

The Wire

October 2005 Vol. 35. No. 09

AI Index: NWS 21/009/2005

[Page 1]

Colombia's paramilitaries 'recycled' into conflict

Teresa Yarce was shot dead on 6 October 2004 in the street in Las Independencias, Medellín, by a paramilitary gunman. She was killed hours before she was due to testify to judicial authorities against a local paramilitary leader who had been detained. Only a few weeks earlier, she had reportedly escaped a paramilitary attempt to abduct and kill her. Teresa Yarce had condemned the alleged skimming of public funds to pay two paramilitaries who were appearing on the payroll as public services workers.

Teresa Yarce's killing happened almost a year after more than 860 of Medellín's paramilitaries had supposedly demobilized in November 2003. A series of large-scale demobilizations of paramilitary groups followed around the country. The government has claimed that this process has removed more than 8,000 paramilitaries – out of a total of 10,000-20,000 – from the conflict. All remaining paramilitary combatants are supposed to be disarmed by the end of 2005.

All parties to Colombia's 40-year-old armed conflict – the security forces, army-backed paramilitaries and guerrilla groups – have committed serious human rights abuses and shown a blatant disregard for international humanitarian law. But in recent years most killings, "disappearances" and cases of torture have been carried out by paramilitary groups. More than 2,300 killings and "disappearances" have been attributed to paramilitaries since they declared a unilateral ceasefire at the end of 2002.

The demobilization process is to be regulated by the new Justice and Peace Law, introduced in July 2005, and by Decree 128, which grants de facto amnesties to members of illegal armed groups not under investigation for human rights abuses. But high levels of impunity in Colombia mean that many of those who may be guilty of such violations can, and often do, evade investigation. This has meant that most demobilized paramilitaries have already benefited from de facto amnesties under Decree 128.

The Justice and Peace Law, which will benefit those demobilized paramilitaries who are under investigation for human rights violations, will do little to secure an end to the human rights crisis. It fails to meet Colombia's international obligations on victims' right to truth, justice and reparation. The already chronic levels of impunity which exist in Colombia may be reinforced. It will not guarantee that demobilized paramilitaries are not simply reintegrated into the armed conflict. Paramilitarism's economic, political and criminal stranglehold over large swathes of Colombia will not be dismantled by it. Furthermore, it will fail to identify, let alone bring to justice, all those, including members of the security forces, who have used economic and military force to back paramilitarism. In the future it may also guarantee the impunity of guerrillas responsible for human rights abuses engaged in any future peace process with the government.

Most of the paramilitaries in Medellín, like those demobilizing in other parts of the country, include thousands of possible human rights abusers who are benefiting from de facto amnesties. These individuals are beginning to contribute to the security forces' counter-insurgency strategy as "civilians". They take jobs in private security firms – both regulated and illegal. Paramilitarism is not being dismantled, it has simply been "re-engineered".

See: *Colombia: the Paramilitaries in Medellín – Demobilization or Legalization?* (AMR 23/019/2005).

Women fight for rights in Afghan elections

In September Afghans elected a National Assembly and provincial councils, the first such election in generations. They did so against a background of years of conflict, which have impacted upon the everyday lives of people living in a highly armed society, without security and amid a crumbled infrastructure.

For the women of Afghanistan in particular, the elections provided a key opportunity to participate openly, both as candidates and voters. However, exercising that opportunity was routinely fraught with danger.

After Shaheeda Hossein announced her parliamentary candidacy for Kandahar province, she received telephone death threats from unknown individuals, demanding she withdraw from the elections or be killed. In August she was the victim of an assassination attempt when the car she was travelling in was fired upon. Shaheeda Hossein heads the Independent Women's Forum for Women's Rights which campaigns for women's rights, including legal reform, participation in public life and freedom from violence.

Zohra Sahel, a candidate in the northern Balkh province, survived an attempt on her life in August when unidentified motorists tried to crush her to death. She was left with serious injuries. Speaking to journalists, Zohra Sahel said that "unidentified people warned me over the telephone to withdraw my candidature".

A quarter of the seats in the 34 provincial councils and the National Assembly are reserved for women. It is hoped that this example of women's participation in public life will enable women to gradually take up positions in the police, the judiciary and other public offices. The presence of women in these sectors is crucial to facilitate gender equality throughout Afghan society which in turn will help create an environment more conducive for women's access to justice.

