**UN submission from The Death Penalty Project 2000-2022**

**New developments on abolition**

**Abolition of the death penalty in Sierra Leone**

On 23 July 2021, Sierra Leone formally abolished the death penalty. The Abolition of the Death Penalty Act was unanimously passed by Parliament, eradicating capital punishment for persons convicted of crimes such as murder, aggravated robbery and treason and removing the threat of execution for those currently on death row.

In a progressive move, instead of replacing the death penalty with a mandatory life sentence, Sierra Leone chose to move to a system of judicial discretion where judges are able to consider mitigating circumstances.

In March 2021, The Death Penalty Project, together with local partner AdvocAid and the Death Penalty Research Unit at the University of Oxford, formally set out the case for abolition to President Bio.

To assist the process, they presented an evidence-based perspective on the fundamental problems with the death penalty; not least, its arbitrariness, unavoidable room for error and its violation of international human rights standards.

The group also also detailed how and why the death penalty should be replaced with a flexible humane system of imprisonment instead of life without parole. The work in Sierra Leone was supported and endorsed by the wider international diplomatic community.

Link:

<https://deathpenaltyproject.org/sierra-leone-abolishes-the-death-penalty/>

**New research by The Death Penalty Project**

**Eastern Caribbean & Barbados**

Report title: “Sentenced to death without execution: Why capital punishment has not yet been abolished in the Eastern Caribbean and Barbados”

In April 2020, The Death Penalty Project published new research investigating why countries of the Eastern Caribbean and Barbados retain the death penalty, despite no longer carrying out executions.

The research was conducted by The Death Penalty Project in partnership with the Faculty of Law at the University of the West Indies (Cave Hill), Greater Caribbean for Life, the St Vincent and the Grenadines Human Rights Association and the World Coalition Against the Death Penalty. It was authored by the late Professor Roger Hood and Dr Florence Seemungal, with assistance from Amaya M Athill, attorney at law.

Interviews were conducted with 100 opinion formers, who work in four areas of public life; politics, civil service, law and criminal justice and religious leadership as well as influential members of civil society. They were asked for their views on the death penalty, their knowledge of the subject and their thoughts regarding public opinion and possible barriers to abolition in their countries.

Key findings:

* 48% of the interviewees favoured retention of the death penalty (18% strongly)
* 52% were in favour of its abolition (30% strongly)
* Of those who favoured retention of the death penalty, only a minority were committed to retaining it: only 10% said they would ‘strongly oppose an Act of Parliament to completely abolish the death penalty by definitely voting against it’
* 63% of those who favoured retention did not wish to see any expansion in the use of the death penalty or in the number of executions
* Only 2% ranked the death penalty as the most effective deterrent against murder
* When asked to select their preferred measures for reducing serious crime 76%, across both retentionists and abolitionists, chose social measures such as better moral education and poverty reduction
* 66% of the abolitionists felt the death penalty had no deterrent effect and/or that it was a human rights abuse and could risk wrongful conviction
* 76% of all the opinion formers believed the public would come to accept abolition.

Overarching conclusion: The research found that not only are the majority of opinion formers in favour of abolition but that they believe the public would accept a government policy of abolition.

Links:

<https://deathpenaltyproject.org/knowledge/sentenced-to-death-without-execution-why-capital-punishment-has-not-yet-been-abolished-in-the-eastern-caribbean-and-barbados/>

Full report (view online): <https://dpproject.wpengine.com/wp-content/uploads/2020/04/2809872v1_WSDOCS_-Sentencing-to-Death-Without-Execution-2020.pdf>

**Zimbabwe**

Report title: “Time to abolish the death penalty in Zimbabwe: Exploring the views of its opinion leaders”

In June 2020, The Death Penalty Project in partnership with Zimbabwean NGO Veritas, published new research exploring the views of opinion formers. The research was designed and analysed by Professor Carolyn Hoyle at the University of Oxford and the interviews were conducted by the Mass Public Opinion Institute, a Zimbabwean research organisation.

Key findings:

* 90% of those interviewed supported abolition of the death penalty.
* 64% did not trust the criminal justice system to prevent miscarriages of justice
* 79% believed wrongful convictions occur
* 60% believed that innocent people have been sentenced to death
* 90% saw the death penalty as an abuse of human rights or against their religious beliefs
* 64% believed retention of the death penalty has damaged the country’s international reputation
* 69% believed that the death penalty does not deter violent crime.

Overarching conclusion: The research showed significant support for abolition among opinion formers, with views based on a good understanding of the death penalty and its limitations in reducing violent crime.

