GCL Responds to the Call for the Resumption of the Death Penalty in the Republic of Trinidad and Tobago (TT)

Emotions are running high in TT because of “runaway crime,” and once again TT finds itself in the throes of looking for ways in which to resume hanging. While GCL continues to condemn the rise of violent crime in the region and expresses solidarity with victims, members reject the notion that capital punishment will act as a deterrent in fostering respect for life in our communities.

GCL believes that society has a right to protect itself from persons who commit heinous crimes and offenders must be held accountable. However, GCL holds fast to the belief that non-lethal means are sufficient to defend and protect society from offenders.

The mandatory death penalty remains the law in only two countries in the Greater Caribbean region, TT and Barbados. However, in order to comply with the Inter-American Court’s decisions, in 2009 Barbados pledged to and is in the process of removing the mandatory death penalty from its Statute. In 2009 Barbados’ Prime Minister, Hon Freundel Stuart, the then Attorney-General, said in an interview that the country was moving to abolish the mandatory death penalty. He said: “The mandatory death sentence can no longer be defended. The judge should have some power to determine what sentence should be imposed for a capital offence, with the benefit of a pre-sentencing report.” To date the law has not been changed.
GCL Responds to the Call for the Resumption (continuation)

Section 4 of TT’s Offences Against the Persons Act (Ch. 11:08) states: “Every person convicted of murder shall suffer death.” Judges in both TT and Barbados have no discretion. They cannot take mitigating factors into account. The Judicial Committee of the Privy Council (JCPC) has ruled that TT’s existing constitutional arrangements permits the imposition of the death penalty. The ‘Savings Clause’ now contained in section 6(1) of the 1976 Constitution saves the death penalty from being struck down by any court on the grounds that it is unconstitutional.

However, the last hanging took place on 28 July 1999 (Andrew Briggs). Hanging is not being implemented in TT because of the JCPC’s ruling in the case of Pratt and Morgan v AG of Jamaica (1994) which limits the time-frame within which capital punishment can occur (5-year limit) and because of the effects of a series of rulings by the JCPC since that date. The Law Lords of the JCPC stated in the Pratt and Morgan Case: “in any case in which execution is to take place more than five years after sentence, there will be strong grounds for believing that the delay is such as to constitute 'inhuman or degrading treatment' and therefore unconstitutional.” Therefore, any individual who spends more than 5 years on death row cannot be executed.

The paradox of the retentionist countries in the English-speaking Caribbean is that since 19 December 2008, when Charle Laplace of St Kitts and Nevis was hanged, there have been no other executions in the region, yet, a core of countries strongly oppose abolition and some, including TT, continue to hand down death sentences to those convicted of murder.

Also, the English-speaking Caribbean countries have consistently voted against the UN General Assembly resolutions on a moratorium on the use of the death penalty and have signed the Note Verbale, dissociating them from the moratorium.

TT’s Chief Justice Ivor Archie is on record as saying: “Social scientists... suggest that the certainty of conviction, and within a reasonably quick time, is a more potent factor” than executions. However, over the past few months, there has been a renewed call for the resumption of hanging in TT. Shortly after the People’s National Movement won the general election in Sept 2015, the Attorney-General established a “Tracking Committee” to look at cases that will warrant capital punishment, once all appeals are exhausted.

At a media conference on Monday 31 January 2017, Hon. Kamla Persad-Bissessar, TT’s Opposition Leader, spoke to the media and also issued a media release which suggested that there should be an extraordinary sitting of the Parliament to discuss issues relating to crime, and in particular the ‘spike’ in homicides. She also suggested that The Constitution Amendment (Capital Offences) Bill, known as the hanging bill, which was brought by her Government in 2011 should be brought back to Parliament for possible amendments and agreement to assist in the resumption of capital punishment for convicted murderers. Initially, the bill proposed to amend the Constitution to introduce different categories of murder. Only for the most serious murders would hanging be mandatory.

She noted that at that time the People’s National Movement (PNM), which was then in Opposition and which is currently in Office, voted against the said Bill with a vote of 29 for and 11 against. The Bill needed to have been passed in both Upper and Lower Houses with a special three-fifths majority. Although the PNM voted against the Bill, they favour hanging. The then Opposition Chief Whip, Hon. Marlene Mc Donald, made it clear that the PNM supported hanging. She said on February 18, 2011: “I want to state categorically, we the Opposition support the law of the land. We say together: hang them high. This is exactly what the population would like to see.”