Since campaigning began on 17 August, these elections have been marred by political violence. Since the start of the year, more than 1,000 people have been killed in the continuing violence. In the months leading up to the election warlords sought to expand their power at a local level. Some of them, able to stand for election, used armed force and abuse of power to threaten voters and candidates. Violence in the south and east was invariably perpetrated by the Taliban and other insurgent groups that reject the elections altogether, including any participation by women.

AI has urged the recently elected government to pledge publicly to make the Afghan Constitution of 2004 – which promised equal rights for all – a reality for all women. The organization is now calling on candidates in the National Assembly elections to work with the government to make women's rights a reality. Justice must be ensured for those who have suffered violations in the past. Elected leaders should unequivocally condemn all forms of violence against women and girls, including violence in the family, whether upheld by decisions of informal justice systems or agents of the state.

[Page 2]

Torture debases justice in US bid to contain 'terror threat'

"I'm in a cage like an animal. No one's asked me am I human or not." Wazir Mohammed, an Afghan taxi driver held in Bagram, Afghanistan, and at Guantánamo Bay, Cuba, released in late 2003

"They said, 'If you swear to God again, we'll break you into a thousand pieces... They placed tape on our mouths and bags on our heads." Ahmad al-Badrani, a Reuters television journalist held by US forces in Iraq in 2004

The photographs of US soldiers humiliating and terrorizing defenceless Iraqi prisoners in Abu Ghraib shocked the world when they were published in 2004. But the abuses they exposed

were not an aberration. The images followed numerous allegations of torture and ill-treatment reported from detention centres in Afghanistan, Iraq and Guantánamo Bay.

The right to be free from torture and other cruel, inhuman and degrading treatment – one of the most universally accepted of human rights – is being undermined. In the “war on terror”, governments are not only using torture and ill-treatment, they are making the case that this is justifiable and necessary.

The US government has argued that the international legal framework no longer applies because the threat of terrorism is so great. US officials also say that while they abhor torture, some forms of ill-treatment are acceptable. They have approved techniques such as sleep deprivation, hooding, forced nudity, exposure to dogs, and being held for long periods in agonizing positions.

They speak of “coercive interrogation” but when the door to torture is opened, the pressure is always upward. If one slap doesn’t work, then a beating will follow. If a beating doesn’t work, what comes next? It is cruel, inhuman; it degrades us all.

AI is campaigning to stop torture and ill-treatment in the “war on terror”. We call on the USA to take a lead in upholding the values of human dignity. These values have been betrayed by the US government in its pursuit of the “war on terror”, and other states have been quick to follow suit.

AI supporters are taking the campaign’s messages to rock concerts and market places, to the Anti-Racism festival in Athens, Greece, to parliaments and ambassadors. They have used street theatre, public meetings and other events, backed by websites, emails and letters.

You can join the campaign by contacting your local AI section or by visiting www.amnesty.org/torture

And you can find out more by reading AI’s latest briefing, *Cruel. Inhuman. Degrades us all. Stop torture and ill-treatment in the “war on terror”* (ACT 40/010/2005).

‘How confessions are beaten out ...’ by Ukraine authorities

Despite government promises, torture by police remains endemic in Ukraine

Mikhailo Koval and his son Dmitrii Brik were detained by police in August 2001 in connection with a dispute over ownership of a drill. At the police station, Mikhailo Koval was beaten on the head and chest with a gun and a plastic bottle filled with water. One of his ribs was broken. Officers beat Dmitrii Brik’s ears with the palms of their hands, bursting an eardrum. Both men were threatened with rape and with being set up and imprisoned for possession of drugs.

For police officers in Ukraine, beating detainees appears to be normal police procedure. It is openly discussed by officers on the Ministry of Internal Affairs website forum. In one discussion thread entitled “How confessions are beaten out...” a police officer writes: “You’ve beaten up your criminal... you’ve put your man with him [in the cell] – he just tells him about *sloniki* and the *lom* in detail and his nerves give out.”