Links:

<https://deathpenaltyproject.org/knowledge/time-to-abolish-the-death-penalty-in-zimbabwe-exploring-the-views-of-its-opinion-leaders/>

Full report (view online): <https://dpproject.wpengine.com/wp-content/uploads/2020/06/Zimbabwe-Opinion-Leaders-Report-2020.pdf>

**Indonesia**

Report title: “Investigating Attitudes to the Death Penalty in Indonesia”

In July 2021, The Death Penalty Project, in partnership with LBH Masyarakat and the University of Indonesia, published research undertaken by Professor Carolyn Hoyle, of The Death Penalty Research Unit at the University of Oxford, investigating attitudes towards the death penalty in Indonesia. The findings are presented in a two-part report; the first details the findings of a nuanced public survey and the second details the findings of interviews conducted with opinion formers.

*Investigating Attitudes to the Death Penalty in Indonesia, Part One - Opinion Formers: An Appetite for Change*

Interviews were conducted with 40 opinion formers, who have jurisdiction over part of the criminal process or who are considered influential in shaping or responding to public opinion across Indonesia.

Key findings

* Opinion formers were found to be reasonably well informed about the death penalty and wider criminal justice system
* 67% of opinion formers favoured abolition of the death penalty, with the majority ‘strongly’ in favour of it
* Low levels of trust were also evident among opinion formers. Almost two-thirds stated that the criminal justice system ‘never’, ‘rarely’ or only ‘sometimes’ provides adequate safeguards to prevent miscarriages of justice, highlighting their belief that there is a significant risk of miscarriage of justice.

*Investigating Attitudes to the Death Penalty in Indonesia, Part Two - Public Opinion: No Barrier to Abolition*

The public opinion research was undertaken by surveying a stratified random sample of 1,515 respondents – a sample large enough to make inferences from the data about the views of the overall population.

* 69% of the public favoured retention of the death penalty, although only 35% felt ‘strongly’ in favour of retention
* The research highlighted that the public lacked knowledge about the death penalty; only 2% considered themselves ‘very well informed’, and only 4% stated that they were ‘very concerned’ about the issue
* Findings suggest that as respondents learn more about the scope and administration of the death penalty, their support for it declines.
* Between a third and a half of the public who initially supported the retention of the death penalty, indicated that they would change their minds and support abolition if shown: the death penalty was applied unfairly (47%), wrongful convictions occur (46%), there was no deterrent effect (38%), or religious leaders showed support for abolition (37%)
* The public were also much less likely to support the death penalty when mitigating circumstances were present and widely agreed that ‘vulnerable’ individuals should be excluded from capital punishment.

Overarching conclusion: The two-part study concluded that the country’s opinion formers are keen to move away from capital punishment and that the public are open to change.

Links:

<https://deathpenaltyproject.org/knowledge/investigating-attitudes-to-the-death-penalty-in-indonesia-part-two/>

PDF full report (Download) part one:

<https://deathpenaltyproject.org/wp-content/uploads/2021/06/DPP-Indonesia-Opinion-Formers-Report_Web.pdf>

PDF full report (Download) part two: <https://deathpenaltyproject.org/wp-content/uploads/2021/06/DPP-Indonesia-Public-Opinion-Report_Web.pdf>

**Taiwan**

Report title: “Legislators' Opinions on the Death Penalty”

In February 2022, The Death Penalty Project and the Taiwan Alliance to End the Death Penalty (TAEDP) published new research conducted by Professor Carolyn Hoyle at the University of Oxford and Professor Shiow-duan Hawang at Soochow University, Taipei, exploring Taiwanese legislators’ attitudes towards capital punishment.

Key findings:

* 61% of legislators interviewed are in favour of abolishing the death penalty
* 39% of legislators interviewed are in favour of retaining the death penalty, but only one legislator was strongly in favour
* 71% of retentionists and 65% of abolitionists asserted that wrongful convictions ‘sometimes’ occurred
* Only 11% of legislators interviewed thought that wrongful convictions ‘rarely’ occur
* All legislators interviewed expressed a preference for social justice measures, such as poverty reduction, over increased executions when asked to rank a range of policies aimed at reducing violent crime.

When presented with the findings from previous public opinion research, that showed the public had limited knowledge of the death penalty and were far more open to abolition than previously thought, legislators were asked again for their views on abolition and their support for abolition increased by 20%, from 61% to 81%, with 21% strongly in favour.

Overarching conclusion: The study revealed that the majority of Taiwan’s legislators would like to see the death penalty abolished. The risk of wrongful convictions, the abuse of human rights and a recognition that the death penalty has no unique deterrent effect, were the primary reasons cited for supporting abolition. Additionally, a majority of legislators interviewed expressed fairly low levels of trust in the Taiwanese criminal justice system, with doubts raised over its ability to offer adequate safeguards to individuals facing capital trials.

Links:

<https://deathpenaltyproject.org/knowledge/legislators-opinions-on-the-death-penalty-in-taiwan/>

PDF full report (download): <https://deathpenaltyproject.org/wp-content/uploads/2022/02/DPP-Taiwan-Legislators-opinions-Web-resolution.pdf>

**Bangladesh**

Report title: “Living Under Sentence of Death”

In March 2022, new research conducted by The Department of Law at the University of Dhaka, in collaboration with the Bangladesh Legal Aid and Services Trust (BLAST) and The Death Penalty Project was published. The study, a pilot for a wider piece of future research, investigated the demographic, socio-economic characteristics and experiences of individuals sentenced to death in Bangladesh.

