public Law, from the University of Sousse, Tunisia. He regularly publishes papers and articles, especially on constitutional law, women's rights issues, refugees' rights and human rights in the Arab world generally. His most recent works include a report on the death penalty in Tunisia.

**PROFESSOR ANDREW COYLE (Speaker Plenary Session 6)**

**Director, International Centre for Prison Studies, University of Essex, UK**

Andrew Coyle is Emeritus Professor of Prison Studies at the University of London and Visiting Professor in the Human Rights Centre, Essex University. He is also Director of the International Centre for Prison Studies and is a Fellow of King's College London. He worked for 25 years at a senior level in the prison services of the United Kingdom, where he was in charge of a number of high security prisons. He is a prisons adviser to the UN High Commissioner for Human Rights, the UN Latin American Institute, the Council of Europe, including its Committee for the Prevention of Torture, and several national governments. He is a member of the UK Foreign Secretary's Expert Committee against Torture. He was one of the principal drafters of the European Prison Rules 2006. He has been retained by the Council of Europe to draft a Code of Ethics for Prison Staff and has been commissioned by the United Nations to draft a concept paper on the possible updating of the Standard Minimum Rules for the Treatment of Prisoners. He has a PhD in criminology from the Faculty of Law at the University of Edinburgh. His books include *Inside: Rethinking Scotland's Prisons*, *The Prisons We Deserve*, *Managing Prisons in a Time of Change*, *A Human Rights Approach to Prison Management*, *Humanity in Prison and Understanding prisons: Key issues in policy and practice*.

**MR RENNY CUSHING (Speaker Plenary Session 5)**

**Founder and Executive Director of Murder Victims Families' for Human Rights, USA**

Renny Cushing is Founder and Executive Director of Murder Victims Families' for Human Rights. His father, Robert Cushing, was murdered in 1988. Renny is a lifelong social justice activist and a pioneer in the effort to bridge the death penalty abolition movement and the victims' rights movement. He has testified before the U.S. Congress and several state legislatures and addressed hundreds of audiences in other venues in the U.S. and abroad regarding victim opposition to the death penalty. He serves on the board of the National Coalition to Abolish the Death Penalty and the steering committee of the World Coalition Against the Death Penalty. He is a former three-term member of the New Hampshire State House of Representatives.

**MR DAVID DAUBNEY (Opening Speaker)**

**Chair of Penal Reform International, Canada**

David Daubney was General Counsel, Criminal Law Policy and Coordinator of the Sentencing Reform Team, in the Policy Sector of Justice Canada, until his retirement in September 2011. Mr. Daubney is a graduate of Queen's University (B.A.) and the University of Western Ontario (LL.B.), and a member of the Ontario Bar. Following some years in private practice in Ottawa, he joined the Department of Justice in 1981. From 1984 to 1988, Mr. Daubney represented Ottawa West in the House of Commons during which period he chaired the Standing Committee on Justice and Solicitor General. In that capacity, he presided over a year-long study of sentencing, parole and corrections, which culminated in the report, Taking Responsibility being published in August 1988. This was the first Canadian parliamentary report to call for greater use of restorative justice approaches and to focus on the needs and interests of victims in the criminal justice system. In 2001, Mr. Daubney chaired the United Nations Experts Group on Restorative Justice which drafted the Declaration of Basic Principles on the Use of Restorative Justice Programmes in Criminal Matters and was active at the UN Crime Commission in Vienna which adopted a Canadian Resolution recommending this declaration in 2002. Mr. Daubney's writings have appeared in Corrections Today, The Saskatchewan Law Review, Making Sense of Sentencing, Dawn or Dusk in Sentencing, Policy Options, and The Lawyers Weekly. He was co-editor of Terrorism: How is Canada Changing after September 11? published by the Thémis Press of the University of Montreal on behalf of the Canadian Institute for the Administration of Justice of which he is a former director. In June 2011, he was honoured to be the first Canadian and public servant to receive Prison Fellowship International's Award for International Leadership in the Development of Restorative Justice.