“*Slonik*” is a form of torture in which the victims are forced to wear gas masks so that they partially suffocate, “*lom*” is the suspending of victims from a metal pole. And although the officer claims that these methods are only used as threats, according to a 2004 study carried out by the Kharkiv Institute for Social Research, these, and other forms of torture – electric shocks, beatings with heavy books or bottles of water – are being used in police detention in Ukraine. The study interviewed people who had been in police detention: 62.4 per cent said they were subjected to ill-treatment on arrest; 32.8 per cent were punched or kicked; and 3.8 per cent claimed to have been subjected to torture and ill-treatment using special equipment. Threats and psychological pressure, including using other prisoners to scare detainees with descriptions of torture, were also reported.

On 17 May 2003 Aleksei Zakharkin was detained by police officers. For the next week he was subjected to beatings and severe torture and forced to sign a confession to robbery. In his complaint to the European Court of Human Rights, Aleksei Zakharkin stated that he was suspended from a metal bar, sprayed in the eyes from a gas canister and forced to wear a gas mask. At times the vent in the gas mask was closed so that it was impossible to breathe at all. By the seventh day, when threatened with further torture, he attempted to kill himself.

The government of Ukraine, elected in January 2005, has promised to make changes in the criminal justice system to comply with international human rights standards. But allegations of torture and ill-treatment in police detention persist. In July 2005, President Victor Yushchenko asked the Ukrainian Ministry of Internal Affairs to “make sure that within six months nobody will be able to use the word ‘torture’.” If Ukraine is to begin admission negotiations with the European Union in 2007, as President Yushchenko states, these promising words will need to be accompanied by decisive action to bring Ukraine closer to the human rights standards of the Council of Europe.

Ethnic minorities singled out for attack in Iran

Arab and Kurdish provinces rocked by escalating bloodshed as state security forces stamp out surge of protest

Scores of people have reportedly been killed, hundreds injured and hundreds more arrested in a brutal clampdown on civil unrest in the Kurdish areas of western Iran.

The unrest began in the town of Mahabad in early July, after Iranian security forces shot dead a Kurdish opposition activist, Shivan Qaderi, and two other men. The security forces reportedly tied Shivan Qaderi’s body to a jeep and dragged it through the streets.

Thousands of Kurds took to the streets to protest at the killings, with demonstrations erupting throughout the region in the following days. The official response was swift and brutal. On 15 July, security forces reportedly shot live ammunition into a crowd of demonstrators. Large numbers of troops and helicopter gunships were sent to the region.

State security forces embarked on a wave of arrests, in one case reportedly raiding a wedding and seizing 30 guests on suspicion of being involved in the demonstrations. Those arrested include prominent Kurdish human rights defenders and activists. Dr Roya Toloui, a women’s rights activist, was arrested at her home on 2 August, apparently charged with “disturbing the peace” and “acting against national security”. Mahmoud Salehi, the spokesman for the Organizational Committee to Establish Trade Unions, was arrested in the early hours of 4 August. Two Kurdish newspapers have been forcibly closed down.

Many of those arrested continue to be held, without charge, at risk of torture and ill-treatment.

The mass arrests and excessive use of force against protesters in the Kurdish areas are part of a pattern of abuse by the authorities of ethnic minorities in Iran, where up to half the population is Persian and the rest is made up of ethnic groups including Kurds, Arabs and Azeris (a Turkic-speaking people). A recent UN report stated that the authorities were denying basic amenities to Iran’s ethnic and religious minorities and in some cases seizing land. The marginalization of these communities has fed civil unrest, leading to clashes with security forces, escalating violence and an atmosphere of anger and mistrust.

In April 2005, rumours of a government plan to disperse the country’s Arab population began to circulate in Khuzestan province, where most Iranian Arabs live. A thousand-strong protest in the city of Ahvaz was violently suppressed by security forces, leaving as many as 54 people dead and many more injured. Security forces are believed to have operated a shoot-to-kill policy in the area after reports that up to seven officers had been killed by demonstrators.

As the situation worsened, security forces reportedly sealed off some areas of the city and cut their power supply, telephone connections and water. On 12 June, as presidential elections approached, there were four bomb blasts in Ahvaz and two others in Tehran, killing up to 10

people and injuring nearly 90. Hundreds have been detained in waves of arrest that have continued through the summer.

The Iranian government has accused the US and UK governments of instigating unrest among Kurdish and Arab communities. But while Iran's ethnic minorities continue to be marginalized, and their protests brutally suppressed, the cycle of violence looks set to continue.

