



Promoting penal
reform worldwide

67th Session of the UNGA: Report of the Secretary General on the implementation of a moratorium on the use of the death penalty

Submission by Penal Reform International (PRI)

6 June 2012

Brief about Penal Reform International

Penal Reform International (PRI) is an international NGO with Consultative Status at ECOSOC and the Council of Europe, and Observer Status with the African Commission on Human and People's Rights and the Inter-Parliamentary Union. It aims to develop and promote international standards for the administration of justice, reduce the unnecessary use of imprisonment and promote the use of alternative sanctions which encourage reintegration while taking into account the interests of victims. PRI also works for the prevention of torture and ill-treatment and for a proportionate and sensitive response to women and juveniles in conflict with the law, and promotes the abolition of the death penalty and the implementation of humane alternative sanctions.

Between February 2010 and March 2012 PRI implemented an EU-funded project on the abolition of the death penalty and the implementation of humane alternative sanctions in Central Asia, East Africa, Eastern Europe, Middle East and North Africa and South Caucasus.

Under the programme, PRI convened a global conference in London, UK on 19-20 September 2011. The conference was part of a series of activities organised by PRI to provide a platform for debate and discussion, to increase public awareness on the death penalty, and exchange experiences and lessons learned from key stakeholders from around the globe. The conference concluded with the adoption of the London Declaration. The Declaration called upon all retentionist states to take action to implement a moratorium, to work towards full abolition, and implement alternatives that are fair, proportionate and respect international human rights.

A conference report, with the London Declaration, can be downloaded here:
<<http://www.penalreform.org/pri-multi-regional-conference>>

Throughout the project period, PRI undertook an in-depth programme of research and analysis on the application of the death penalty and its alternative sanction in all five project regions. In March 2012, PRI published the five regional reports with the research findings and key recommendations, which can be downloaded here:
<<http://www.penalreform.org/death-penalty-publications>>

EASTERN EUROPE

Republic of Belarus

- Status: retentionist
- Last execution: March 2012
- Last death sentence: November 2011
- Approximate number of death row prisoners: 102
- Abstained from voting in all three UNGA moratorium resolutions

In February 2010, a parliamentary working group on “discussion of the death penalty issue” was established to facilitate wide public discussion on the issue of abolition.

However, following the disputed presidential elections on 19 December 2010, President Lukashenko ceased all activities of the working group and discussion towards a moratorium stalled. This was due in two parts: firstly, to the negative reaction of European countries to the presidential elections, and secondly, the terrorist attack on the Minsk underground on 11 April 2011. The Chairman of the Standing Committee on Legislation and Judicial Issues (and Chair of the Working Group), Nikolay Samoseiko, stated that if the April 2011 terrorist attack had not occurred, a moratorium could have been discussed in 2011.¹ Two men, Dzmitry Kanavalau and Uladzislau Kavalyou, accused of committing the 2011 bomb attack were sentenced to death by the Supreme Court in November 2011, and executed in March 2012.

In November 2011 the UN Committee against Torture considered the fourth periodic report submitted by Belarus. PRI, along with a group of independent Belarusian human rights NGOs, provided oral evidence to the Committee on the application of the death penalty. The oral evidence was supported by a joint NGO report on the implementation of the Convention against Torture, which can be downloaded here:

¹ Interview on Euroradio, 13 December 2011, <<http://euroradio.fm/ru/report/samoseiko-esli-ne-terakt-my-uzhe-obsuzhdali-moratorii-na-kazn-81829>>.

<<http://www.penalreform.org/news/pri-un-committee-against-torture-review-belarus>>

In its Concluding Observations (CAT/C/BLR/CO/4) the Committee recommended that Belarus: take all necessary measures to improve the conditions of detention of persons on death row; remedy the secrecy and arbitrariness surrounding executions so that family members do not have added uncertainty and suffering; and ratify the Second Optional Protocol to the ICCPR.

Following a PRI conference "The development of the criminal justice system in Belarus" and a film festival held in Minsk on 26-27 January 2012, in which parliamentarians, government officials and local civil society attended, it became clearer that some parliamentarians believe that Belarus is still on its way towards a moratorium, but nobody knows when this will happen.

Russian Federation

- Status: official moratorium on sentencing and executions (February 1999)
- Last execution: 2 September 1996²
- Last death sentence: June 1999
- No death row prisoners
- Voted in favour of all three UNGA moratorium resolutions; co-sponsored resolution 65/206 (2010)

No recent steps have been taken by the Russian Federation to abolish the death penalty in law. However, debates on the reinstatement of the death penalty occasionally resurface, especially following the Moscow Metro bombings in March 2010 and the Moscow Domodedovo Airport bombing on January 2011.

According to results revealed in March 2012 by a major Russian polling centre – the Public Opinion Foundation³ – 62% of the country's residents want the moratorium on the death penalty lifted and executions to resume. Meanwhile, 21% of those polled suggested that Russia should maintain the moratorium, and 5% are in favour of full abolition. It is important to note that a 2001 poll indicated that 80% of respondents were in favour of the death penalty, which means that there has been at least an 18% reduction in public opinion support for this form of punishment over the last ten years.

² Executions were however carried out until 1999 in Chechnya, but which de facto was not then under control of the Russian Federation.

³ Capital punishment: Russians want return of death penalty, 29 March 2012, <<http://rt.com/news/death-penalty-return-russia-787/>>.

CENTRAL ASIA

Republic of Kazakhstan

- Status: official moratorium on executions (December 2003)
- Last execution: December 2003
- Last death sentence: August 2006
- No death row prisoners
- Voted in favour of all three UNGA moratorium resolutions

The 2009-2012 National Human Rights Action Plan of the Republic of Kazakhstan, which has been approved by the President, sets out that one of its goals is to abolish the death penalty.⁴ However, there are concerns that this final step is being hindered by a lack of political will based on the assumption that the death penalty is necessary to deter acts of terrorism.⁵

PRI have engaged in a number of lobbying and advocacy activities targeting government officials and parliamentarians⁶, contributing to Kazakhstan contemplating a moratorium on sentencing.

