



International Commission against the Death Penalty (ICDP)

Joint Mission of APG and ICDP to the Caribbean: (Barbados, Jamaica, and Trinidad and Tobago)

9-14 March 2013

All states in the Commonwealth Caribbean retain the death penalty. In UN terminology, these countries are called de facto abolitionist. During the last United Nations General Assembly in December 2012, Barbados, Jamaica, and Trinidad and Tobago together with the rest of the countries in the Caribbean region, voted against the resolution "Moratorium on the use of the death penalty". Although executions are extremely rare¹, capital punishment still enjoys strong public support.

The arguments that these countries use to retain the death penalty are:

- capital punishment is a "criminal justice matter", not a human rights issue; and
- the death penalty is permissible under international law.

The International Commission against the Death Penalty (ICDP) was invited by the UK All Party Parliamentary Group on the Abolition of the Death Penalty (APG) and the Death Penalty Project, to participate in a mission to Barbados, Jamaica, and Trinidad and Tobago. Mme. Ruth Dreifuss, member of ICDP, accepted the invitation and visited the three countries together with Baroness Scotland. Baroness Scotland has served in many ministerial positions within the UK government, most notably as the Attorney General for England and Wales and Advocate General for Northern Ireland. The mission program is annexed to this report.

¹ The last time that death penalty was used in this countries was: Barbados in 2000 (one person); Trinidad and Tobago in 1999 (nine people) and in Jamaica in 1988.

Acknowledgements to the counterparts

The mission was very well organized by the APG in collaboration with UK FCO and local counterparts and all the partners involved contributed to the overall success. The Support of the High Commissioners in the region was excellent. Mme. Dreifuss encouraged ICDP to further collaborate with APG for future missions or activities related to the Caribbean.

Feedback on the Mission

There is no political leadership and no progress towards the abolition of death penalty. The governments justify retention of capital punishment on the grounds of a high violent crime rate. Public pressure for executions might increase because of the crime rate. Jamaica, for example, has had one of the highest murder rates in the world for many years followed by Trinidad and Tobago. The issue of drug trafficking from Latin America to the USA through the Caribbean and the criminal activity of gangs and mafias is increasing alarmingly in both countries. Against this background steps towards a moratorium could be perceived as a sign of government weakness by domestic constituencies.

Another obstacle is lack of civil society movements and those that exist are generally not well organized. At present there is no civil society debate on how to move towards abolition.

Judgments from the Privy Council, the East Caribbean Court of Justice and the fact that some countries in the region are party to the Inter-American Court of Human Rights places some limits on the use of the death penalty in the region.

Also to note Under *Pratt & Morgan v. Jamaica*, decided in 1993, there was a presumption that individuals who had spent more than five years on death row could not be executed. Partly because the appeals process in the Caribbean tends to take more than five years, one effect of *Pratt* had been to limit the number of executions in the Caribbean.

Given these parameters, there are two important issues to consider:

1. Mandatory death penalty

Trinidad & Tobago retain the mandatory death penalty and there is no commitment to abolish the death penalty. Barbados also retains the mandatory death penalty but they made a commitment to abolish mandatory death penalty at the UN Human Rights Council. Their approach towards abolition is likely to be quiet and step by step. ICDP should monitor these developments and build them into a strategy to further abolition.

2. United Nations General Assembly

This is where the ICDP efforts should focus particularly with Jamaica as the Minister of Foreign Affairs and Trade is abolitionist. As a first step Jamaica should be asked to abstain in the vote in 2014, acknowledge the worldwide trend towards abolition and not sign the note verbale opposing the resolution.

Recommendations

- 1- Collaboration with APG and the Death Penalty Project is key for future work in the region.
- 2- Another mission should be organized to visit other countries of the Commonwealth Caribbean;
- 3- Organizing a meeting similar to the First International Conference on the Death Penalty in the Greater Caribbean (Madrid, October 2011) together with APG and Sant'Egidio. Different groups should be involved in the meeting: magistrates, civil servants, senior representatives from justice ministries, media etc;
- 4- For the next UNGA, write a joint letter with APG Ministers of Foreign Affairs in the Caribbean;
- 5- Reach out to the media and speak to local opinion makers who often share the same retentionist position as politicians;
- 6- Promote more a non-confrontational public debate with teachers and the media and write on a booklet on the case for abolition and organize a festival with the assistance of the Embassies of ICDP countries to discuss the level of violence in society and why the death penalty is not the right response.
- 7- The absence of the death penalty in International Courts and Tribunals may be persuasive with some countries.