AI lights the flame of hope at ICM

AI staff and members hold candles at the opening ceremony of the 2005 meeting of AI's supreme governing body, the International Council, in Morelos, Mexico, in August

Amnesty = Activism

What is it? Amnesty = Activism is a movement-wide discussion about what sort of activism AI is, and ought to be, undertaking for maximum positive impact on human rights.

Over the next year and a half we hope to involve AI activists from every country in the process, and would like to interview AI activists from all over the world. If you would like to talk to us about your experience of activism, please contact Brian Dooley at bdooley@amnesty.org or Liam Mahony at liammahony@comcast.et, and we will try to interview you.

[Page 3]

Worldwide Appeals

Yemen

Death penalty appeal to President

Fuad 'Ali Mohsen al-Shahari (left) and possible prisoner of conscience Hammoud Murshid Hassan Ahmad (right) were both sentenced to death following unfair trials. AI is appealing to Yemen's President to commute their sentences and to release Hammoud Murshid Hassan Ahmad immediately if he is a prisoner of conscience. The President grants pardons to mark the end of Ramadan which this year is at the beginning of November.

Fuad al-Shahari was arrested in May 1996 and held incommunicado for approximately one month, during which time he was allegedly tortured and ill-treated until he confessed to the murder of a captain in the Political Security Department. He was sentenced to death in November 1996. The sentence was upheld by the Court of Appeal and the Supreme Court. In August 2004, following persistent AI campaigning, the President reportedly ordered the Attorney General to review Fuad al-Shahari's case. However, over one year on, there is still no further information about his fate and he remains at risk of execution.

Hammoud Murshid Hassan Ahmad was arrested without warrant in July 1994, in connection with a murder which allegedly took place 12 years earlier when he was a captain in the army of the former People's Democratic Republic of Yemen. He was sentenced to death in August 1995 in the absence of a lawyer. Evidence that he was out of the country at the time of the murder was disregarded. The sentence was reduced by the Supreme Court in May 2003 to 12 years' imprisonment and the payment of *diya* (also known as blood money, payable to the murder victim's family) of US\$13,000. Neither he nor his family are able to pay the *diya* and failure to pay it could invoke the death penalty. AI believes that the charges against him were politically motivated and that he may be a prisoner of conscience.

Please write, urging the President to commute the death sentence against Fuad 'Ali Mohsen al-Shahari and Hammoud Murshid Hassan Ahmad, and to release Hammoud Mushid Hassan Ahmad if he is a prisoner of conscience.

Send appeals to: His Excellency General 'Ali 'Abdullah Saleh, President of the Republic of Yemen, Sana'a, Yemen. Fax: +967 127 4147.

Guinea

Executions imminent

Diamond merchant Malick Condé and a policeman, Cléopha Lamah, were convicted of murder and sentenced to death by the Assizes Court in Conakry on 26 August. One of the defence lawyers said that the two men will exercise their right of appeal to a higher court. If the judicial appeal is turned down, they may also petition the President for clemency. AI is concerned that their death sentences may be confirmed, in which case they could be executed at any time.

They were tried with two other people who were sentenced to four years' imprisonment. All four were arrested in October 2000 and accused of murder.

In a press conference held at the beginning of August, Ousmane Camara, Minister of Security, surrounded by Guinean police chiefs, said that his department will be merciless and that whoever kills deliberately will also be killed. He said: "Guinea must not be a haven for outlaws... From now on measures from life imprisonment to physical liquidation will be used against bandits who commit murder... We have the death penalty in Guinea and the Justice Minister and I are in complete agreement."

[Quote in French for translators: "La Guinée ne doit pas être une terre d'asile pour les hors la loi, désormais des mesures allant de l'emprisonnement à perpétuité à la liquidation physique frapperont les bandits qui commettront des meurtres..... la peine de mort existe en Guinée, avec le ministre de la justice, nous nous complétons."]

A wide range of offences, including murder, carry a mandatory death penalty in Guinea. Executions are by firing squad. In 2001 seven people were executed when executions resumed for the first time since 1984.

Please write, calling for the death sentences against Malick Condé and Cléopha Lamah to be commuted. Call on the government to initiate a moratorium on executions and move towards abolition of the death penalty, in line with the world trend to abolishing this ultimate cruel, inhuman and degrading punishment.