**MR DZHUMAHON DAVLATOV (Chair plenary session 2)**

**Chairman of the Working Group on Abolition of the Death Penalty, Republic of Tajikistan**

Dzhumahon Davlatov graduated in 1991 in Law from Tajik State University, then graduating in 2007 from the faculty of state construction and the Law of the Academy of State Service under President of Russian Federation. Since 1991 till 2007 Mr Davlatov has been the Senior Investigator, Head and Deputy Head of the Office of Criminal Investigation of special importance for the General Prosecutor of the Republic of Tajikistan.

**MS LOUISE DE SOUSA (Opening Speaker)**

**Head of Human Rights and Democracy Department, Foreign and Commonwealth Office, UK**

Louise De Sousa has worked for the Foreign and Commonwealth Office since 1991 most notably as the Head of Asia, Middle East & Russia Section, Drugs & International Crime Department, as well as the Deputy High Commissioner, of the British High Commission in Maputo, Mozambique and the Deputy High Commissioner of the British High Commission in Nairobi, Kenya. Louise is currently the Head of the Human Rights & Democracy Department. Louise De Sousa graduated from Bristol University.

**MR ELOBAID AHMED ELOBAID (Speaker Plenary Session2)**

**Head of the United Nations Human Rights Training and Documentation Centre for South-West Asia and Arab Region, Qatar**

**MR OLAWALE FAPOHUNDA (Chair Plenary Session 3)**

**Lawyer and Managing partner of Legal Resources Consortium, Nigeria**

Olawale Fapohunda is one of Nigeria's leading experts on justice sector reform. He was recently appointed Secretary, Presidential Commission on Reform of the Administration of Justice in Nigeria. The commission was established by the President of Nigeria to review the state of the delivery of justice in Nigeria. He is the Chairperson of Justice Sector Reform team of Nigeria's Minister of Justice. He is a member of the Nigeria National Working Group on Legal Aid. He facilitated the National Debate on Death Penalty in Nigeria. Mr Fapohunda also serves on the Coordinating Committee of the National Action Plan for the Promotion and Protection of Human Rights in Nigeria. Mr Fapohunda was project adviser to the Access to Justice programme for DFID and a consultant to the European Commissions Justice Sector

Reform Programme. He is the co-convener of the West African Human Rights Forum and a member of the board of Penal Reform International.

**MS TAJYA AWAD GHORRA (Speaker Plenary Session 3)**

**Lebanese Association for Civil Rights, Lebanon**

Tanya Ghorra has a media background (an MBA in journalism), and an MBA in Non-Violent Education and Conflict Resolution from the Academic University for Non-violence and Human Rights. She has created a non-violent communication and conflict resolution course for children aged 5 to 10 years. She is a trainer for teachers and NGOs where she introduces non violence and conflict resolution. Tanya is an activist in Lebanon, working on abolishing capital punishment and achieving permanent peace in civil society. Tanya is a member of the Lebanese Association for Civil Rights and a member of the Lebanese Coalition against the Death Penalty.

**DR MOHAMMAD HALAIQAH (Chair Plenary Session 6)**

**Member of the Jordanian Parliament, ex-Deputy Prime Minister, Jordan**

Dr Halaiqah is Chairman for the Committee on Arab & International Affairs in the Jordan Parliament. Dr Halaiqah has held several official positions, including ex-Deputy Prime Minister and Minister of Industry and Trade. Dr Halaiqah holds a B.Sc. in Chemistry from the University of Jordan and a Ph.D. in Industrial Chemistry from the University of Leeds in the United Kingdom.

**MS ALISON HANNAH (Closing Speaker Day Two)**

**Executive Director, Penal Reform International, UK**

Alison Hannah started her career at Liberty, advising on police complaints and prisoners' rights before qualifying as a solicitor. She specialised in legal aid work in private practice and as a community lawyer for a Citizens Advice Bureau. Subsequently working at the Legal Aid Board, she was one of the first team to introduce a quality assurance scheme for solicitors, leaving to become head of quality assurance and training for a not for profit company providing residential care for old people. Before joining PRI in June 2007, Alison was Director of the Legal Action Group, a UK charity that promotes access to justice across a range of legal issues and services.