However, as journalist, Andre Bagoo said in TT’s Newsday on January 29, 2012: “Though both Government and Opposition politicians assert that the people want hanging, very seldom have they produced any statistical evidence to actually show this.”

When the Bill was put forward again in 2015, Hon. Dr. Keith Rowley wrote to the then Attorney-General that the PNM would not support the legislation since, he said, the ‘fault’ is not the Constitution but a commitment by the then Administration to implement the law of the land. He believed that the proposed Bill “will only create new avenues of appeal for convicted murderers."
On 19 March 2017 the Attorney-General (AG), Hon. Faris al Rawi, said that there are currently 33 persons on death row. Eleven of the 33 have had their sentences commuted because they have passed the five year Pratt and Morgan time frame. In such cases the sentence is automatically commuted to life imprisonment. In July 2016, the AG had said there are 2,300 individuals incarcerated in remand, of whom 1,000 are facing murder charges. Due to delays in the criminal justice system many have been waiting on their trial for years. TT’s detection rate for homicide is about 15 per cent and there are other serious deficiencies in the various branches of the criminal justice system.

While emotions continue to run high and politicians continue to whip up support for the “return of the hangman”, the root causes of crime and violence are not being addressed. These include poverty and social exclusion; deficiencies in family life, the education system, and in other key institutions in the country.

During a post-Cabinet media briefing on 6 March 2017, Prime Minister Dr. Keith Rowley said he was “a firm believer in capital punishment” and that those who have chosen crime as a way of life should pay the ultimate penalty. He said that his Administration is working towards having it implemented. He has recruited the support of former Attorney General Ramesh Lawrence Maharaj, who has offered his services pro bono to build the necessary pathway for executions to be carried out. It was during Maharaj’s term as Attorney General in 1999, that Dole Chadee (Nankissoon Boodram) and 8 members of his gang were executed in TT after being convicted on murder charges.

On 19 March 2017, TT’s Guardian newspaper published an article entitled “AG aiming for swift justice as T&T moves to resume hangings”. In it, the AG stated that “hanging will be a deterrent to those who want to commit crimes”. On that very day GCL issued the following Media Statement:

The Greater Caribbean for Life (GCL) urges TT’s Government to focus on human development and crime prevention rather than expend time and energy in seeking to resume hanging.

GCL is an independent, not-for-profit civil society organization, incorporated under the laws of the Commonwealth of Puerto Rico. GCL was established on 2 October 2013 by activists and organizations from twelve Greater Caribbean countries following an International Conference held in Port of Spain, Trinidad and Tobago.

While GCL condemns the rise of violent crime in our region and expresses solidarity with victims, members reject the notion that capital punishment will act as a deterrent or foster respect for life in our communities. GCL is committed to promoting peace, respect for life, and good neighbourliness as appropriate methods of reducing crime in the Greater Caribbean region. This provides a more durable and effective solution than the taking of life.

Frank Friel, former Head of Organized Crime Homicide Task Force, Philadelphia, USA, rightly said: “The death penalty does little to prevent crime. It’s the fear of apprehension and the likely prospect of swift and certain punishment that provides the largest deterrent to crime.” With thousands of cases clogging up our system in TT, and with a detection rate of about 15% for homicide, the push to resume hanging fails to address the root causes of crime in our beloved country.

“What are we doing to strengthen family life; to get rid of the drugs and guns in our land; to eliminate violence in our schools; to promote restorative justice and a culture of nonviolence, respect for self and others, character development, good neighbourliness; to speed up prison reform and rehabilitation processes?

Read what the presiding Judge, President Arthur Chaskaison, and Justice Kerigler said in the landmark decision in the 1995 South African Case of The State v Makwanyane and Mehunu when South Africa abolished the death penalty. Inter alia, Judge Chaskaison said: “We would be deluding ourselves if we were to believe that the execution of the few persons sentenced to death…will provide the solution to the unacceptably high rate of crime.”

The Chair and Deputy Chair of GCL, Leela Ramdeen and Carmelo Campos-Cruz, made a presentation at a hearing of the Inter American Commission on Human Rights in Washington in March 2015. The recommendations we outlined for countries in our region are still appropriate today. We said:

“We are doing to strengthen family life; to get rid of the drugs and guns in our land; to eliminate violence in our schools; to promote restorative justice and a culture of nonviolence, respect for self and others, character development, good neighbourliness; to speed up prison reform and rehabilitation processes;

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The UNDP 2012 report: Human Development and the shift to better citizen security, rightly states that TT needs a better balance between legitimate law enforcement and prevention, with an emphasis on prevention; and more investment, for example, in youth development, job creation and reducing poverty and socio-economic inequality/inequity. These strategies can contribute to a safer and more democratic and just society in the region.