Republic of Tajikistan

- Status: official moratorium on sentencing and executions (July 2004)
- Last execution: April 2004
- Last death sentence: 2004
- No death row prisoners
- Voted in favour of all three UNGA moratorium resolutions

In April 2010, the President established a Working Group on the Death Penalty to analyse the social and legal aspects of abolishing the death penalty. The Working Group consists of various ministers and deputy ministers, as well as representatives of the Supreme Court, the office of the Prosecutor-General and the Commissioner for Human Rights. The Working Group drafted a plan of action that includes studying international practice and the national legislation of countries that have abolished the death penalty, analysing crime trends before and after moratorium, carrying out sociological studies, and considering the possibility of Tajikistan ratifying the Second Optional Protocol to the ICCPR. The Working Group is due to present their findings to the President in 2012.

⁴ National report to the working group on the UPR, 3 November 2009, A/HRC/WG.6/7/KAZ/1, para. 166.

⁵ PRI interview with the Chair of the Constitutional Council, Astana, Kazakhstan, 25 April 2011.

⁶ See for example, PRI hosted a regional conference on 26 April 2011 (Astana) entitled "Partial abolition in Central Asia: how to move the process of death penalty abolition forward". 68 participants representing government and civil society from Kazakhstan, Kyrgyzstan and Tajikistan agreed a set of recommendations:
http://www.penalreform.org/files/Central%20Asia%20Recommendations%2026April2011_0.pdf

Political will towards abolition can also be reflected by the change in public opinion towards the use of the death penalty in Tajikistan. A study on public opinion was carried out by *Note Bene* (a local civil society organisation) in November-December 2010. Of the 2,046 respondents polled, 61.18% were against the use of the death penalty in Tajikistan, 10% were undecided, and 28.98% supported its continued use.

In the framework of a PRI co-hosted roundtable on the death penalty in Dushanbe on 20 October 2011, a new website was launched: www.deathpenaltyabolition.tj. The website was developed by the NGO *League of women lawyers*, and contains information about issues of abolition in the Republic of Tajikistan and other countries, as well as news, videos, reports etc. related to the issues of the death penalty.

MIDDLE EAST AND NORTH AFRICA

Algeria

- Status: retentionist
- Last execution: 1993
- Last death sentence: 2011
- Voted in favour all three UNGA moratorium resolutions; co-sponsored all three resolutions

Egypt

- Status: retentionist
- Last execution: October 2011
- Last death sentence: August 2001 (civil); September 2011 (military)
- Voted against all three UNGA moratorium resolutions and signed all three Note Verbale's of Dissociation
- Approximate number of death row prisoners: 505 (470 men and 35 women)

Following the revolution in 2011, civil society hoped that this would provide a golden opportunity to call for the abolition of the death penalty through upcoming constitutional and legislative reform processes.

However, there are serious concerns that anything less than the executions of Muhammad Hosni Sayyid Mubarak and other high level politicians will not satisfy the people. In fact the Youth of 25th January (those behind the revolution) issued a statement that explicitly calls for the execution of the politicians under the Mubarak regime who were responsible for human rights violations in Egypt.

Following the parliamentary elections from 28 November 2011 to 11 January 2012, in which the majority of seats were won by the extremist parties representing the Islamic Brotherhood and the Islamist Bloc, there is little hope for the abolitionist movement, or for even an open debate or discussion on this highly sensitive topic.

Jordan

- Status: retentionist
- Last execution: 2006
- Last death sentence: 2011
- Voted against resolution 62/149 (2007), and abstained from voting in the 2008 and 2010 two UNGA moratorium resolutions
- Approximate number of death row prisoners: 65

Lebanon

- Status: retentionist
- Last execution: January 2004
- Last death sentence: 2011
- Abstained from voting in all three UNGA moratorium resolutions
- Approximate number of death row prisoners: 44

Morocco

- Status: retentionist
- Last execution: 1993
- Last death sentence: 2011
- Abstained from voting in all three UNGA moratorium resolutions
- Approximate number of death row prisoners: 103

Tunisia

- Status: retentionist
- Last execution: 1993
- Last death sentence: Unknown
- Abstained from voting in all three UNGA moratorium resolutions
- No death row prisoners

Following the revolution in 2011, the Tunisian temporary government expressed its willingness to ratify the Second Optional Protocol to the ICCPR. However, this has not yet been done. Positive steps have been taken which indicates that there is political will to ratify the Second Optional Protocol in the future. For example, the Higher Political Reform Commission included abolition of the death penalty in their draft constitution (Article 1, Chapter 1 stated "Human beings have the fundamental Right to life. This right should be protected by law. Death Penalty should be abolished."). A statement was

made by the Minister of Human Rights and Transitional Justice to PRI that the government will study the ratification of the Second Optional Protocol in the future as part of its compliance with international human rights obligations.

On 24 June 2011, Tunisia ratified the Rome Statute of the International Criminal Court.

On 14 February 2012, a presidential pardon was issued that commuted the sentences of all 140 prisoners on death row to life imprisonment.

Civil society organisations are working more effectively and efficiently in a coordinated manner, and a popular campaign was launched in 2011 in Tunisia to bring public attention to abolition.

For more information, please contact:

Ms Jacqueline Macalesher, Death Penalty Project Manager
Penal Reform International
60-62 Commercial Street, London E1 6LT, UK
jmacalesher@penalreform.org
+44(0) 207 247 6515
www.penalreform.org