**PROFESSOR PETER HODGKINSON, OBE (Chair Plenary Session 4)**

**Senior Research Fellow and Director, Centre for Capital Punishment Studies, Westminster University, UK**

Peter Hodgkinson entered the university world via employment as a Probation Officer in Inner London where he developed an interest and expertise in working with life sentenced and mentally disordered offenders. He has an honours degree in Psychology and a Certificate of Qualification in Social Work and these together with his experience of working with offenders, and a stint as Forensic Social Work Adviser have informed both his teaching and the establishment of the Centre for Capital Punishment Studies of which he is Founder and Director in 1992. In 2004 he was appointed an Officer of the Most Excellent Order of the British Empire [OBE] for his work promoting human rights. He has worked closely with governments and NGOs in Albania, Armenia, Azerbaijan, Belarus, Japan, Jamaica, Kazakhstan, Lithuania, Nigeria, Papua New Guinea, the Philippines, Russian Federation, Serbia, South Korea, Taiwan, Trinidad & Tobago, Ukraine and Vietnam.

**PROFESSOR ROGER HOOD CBE, QC, PhD, DCL, Hon. LLD, FBA (Speaker Plenary Session 1)**

**Centre for Criminology, Oxford University, UK**

Professor Roger Hood is Professor Emeritus of Criminology at the University of Oxford and Emeritus Fellow of All Souls College. From 1973 to 2003 he was Director of the Oxford Centre for Criminology and is now a Visiting Professor at the City University Law School Hong Kong. In 1986 he received the Sellin-Glueck Award of the American Society of Criminology for 'Distinguished International Contributions to Criminology' and in 2011 the Cesare Beccaria medal from the International Society of Social Defence and Humane Criminal Policy. As consultant to the United Nations, he prepared the Secretary-General's 5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> Quinquennial reports on capital punishment. Among other works he is the author of *The Death Penalty: a Worldwide Perspective* (1st ed. 1989, 4<sup>th</sup> ed. with Carolyn Hoyle, 2008). He has been appointed

CBE and Honorary Queen's Council, is a Fellow of the British Academy and a member of the UK Foreign Secretary's Death Penalty Expert Group.

**MR VLADZIMIR KHOMICH (Speaker Plenary Session 2)**

**Professor, Belarusian State University, and Head of the Institute under the General Prosecutor's Office, Belarus Republic**

Mr. Vladzimir Khomich is a Doctor of Law, Professor of the Belarusian State University, and the Head of the Institute under the General Prosecutor's Office of the Belarus Republic. He is author of many publications in the area of criminal justice, training and re-training of judges, prosecutors and penitentiary personnel. He is a member of different state committees and working groups for developing national legislation in criminal justice area.

**MS EVGENIYA KONSTATINOVNA KRAPIVINA (Speaker Plenary Session 8)**

**Project Coordinator of "Citizens against Corruption" public fund, Kyrgyzstan**

Evgeniya Krapivina is a graduate of the International University of Kyrgyzstan and Kyrgyzstan State Law Academy. She is a practicing lawyer and since 2007 has been program coordinator for the human rights center, "Citizens against corruption". In her role as program coordinator Evgeniya works on reform of prisons, the humanization of criminal legislation of the KR and protection of human rights in closed institutions, and the protection of rights of those sentenced to life imprisonment.

**MS IOANNA KUÇURADI (Chair Plenary Session 1)**

**Member of the International Commission Against the Death Penalty, Turkey**

Ioanna Kuçuradi studied Philosophy at the University of Istanbul. She started her career as an Assistant Professor at the University of Istanbul. After receiving her PhD in 1965, she became Assistant Professor at the Atatürk University in Erzurum. In 1968, she went lecturing at the Hacettepe University in Ankara and founded the Department of Philosophy, where she taught as a professor for several decades. She was also the Founding Director of the Centre for Research and Application of the Philosophy of Human Rights, Hacettepe University, which was established in 1997. She is a holder of a UNESCO Chair on Philosophy and Human Rights since 1998. In 2006, Ioanna Kuçuradi was appointed professor of Philosophy and Director of the Centre for Research and Application of Human Rights at the Maltepe University in Istanbul.