The sample consisted of 39 individuals on death row, evidence from their case files and face-to-face interviews with their families were conducted under rigorous ethical guidelines to reveal their profiles and experiences. Despite its small size, the sample is indicative of the general prison population allowing us to draw conclusions on possible trends.

Key findings:

* 72% of prisoners were classified as economically vulnerable
* 53% of prisoners were in low-paid work or unemployed
* 87% of prisoners had no qualifications beyond secondary school level
* 15% of prisoners had no formal education
* The study also raised serious concerns around the treatment of prisoners, the length of time prisoners spent in prison under the sentence of death and the integrity of criminal investigations and trials
* 33% of prisoners’ families alleged their relative had been tortured in police custody, 5% suspected this and 15% refused to comment
* 60% of respondents were not satisfied with the trial process, with some claiming that the courts had failed to properly appreciate the evidence
* On average it took over 10 years for death row cases to be disposed by the HCD (where sentences are confirmed). Prolonged time spent in isolation on death row, has been declared inhumane and degrading in many countries.

Overarching conclusion: Consistent with similar studies conducted around the world, the findings of this preliminary study evidenced that the death penalty in Bangladesh is disproportionately used against the most vulnerable and marginalised sections of society.

Links:

<https://deathpenaltyproject.org/knowledge/living-under-sentence-of-death/>

Full report (view online): <https://dpproject.wpengine.com/wp-content/uploads/2021/06/DPP-Bangladesh-Report-Web-single.pdf>

**Constitutional challenge to the mandatory death penalty in Trinidad & Tobago**

On 16 May 2022, a challenge to the constitutionality of the mandatory death penalty in Trinidad and Tobago, brought to The Judicial Committee of the Privy Council by The Death Penalty Project was dismissed.

The Death Penalty Project had mounted the challenge as part of the appeal for their client Jay Chandler, who was sentenced to death by hanging in 2012. The Death Penalty Project appealed Chandler’s death sentence on the grounds that imposing the punishment automatically, without an opportunity to apply discretion, violated Chandler’s right to protection of law and was therefore unconstitutional. It is internationally recognised that the mandatory death penalty violates of the right not to be subjected to cruel and unusual punishment and contrary to fundamental notions of justice.

At the hearing, which took place on 2 November 2021 before an enlarged panel of nine Justices, it was argued that this appeal should be allowed and that a previous decision (Matthew v The Queen [2004] UKPC 33) should be overturned because it was wrongly decided. In that case, the JCPC ruled by majority of five to four, that the existence of a savings law clause prevented the courts from declaring the mandatory death penalty to be unconstitutional. Reliance for the proposition that Matthew was wrongly decided was provided by two recent decisions of the Caribbean Court of Justice (CCJ) in cases from Barbados and Guyana.

The Privy Council ruled that there was no good reason to depart from their decision in Matthew, standing by their previous judgment that the savings law clause, which protects laws written prior to Trinidad and Tobago’s independence, prevents any direct challenge to the mandatory death penalty.

Summarising their judgment, the Privy Council said

*“In the Board’s view, the 1976 Constitution saves existing laws, including the mandatory death penalty, from constitutional challenge. The consequence of that is that the state of Trinidad and Tobago has a statutory rule which mandates the imposition of a sentence, which will often be disproportionate and unjust. The sentence is recognised internationally as cruel and unusual punishment. The state does not dispute that characterisation…[96]*

*It is striking that there remains on the statute book a provision which, as the government accepts, is a cruel and unusual punishment because it mandates the death penalty without regard to the degree of culpability [98].”*

The Government of Trinidad and Tobago have publicly accepted that the mandatory death penalty is a cruel and inhumane punishment, as noted by the Privy Council in their judgment, however they have argued that the decision to remove it should be left to politicians, not the courts.

Had it been successful, it would have seen the mandatory death penalty abolished, not only impacting Mr Chandler’s sentence, but making all those on death row in Trinidad and Tobago eligible for resentencing.

Parvais Jabbar, Co-Executive Director of The Death Penalty Project said:

*“Whilst the decision of the Privy Council is extremely disappointing, the case has once again brought this critical issue to the fore. We hope it will lead Trinidad and Tobago to re-examine the savings law clause which continues to protect old laws most modern democracies consider morally objectionable, including laws which discriminate on grounds of gender, religion, or sexuality. Trinidad and Tobago remains the only country in the Commonwealth Caribbean to continue using a mandatory death penalty and it is imperative that the government now take the necessary measures to ensure that a punishment, that they themselves accept to be cruel and inhuman, is removed.”*

In addition to their judicial challenge, The Death Penalty Project continues to engage with representatives of the government of Trinidad and Tobago, in order to bring about legislative change to abolish the mandatory death penalty.