Send appeals to: Mamadou Sylla, Ministre de la Justice, Ministère de la Justice, face à l'Immeuble La Paternelle, Conakry, Guinea. Fax : +244 41 16 17.

Democratic Republic of Congo

Teenage boy sentenced to death

Isongo Zabenge, a child police officer, was sentenced to death by a military tribunal in Goma, eastern Democratic Republic of Congo (DRC), in May 2003 when he was 16.

The court found him guilty of armed robbery and murder after he and an adult attempted to rob a soldier at gunpoint. The judgement against Isongo Zabenge was illegal according to national law. Under the DRC's Military Penal Code, military law and jurisdiction cannot be applied to children aged under 18.

Isongo Zabenge is held at Munzenze Central Prison in Goma. Conditions in the prison are extremely poor, even life-threatening. Prisoners and pre-trial detainees regularly go without food for days or even weeks on end.

No state executions have taken place in the DRC since January 2003, although death sentences continue to be routinely passed. A national moratorium on the death penalty was introduced in 1999, but suspended in September 2002, just as the trial of individuals accused of involvement in the assassination of former president Laurent-Désiré Kabila was concluding, and in the wake of another alleged assassination plot against his son, President Joseph Kabila.

Please write, calling for the death sentence against Isongo Zabenge, a child police officer, to be annulled since he was only 16 at the time of the offence and trial. Call on the government to reinstate the moratorium on the death penalty and to sign and ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, as commitments towards eventual abolition of the death penalty, in line with the world trend to abolishing this ultimate cruel, inhuman and degrading punishment.

Send appeals to: M. Honorius Kisimba Ngoy, Ministre de la Justice et Garde des Sceaux, Ministère de la Justice, Place de l'Indépendance, Kinshasa Gombe, Democratic Republic of Congo. Email: minjustrdc@yahoo.fr

Sudan

Young offender at risk of execution

Seventeen-year-old Nagmeldin Abdallah may be executed any time for the murder of a trader in the town of Al-Damazin, Blue Nile State, eastern Sudan. He was 15 years old when he was arrested and charged with murder in May 2003.

Nagmeldin Abdallah was tried at the Criminal Court in Al-Damazin. He did not have a lawyer at the time of the trial because his family could not afford one. He was able to have legal representation later and his lawyer has now submitted an appeal to the Constitutional Court. Nagmeldin Abdallah is currently held in the prison of Port-Sudan, in eastern Sudan, awaiting the decision of the Court.

The new Interim Constitution for Sudan, ratified in July, failed to abolish the death penalty in Sudan, in particular as it applies to those under the age of 18. It states that: "The death penalty shall not be imposed on a person under the age of eighteen or a person who has attained the age of seventy except in cases of retribution or hudud". This last exception makes the first safeguard almost worthless since hudud crimes include murder and burglary over a certain amount. This provision is incompatible with Sudan's international obligations that prohibit child executions.

There is no official record of executions or of those on death row in Sudan. However, every year AI receives reports of people sentenced to death, often after unfair trials, for crimes committed when they were under 18 years old.

Please write, calling on the authorities to annul the death sentence against Nagmeldin Abdallah and to commute all death sentences against child offenders in line with Sudan's obligations under international law. Call for the Interim Constitution for Sudan and the Sudanese Penal Code to be amended to preclude offenders from being sentenced to death.

Send appeals to: Lieutenant-General Omar Hassan Ahmad al-Bashir, President of the Republic of Sudan, President's Palace, PO Box 281, Khartoum, Sudan. Fax: + 249183 779977.

Updates

Moroccan prisoners of war released

On 18 August, 404 Moroccan prisoners of war who had been held for well over two decades by the Polisario Front were released. The prisoners remained in detention almost 14 years after the end of armed hostilities between Morocco and the Polisario Front. AI had repeatedly called for the release of these prisoners.

Some 250 Moroccans are reportedly still missing in connection with the conflict. In addition, hundreds of Sahrawis who “disappeared” at the hands of the Moroccan security forces, mostly in the 1970s, remain unaccounted for.

Stay of execution in Uzbekistan

Iskandar Khudaiberganov (also known as Khudoberganov) has been granted a stay of execution following appeals by AI and other organizations such as the Mothers against the Death Penalty and Torture, based in Uzbekistan. He sent greetings from prison via his sister, Dilobar Khudaiberganova, who has campaigned tirelessly on his behalf. He sent thanks for all the action taken to support him and said that even prison officers knew about AI’s campaign. As a result, their conditions have improved and death row prisoners are now reportedly allowed 30 minutes of exercise in the open air each day.