**MR YURIY KALININ (Speaker Plenary Session 4)**

**Member of the Council of Federation of the Federal Assembly of the Russian Federation, First Deputy Chairman of the Federation Council's Commission for Cooperation with the Audit Chamber of the Russian Federation, Member of the Federation Council's Committee on Legal and Judicial Affairs, Member of the Federation Council's Commission on Development of Civil Society Institutions, Russia**

Yuriy Kalinin is candidate of Judicial Sciences, Actual State Adviser of the Russian Federation of 1st Class. Before being elected a member of the Council of Federation, Mr Kalinin worked as Deputy Minister of Justice and the Head of the Federal Service of Execution of Punishments of Russia. He has significant experience in criminal-executive area and author of a number publication in criminal justice field.

**DR MARIA LENSU (Speaker Plenary Session 5)**

**Human Rights Policy Officer in the Department for Human Rights and Democracy at the European External Action Service, European Commission, Brussels**

Maria Lensu is Human Rights Policy Officer in the Department for Human Rights and Democracy at the European External Action Service. She is currently responsible for the policy against the death penalty, as well as anti-discrimination policy, in EU external action, and human rights in EU candidate and Balkan countries. Previously she worked in the Human Rights Unit of the Directorate-General for External Relations at the European Commission. She received her Ph.D. in Government from the London School of Economics.

**MS JACQUELINE MACALESHER (Closing Speaker Day One)**

**Death Penalty Project Manager, Penal Reform International, UK**

Jacqueline Macalesher joined Penal Reform International's London Head Office in 2010 and is the Manager of the Death Penalty and Alternative Sanctions EC-funded project. Jacqueline has been working in the international human rights sector for the last seven years, including with non-governmental organisations Saferworld and the Bar Human Rights Committee of England and Wales. Jacqueline is the author and/or editor of numerous research papers, reports, policy briefings and articles on various security and justice sector reform issues. Jacqueline has a legal background and holds an LL.M. in International Law.

**MR ZAVED MAHMOOD (Speaker Plenary Session 1)**

**Human Rights Officer, UN Office of the High Commissioner on Human Rights, Geneva**

Zaved Mahmood is a Human Rights Officer at the UN Office of the High Commissioner for Human Rights (OHCHR). Previously, he worked as a human rights officer at the UN Mission in Sudan and the UN Assistance Mission in Afghanistan. He also worked for the UNICEF Innocenti Research Centre in Florence, Italy.

**MS FRANCESCA MANCHI (Opening Speaker)**

**Political Officer, European Commission Representation to the United Kingdom, UK**

Francesca Manchi has been working with the European Commission, DG EuropeAid since 2008, where she has been in charge of the political aspects related to infrastructure projects in African, Caribbean and Pacific Island countries. Ms Manchi recently joined the EC Representation in London in July 2011. Prior to joining the Commission, Ms Manchi worked in the private and public sector, dealing with issues in development cooperation. Ms Manchi holds a Master in International Relations from University of Bologna (Italy) and a Master in European Studies from the Université Catholique de Louvain-La-Neuve (Belgium).

**MR GIVI MIKANADZE (Speaker Plenary Session 4)**

**Council of Europe, Georgia**

Givi Mikanadze holds a law degree from Tbilisi State University (1994-1999) and an MA in EU Law from the University of Essex (UK), School of Law (2008-2009). Mr Mikanadze has served as a Deputy Minister of Justice of Georgia (2005-2008), Legal Adviser of Public Defender of Georgia (1999-2000), TACIS, OSCE, Council of Europe, UN OHCHR, UNICEF, UNHCR and UNDP Consultant. At present Mr Mikanadze works at the Office of the Council of Europe in Georgia as a Project Officer responsible for implementation of the sub-component on penitentiary system reform in the frame of Denmark's Georgia Programme 2010-2013 "Promotion of Judicial Reform, Human and Minority Rights". Mr Mikanadze also works as a lecturer at the Faculty of Law at Tbilisi State University, and holds lectures on "International standards of imprisonment and Georgian legislation" for the Bachelor's Programme.

