

EXTERNAL

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Death penalty / Legal concern

17 November 1997

TRINIDAD AND TOBAGO

**Proposed extension of the death penalty would
violate international obligations**

The Attorney General of Trinidad and Tobago reportedly announced last week that those convicted of rape may soon face the death penalty. Ramesh Lawrence Maharaj has asked the Law Commission to prepare a report on a proposal to introduce the death penalty for rape. The Law Commission, which advises the government on law reform, has been asked to complete this task within three weeks, for consideration by the Cabinet.

Amnesty International recognises the heinous nature of rape, a crime which is unique in its gravity and effects. The organization also recognizes the important role of governments in combating violent crime, including rape. However, lawful punishment for this crime must not violate international standards.

The extension of the death penalty would be a violation of Trinidad and Tobago's obligations under the American Convention of Human Rights (American Convention) Article 4(2) which states that the application of the death penalty "should not be extended to crimes to which it does not presently apply". In 1983 the Inter-American Court of Human Rights issued an advisory opinion stating that the American Convention absolutely prohibits state parties from extending the death penalty to any crime for which it was not a possible penalty under state law at the time the state became bound by the Convention (Advisory Opinion OC-3/83, of 8 September 1983). Having ratified the American Convention in 1991, Trinidad and Tobago is bound by its provisions, and is specifically prohibited from extending the death penalty to crimes for which it was not a punishment in 1991.

Amnesty International remains committed to the abolition of the death penalty in all cases, no matter how heinous the crime for which it is imposed, as it is the ultimate, cruel, inhuman and degrading punishment and a violation of the right to life. As there is no reliable evidence that the death penalty has any unique deterrent effect on violent crimes, its extension to rape can serve no legitimate purpose; rather, it brutalises all involved in its application.

BACKGROUND INFORMATION

Under current legislation in Trinidad, the death penalty is the mandatory punishment for murder. The crime of rape is currently punishable by terms of imprisonment and by corporal punishment. AI is opposed to the latter as it constitutes cruel, inhuman or degrading punishment in violation of international standards.

In most countries non-homicidal rape is not a capital offence. For example, in 1977 the US Supreme Court ruled in the case of *Coker v. Georgia* that the death penalty for the non-homicidal rape of an adult woman was "grossly disproportionate and excessive" and therefore contrary to the US Constitutional prohibition of "cruel and unusual punishments".

RECOMMENDED ACTION: Please send telegrams/faxes/express/airmail letters in English or your own language:

- noting with concern the reportedly high incidence of rape and domestic violence in Trinidad and Tobago, and acknowledging the government's important role in bringing people suspected of violent crimes, including rape, to justice;
- expressing concern about the government's consideration of extending the death penalty as a punishment for the crime of rape, an extension which would violate Article 4(2) of the American Convention, which Trinidad and Tobago ratified in 1991;

- stating unconditional opposition of the death penalty as the ultimate cruel, inhuman and degrading punishment which violates the right to life, and which has never been shown to have a unique deterrent effect and is brutalizing to all involved in its application;
- urging the government to explore other measures, which are consistent with their obligations under international law and the Beijing Declaration and Platform for Action (particularly para 124), to ensure protection of all people, and in particular women and children, from being subjected to violence, and to ensure victims have access to just and effective remedies.

APPEALS TO:

Note: there can be difficulties when using the new area code for Trinidad and Tobago (1 868). If so, please try using the old area code (1 809).

Prime Minister

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Attorney General

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COPIES TO:

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and to diplomatic representatives of Trinidad and Tobago accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY. Check with the International Secretariat, or your Section office, if sending appeals after 25 December 1997.