However, Iskandar Khudaiberganov is in very poor health. While on death row he developed tuberculosis. His sister told AI in August: “We bring him medicine but that doesn’t help because his cell is very stuffy and he would need good food to recover but the food on death row is miserable.”

As a result of the pressure generated by AI’s campaign against the death penalty in Uzbekistan, President Islam Karimov issued a decree on 1 August stipulating that the death penalty would be abolished from 1 January 2008. AI is now calling on the authorities to promptly commute all pending death sentences and introduce a moratorium on death sentences. It continues to urge the authorities to lift the veil of secrecy surrounding the application of the death penalty, for example by disclosing to relatives of executed prisoners the burial sites of their loved ones and to publish comprehensive statistics regarding the application of the death penalty in Uzbekistan.

See *Worldwide Appeal* October 2004 and *the Wire* November 2004.

Death penalty for rape in Liberia

In August, Liberia’s Justice Minister Kabineh Jan’eh presented a draft rape bill to remedy the country’s outdated and un-responsive legislation on rape and sexual related offences. The bill defines rape more clearly and resorts to stronger punishments for the accused, including use of the death penalty at the judge’s discretion.

AI supports the new rape bill as it changes the definition of rape to make clear that the sexual act without freely given consent is a crime that society condemns and those who perpetrate it must be punished. It also provides stronger protection for children. However, AI opposes the use of the death penalty as a punishment for rape or under any other circumstances.

AI is working with civil society groups to advocate abolition of the death penalty to the new government due to take power in January 2006.

[Page 4]

[Main picture caption] Over 38 organizations, including AI, have come together to form the World Coalition against the Death Penalty. Each year the Coalition organizes a day of action

– World Day Against the Death Penalty – on 10 October. This year the action will be focusing on Africa. To find out more and get involved go to www.worldcoalition.org

Former death row prisoner in Nigeria describes torment

After nine years on death row in Nigeria's Enugu prison, Arthur Judah Angel's death sentence was commuted to life imprisonment. He was released five years later in 2000, after human rights activists who had been visiting him in prison appealed directly to the State Governor to grant a pardon.

Arthur awaited trial for more than two years before being sentenced to death for murder in 1986. He was transferred to the notorious death row in Enugu prison, southern Nigeria. There, he waited in a windowless, 2 x 2.5m cell for his turn to be executed. He shared that space – its cardboard box beds and single bucket toilet – with as many as 13 other death row inmates.

While on death row, Arthur witnessed numerous mass executions by firing squad or hanging. Groups of 25-50 people were executed on a monthly – sometimes weekly – basis especially under former military ruler General Ibrahim Babangida. Arthur also witnessed torture and other cruel, inhuman and degrading treatment on a regular basis. "It was like hell. We were undergoing both mental and physical torture," he says. He believes he was spared from such treatment because his family often visited him. Some of those who were not so lucky died as a result of their injuries. Others died from heart attacks or infectious diseases which were rampant in the prison.

Despite his time on death row, Arthur does not feel resentment or want revenge. "Religion and painting were part of my healing process and they have changed my life," he says. According to Arthur, Nigeria should abolish the death penalty. He feels that Nigeria has lost a lot of skilful people due to the government's death penalty policies; people who could have contributed to society but who were executed instead after sitting for years on death row.

Arthur is one of many thousands of Nigerians whose lives have been threatened by the death penalty. He was lucky to be spared when scores have been executed over the years, mostly during the former military regimes. Despite a civilian government which came into power in 1999 under President Olusegun Obasanjo, the death penalty is still on the statute books, and is mandatory for certain criminal offences under new Sharia penal legislation introduced in 12 northern states since 1999.

There are currently over 400 death row prisoners in Nigeria, according to the latest government statistics. A national debate conducted in 2003 and 2004 highlighted how the population is divided over the issue. The abolitionists claimed that the justice system cannot deliver justice while the retentionists claim that the death penalty deters crime and that it is part of religious-based legal systems.

In July 2005, the National Political Reform Conference subcommittee recommended in its final report that "capital punishment is reserved to those young persons found to have been engaged in heinous offences such as armed robbery and cultism".