**JUSTICE DANIEL MUSINGA (Speaker Plenary Session 4)**

**Judge of the High Court of Kenya, Kenya**

**MRS FLORENCE KERUBO OMUNDI (Speaker Plenary Session 7)**

**Director for Gender, NGOs and Sports, Kenya Prison Service, Kenya**

**JUSTICE AGUSTINO RAMADHANI (Speaker Plenary Session 3)**

**African Court of Justice and retired Chief Justice of Tanzania**

Justice Ramadhani joined the Tanzania Peoples' Defence Forces (TPDF) and was commissioned a Lieutenant. In 1978 he was seconded to the Revolutionary Government of Zanzibar as the Deputy Attorney General and fought during the Iddi Amini War. In 1980 he was appointed the Chief Justice of Zanzibar and then as Justice of Appeal on the Court of Appeal of Tanzania in 1989. Justice Ramadhani was also part time the Vice- Chairman of the National Electoral Commission from 1993 to 2003 and the Vice Chairman of the Zanzibar Electoral Commission from 2003 to 2007. From 2007 until his retirement in



2010 Justice Ramadhani was the Chief Justice of the United Republic of Tanzania. Justice Ramadhani has also been a part time Judge of the East African Court of Justice and is currently a Judge of the African Court of Human and Peoples' Rights.

**MR SERGEY ROMANOV (Chair Plenary Session 7)**

**Director, Independent Center of Protection of Human Rights, Tajikistan**

Mr Romanov is Director for the NGO the Independent Center of Protection of Human Rights. He was previously a member of the Bureau on Human Rights and Rule of law (BHR) in Tajikistan. Mr Romanov is closely involved in the abolition movement in Tajikistan, as well as monitoring human rights and criminal justice issues.

**MR DAVID SELLWOOD (Speaker Plenary Session 5)**

**Head of EC Project, Reprieve, UK**

David Sellwood is Head of Reprieve's EC Project (Death Penalty), a three year project funded by the European Commission that identifies and assists European nationals facing the death penalty in the USA. Prior to joining Reprieve, David was the Human Rights Adviser at the UK Foreign and Commonwealth Office, Consular Directorate. He previously worked in the refugee sector, preparing and presenting asylum and human rights appeals.

**PROFESSOR SSEMPEBWA (Speaker Plenary Session 2)**

**Senior Advocate, Katende Ssempebwa & Company, Uganda**

Professor Ssempebwa obtained his professional qualifications at the University of East Africa, University College Dar-es Salaam, and at Queen's University, Belfast. He taught law at the Universities of Dar-es Salaam, Zambia and Makerere. He is a Senior Partner in the firm of Katende, Ssempebwa and Co. Advocates, practicing law in Uganda. He has served in many public and private positions in Government of Uganda, public and private enterprises, and professional bodies. He was a member of the Committee of Experts which drafted the Constitution of Kenya, having been a member of the Uganda Constitutional Commission, and Chairperson of the Constitutional Review Commission, which Commissions drafted, and reviewed the Constitution of Uganda. He was a lead counsel in the ground breaking litigation in which the mandatory death statutes were declared unconstitutional by the courts of Uganda.

**BRYAN STEVENSON (Key Note Speaker)**

**Founder and Executive Director of the Equal Justice Initiative, USA**

Bryan Stevenson is the founder and Executive Director of the Equal Justice Initiative in Montgomery, Alabama. Mr. Stevenson is a widely acclaimed public interest lawyer who has dedicated his career to helping the poor, the incarcerated and the condemned. Under his leadership, EJI has won major legal challenges eliminating excessive and unfair sentencing, exonerating innocent death row prisoners, confronting abuse of the incarcerated and the mentally ill and aiding children prosecuted as adults. EJI has recently succeeded in winning a ban on life imprisonment without parole sentences imposed on children convicted of most crimes in the U.S. and has initiated major new anti-poverty and anti-discrimination efforts. Mr. Stevenson's work fighting poverty and challenging racial discrimination in the criminal justice system has won him numerous awards including the ABA Wisdom Award for Public Service, the MacArthur Foundation Fellowship Award Prize, the Olaf Palme International Prize, the ACLU National Medal Of Liberty, the National Public Interest Lawyer of the Year Award, the NAACP Ming Award for Advocacy, the Gruber Prize for International Justice and the Ford Foundation Visionaries Award. He is a graduate of the Harvard Law School and the Harvard School of Government, has been awarded 13 honorary doctorate degrees and is also a Professor of Law at the New York University School of Law.

**VERA TKACHENKO (Chair Plenary Session 5)**

**International project manager of the United Nations Office on Drug and Crime, Programme Office in Kyrgyzstan**

Vera Tkachenko is director of the Legal Policy Research Centre (LPRC), Kazakhstan. LPRC is a non-political, independent research institute that works to strengthen the rule of law, promote liberal values and

generate legal reforms through rigorous research and pro-active engagement with policy makers. She is also an executive board member of Penal Reform International (PRI). From 2001 to 2006 she was director of PRI Regional Office for Central Asia. In 2006-2007 as a Chevening Scholar she has received the degree of Master of Science in Criminal Justice Policy in the London School of Economics and Political Science. In 2007 she was a fellow at Stanford Summer Programme on Democracy, Development and Rule of Law. From 2001 to 2008 she was a member of the Public Council under the Minister of Justice of Kazakhstan and Kyrgyzstan on penal issues, member of the Coordination Committee on Control of Tuberculosis and Working Committee on HIV/AIDS of the Ministry of Healthcare of Kazakhstan, member of the Expert Council on fight against HIV/AIDS and TB in Kazakhstan. In 2009 she became a member of the Working Group on prevention of Torture and Ill Treatment under the Ombudsman Office of Kazakhstan. She has wide experience on criminal justice issues in countries of former Soviet Union and provided consultancy for the United Nations Office on Drugs and Crime, Open Society Institute, Danish Institute for Human Rights, Freedom House on criminal justice issues.

**MRS ZHEMIS TURMAGAMBETOVA (Speaker Plenary Session 6)**

**Director of "Charter for Human Rights", Kazakhstan**

Zhemis Turmagambetova is the Director for the NGO "Charter for Human Rights", and is a leading human rights activist in Kazakhstan. Turmagambetova previously established the Almaty Helsinki Committee and was Deputy Chairperson of the group. She later became one of the founders of the Kazakhstan International Bureau for Human Rights and Rule of Law. Turmagambetova played a major role in the introduction of the moratorium on capital punishment in Kazakhstan on 17 December 2003. In April 2005, Turmagambetova won an award from the Office for Democratic Institutions and Human Rights of the OSCE in recognition for her work to achieve reform of Kazakhstan's penal system. In May 2005, she was awarded a European Commission Prize for her contribution to the defence of human rights and general democratization of Kazakhstan. Turmagambetova studied at the Leningrad Institute of Culture and later graduated from Kazakh State University as a lawyer.

**ALESSANDRO VALDAMBRINI (Speaker Plenary Session 5)**

**European Commission, DG Devco Unit D1, Brussels**

Alessandro Valdambri is currently working at the European Commission, DG Devco Unit D1. He is the Devco Focal Point on Death Penalty, in charge of the anti-death penalty projects funded under the European Instrument for Democracy and Human Rights (EIDHR). He joined the European Commission in 2011 after several years of work mainly with the civil society, including field experience in India and Ivory Coast. He holds a Master's degree in Political Science and a Post-Graduate Master in Peace education, Development and Human Rights.