Obstacles to abolition in Nigeria – a legal view

"The main issues that dominate the national debate on the death penalty are concerns about crime, safety and security and religion. There is a public perception that crime has increased throughout Nigeria, and that the Nigerian police are losing the fight against crime. This perception has caused widespread feelings of fear and insecurity. The death penalty is seen as a solution to this perceived failure of the criminal justice system.

Related to this is the widespread criticism of the way our criminal justice system treats victims of crime, especially when they are women or children. It has been frequently said that the justice system has marginalized victims and that it does not respond to their needs but to those of the offenders. A direct consequence of this is the hardening of attitudes towards offenders.

There is a need for more public education to ensure that the majority of Nigerians sufficiently appreciate the issues surrounding the death penalty. Broadly speaking, the death penalty debate in Nigeria appears to revolve around what to do with persons suspected of armed robbery. It is an irony that on the one hand, there is loss of confidence in the criminal justice system, and yet there is a willingness to accept the limitations in the system when it comes to the treatment of offenders.

Religion is another obstacle to abolition. It is fair to say that many of the adherents of the Islamic faith consider the debate on the death penalty to be aimed at undermining their faith. Given the substantial population of Muslims in Nigeria, this is an issue that could have severe consequences for national peace and security if not strategically handled.

The most important obstacle as far as I am concerned is the limited political will to abolish the death penalty. It is true that the President of Nigeria, Chief Olusegun Obasanjo, is personally committed to the abolition of the death penalty. However, a major challenge is how to translate his personal commitment into official government policy.”

Olawale Fapohunda is Managing Partner of the Legal Resources Consortium, Nigeria, and Secretary of the National Study Group on Death Penalty. The opinions stated are those of the author and do not necessarily reflect AI policy.

Uganda to end mandatory death sentences

In a landmark judgement delivered on 10 June 2005, the Constitutional Court of Uganda ruled in favour of ending laws which stipulate a mandatory death sentence.

In September 2003, over 400 death row prisoners filed a petition before the Constitutional Court challenging their death sentences on the grounds that they were unconstitutional, inhuman and degrading. Their petition was based on Articles 24 and 44 of the Constitution of Uganda, which prohibits torture or cruel, inhuman or degrading treatment and punishment.

Justice Galdino Okello, handing down the unanimous decision of the five-judge panel that heard the petition, said that the death penalty as such is not unconstitutional when it is defined as the maximum sentence for a crime. However, they ruled that laws that impose a mandatory death penalty interfere with a judge’s discretion in dispensing justice. Such laws are unconstitutional and must be amended by Parliament.

The parties to this petition have appealed against the ruling and are now waiting for the Supreme Court to hear their case.

In Uganda, the death penalty is carried out by hanging. In April 1999, 29 men were executed and in March 2003, three soldiers were executed in circumstances where the speed of the trial, with no possibility of appeal, amounted to an unfair trial. In May 2005, there were 555 prisoners on death row in Uganda. While AI welcomes this positive move to end mandatory death sentences in Uganda, it opposes the death penalty in all cases.

A beacon for West Africa

Seydi Gassama, director of AI Senegal and co-ordinator of CAPM, on the abolition of the death penalty in Senegal

“In May 2000, the new President, Abdoulaye Wade, pledged that he was ready to consider abolition of the death penalty as a possibility, but only if public opinion was favourable. He asked his Private Secretary to initiate a national debate on the question. The battle for public opinion was therefore crucial. In June 2002 we created the Coalition for the Abolition of the Death Penalty [Coalition pour l’ Abolition de la Peine de Mort au Sénégal] (CAPM) in Senegal. We prepared the public, engaged the public and ultimately won them over. With the announcement of the adoption, by the cabinet, of a bill abolishing the death penalty, religious groups, legal professionals and ordinary citizens threw themselves into the debate. The

opinions were largely in favour of abolition, even from the side of religious groups. The government had nothing to fear; the law was voted in with a crushing majority.

The right to life is enshrined in Senegal's Constitution. The Constitution requires the state to protect this right and is therefore our first guarantee against [a possible reversal of the new law abolishing the death penalty]. Further, there are international agreements, notably the Universal Declaration of Human Rights which is part of international customary law. But our priority is the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. This ratification has been slow in coming, but this has not been due to a lack of will on the part of the authorities.”