**PROFESSOR DIRK VAN ZYL SMIT B.A., LL.B., Ph.D., Dr. jur. (Speaker Plenary Session 6)**

**Professor of Comparative and International Penal Law at the University of Nottingham, UK**

Dirk van Zyl Smit is Professor of Comparative and International Penal Law at the University of Nottingham where he is also Director of the Post-graduate Research in the School of Law. Until the end of 2005 he was Professor of Criminology at the University of Cape Town where he was also Dean of the Faculty of Law from 1990-1995. He has advised the governments of Bangladesh, Malawi and Bosnia and Herzegovina on new prison legislation. He has acted as expert adviser to the Council of Europe on the new European Prison Rules and on the Rules on Juvenile Offenders subject to Sanctions and Measures, and to the United Nations Office for Drugs and Crime for its Handbooks on Alternatives to Imprisonment and the International Transfer of Sentenced Prisoners. In South Africa Dirk van Zyl Smit was actively involved in law reform as a member of the Goldstone committee on public violence and public demonstrations in 1992, as the primary consultant for the Correctional Services Act 1998 and as a member of the National Council on Correctional Services from 1995 to 2004. He was also project leader of the committee of the South African Law Commission investigating sentencing and author of its report and draft legislation: a New Sentencing Framework (2000).

**IRINA YAKOVETS (Speaker Plenary Session 8)**

**Candidate of Judicial Sciences, Senior Researcher of the Institute of Investigation of Criminality's Problems of the National Law Academy of Legal Sciences of Ukraine, a teacher of the Faculty on Training of Penitentiary Personnel for the State Penitentiary Service of Ukraine**

Irina Yakovets graduated from the National Law Academy of Ukraine in 2001 and in 2006 she obtained a PhD. She was awarded the Laureate of the President's Award for Young Scientists in 2008; she is author of more than 100 scientific publications in area of execution of punishments; a member of meeting bodies under the Cabinet of Ministers of Ukraine, the Ministry of Justice of Ukraine and the State Penitentiary service of Ukraine. She has previously worked in the criminal-executive system of Ukraine for more than 10 years.

**MUSHEGH YEKMALYAN (Launch of Torture Prevention Online Community)**

**Torture Prevention Project Manager, Penal Reform International, UK**

Mushegh Yekmalyan holds LL.M. in International Law from Lancaster University Law School. He worked for 7 years at the OSCE office in Yerevan as Human Rights officer and in OSCE Office for democratic Institutions and Human Rights in Warsaw. He was the Coordinator of the Civil Society Policy Programs at the OSI-Armenia. Currently is the Project Manager of the Torture Prevention project at PRI Head Office in London.

**ANNEX IV: Press release**



Promoting penal  
reform worldwide

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**EMBARGOED UNTIL 00.01 ON MONDAY 19 SEPTEMBER 2011**

## **Death penalty loses popularity worldwide**

On 19 and 20 September, Penal Reform International ('PRI') will bring 120 people from retentionist countries to London to discuss global trends towards abolition of the death penalty.

PRI Chair, David Daubney, describes this conference as "an opportunity to inspire decision- and policy-makers in death penalty countries to identify new ways of harmonising their criminal justice systems with evolving standards and values that indicate that the death penalty has no place in civilised society."

While two-thirds of the world's states have already abolished the death penalty in law or in practice, those who continue to retain it are taking positive steps to reduce or restrict its application in law or in practice, reflecting its declining use.

"The death penalty violates the fundamental right to life," says Daubney, "and amounts to torture, cruel and inhuman punishment. It is time for the world to eradicate this harsh and irrevocable form of punishment that has very little or any effect on changing criminal behaviour, and to develop a more evolved criminal justice system that aims to tackle the root causes of crime and violence."

The Arab region is one of the most notorious executors in the world. In 2010, at least 378 executions were known to have been carried out in the region.

"The Arab Spring has created a golden opportunity for safeguarding civil liberties, and attention is turning towards criminal justice reforms including abolition of the death penalty," stresses Taghreed Jaber, PRI Middle East Director. "This conference will be a fundamental building-block on the path towards abolition in Arab states and at the global level."

Syrian MP and leading Islamic Scholar, Dr Mohamad Al Habach, plans to attend the conference to address the misconceptions surrounding Sharia Law and the death penalty. "Almost all Arab states justify the use of the death penalty as an explicit link to Islam. But in practice, the crimes punishable by death go far beyond what has been provided for in Sharia law."

The trend towards abolition is truly significant. The death penalty has been around for thousands of years however a new dynamic has been at work during the last 50 years. The abolitionist movement had been embraced across the globe by many different political systems, peoples and cultures:

- There are fewer executions than ever before: in 2010, only 23 states actually carried out an execution.
- States are taking legal steps to reduce the number of death penalty applicable crimes: China removed 13 of 68 death penalty crimes from its Criminal Law in December 2010.
- Support for a moratorium is growing: in December 2010, 104 states voted in favour of a resolution at the United Nations General Assembly calling for a moratorium on the death penalty.
- 82 states have ratified international and regional instruments calling for abolition of the death penalty.
- Even the United States, to which many retentionist countries point to in support of their position, presents a varied picture on the death penalty. 16 of their 50 states are abolitionists in law (Illinois being the 16<sup>th</sup> state on 9 March 2011). Of the 34 states that retain capital punishment, only 12 carried out executions in 2010.

Participants will include representatives from the Arab world, Africa, the United States, Eastern Europe, Central Asia and the South Caucasus, the United Nations, the European Union, the African Commission on Human and Peoples' Rights, the Arab League, Amnesty International, Murder Victims Families' for Human Rights and Reprieve.

**/Ends**

## ANNEX V: Media coverage

Penal Reform International worked closely with a number of journalists and news agencies to create media coverage for the London Conference. Please see below [links to some of the articles published](#):

- “Focus on Africa” (English language radio interview with Justice Augustino Ramadhani [Tanzania], Florence Kerubo Omundi [Kenya], Olawale Fapohunda [Nigeria]), *BBC*, 20 September 2011: [http://www.bbc.co.uk/worldservice/africa/2011/04/000000\\_focus\\_on\\_africa.shtml](http://www.bbc.co.uk/worldservice/africa/2011/04/000000_focus_on_africa.shtml)
- “Global trends to abolish the death penalty are discussed in London” (Russian language), *Asia Plus* (Tajikistan), 20 September 2011: <http://news.tj/ru/news/globalnye-tendentsii-po-otmene-smertnoi-kazni-obsuzhdayutsya-v-londone>
- “Not in the name of the Quran” (English language, including podcast interview with Dr Mohamed Al Habach [Syria]), *Inter Press Services*, 21 September 2011: <http://ipsnews.net/news.asp?idnews=105191>
- “More countries reject the death penalty” (Russian language), *Zonakz* (Kazakhstan), 22 September 2011: <http://zonakz.net/articles/38292>
- “Capital Punishment Dying Out” (English language interview with Bryan Stevenson and Jacqueline Macalesger), *The Economist*, 24 September 2011: <http://www.economist.com/node/21530098>
- “PRI Conference on Abolition of the death Penalty” (Kazak Language), *Alashainasy* (Kazakhstan), 26 September 2011: [http://alashainasy.kz/one\\_theme\\_two\\_opinions/27614/](http://alashainasy.kz/one_theme_two_opinions/27614/)
- “On Popular Demand” (English language, including podcast with Tanya Awad Ghorra (Lebanon) and Dr Amor Boubakri [Tunisia]), *Inter Press Services*, 27 September 2011: <http://ipsnews.net/news.asp?idnews=105252>
- “Arab league Asked to Intervene” (English language), *Inter Press Services*, 10 October 2011: <http://ipsnews.net/news.asp?idnews=105409>

**For more information on PRI's work on the abolition of the death penalty and alternative sanctions that respect international human rights standards please contact:**

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