Of note in this debate are the results of a series of empirical research studies and investigations into the administration of the mandatory death penalty in Trinidad and Tobago which the Death Penalty Project, UK, had commissioned in TT between 2003 and 2012.

These studies were conducted by Professor Roger Hood, Hon QC, DCL, LLD (Hon), Fellow of the British Academy and Professor Emeritus of Criminology, University of Oxford, and Dr Florence Seemungal, a Trinidadian researcher and then Research Officer at the Oxford Centre for Criminology. The main findings were published in three separate reports:

1. A Rare and Arbitrary Fate: Conviction for Murder, the Mandatory Death Penalty and the Reality of Homicide in Trinidad and Tobago (2006)
2. Experiences and Perceptions of the Mandatory Death Sentence for Murder in Trinidad and Tobago: Judges, Prosecutors and Counsel. (2011).

The research revealed that the certainty of conviction for murder was so low in TT that the mandatory death penalty could not be an effective deterrent to murder.

While not all supporters of the death penalty base their arguments on the deterrent effects of the death penalty, as the Death Penalty Project states, it is worth noting the 2012 findings of “a thorough review carried out for the American Academy of Sciences, of all the best empirical evidence produced in the USA.”

See: Daniel S. Nagin and John V. Pepper (eds.), Deterrence and the Death Penalty (Washington DC: The National Academies Press, 2012, at 3. https://www.law.upenn.edu/live/files/1529-nagin-full-report.pdf) in which a distinguished panel of statistical experts and other social scientists concluded: “Research to date on the effect of capital punishment on homicide is not informative about whether capital punishment decreases, increases, or has no effect on homicide rates. Therefore the Committee recommends that these studies not be used to inform deliberations requiring judgments about the effect of the death penalty on homicide and … should not influence policy judgments about capital punishment.”

Recent reports on the Death Penalty in TT
Visit of Hon. Mark Pritchard, MP and Co-Chair of the UK’s All-Party Parliamentary Group on the Abolition of the Death Penalty

On Monday 3 April 2017, GCL’s Chair met with Hon. Mark Pritchard, Member of Parliament and Co-Chair of the UK’s All-Party Parliamentary Group on the abolition of the death penalty. He was visiting TT for a few days to discuss a number of issues, including the death penalty. While in TT he held discussions with Government Officials, NGOs and others.

In attendance at this meeting with GCL’s Chair, were David Robinson, Criminal Justice Advisor at the British HC and Maia Hibben, Executive Officer to the Criminal Justice Advisor. Since GCL’s Chair is also Chair of the Catholic Commission for Social Justice in the Archdiocese of Port of Spain, Catholic Archbishop Joseph Harris, also attended part of the meeting and was able to express the Church’s opposition to the death penalty.

GCL’s Chair, shared information with the guests, for example, a copy of GCL’s ‘flyer’, Newsletters, and GCL’s presentation to the IACHR Hearing in Washington in 2015. She also presented them with a copy of the 2016 Pastoral Letter on Capital Punishment published by the Catholic Bishops of the Antilles Episcopal Conference in the Caribbean region in September 2016 (see: http://www.rcsocialjusticett.org/downloads/capitalpunishmentbooklet.pdf), as well as Media reports of statements made by Archbishop Harris in relation to recent statements by Government Officials and others on the death penalty.

It should be noted that the Catholic Church remains among the few religious faiths in TT that oppose the death penalty.

The meeting with Hon. Mark Pritchard and his team was fruitful and facilitated the sharing of useful strategies for the way forward. Hon. Pritchard is sensitive to the fact that he cannot be seen to be ‘telling’ TT what to do.

Panel Discussion on the Death Penalty at the University of West Indies, St. Augustine Campus

GCL’s Chair attended and contributed to a Panel discussion on Tues April 4th 2017 at the Faculty of Law, UWI, entitled: Perspectives on the Death Penalty: Sorting Fact from Fiction. It was organised by The Faculty of Law, University of the West Indies, St Augustine, in collaboration with the British High Commission and the European Union. It was one of the actions under the European Union Funded Faculty of Law, UWI Project entitled: “Growing Capacity for Elevating Human Rights in Trinidad and Tobago to International Standards.”

The discussion was Chaired by Professor Rose-Marie Belle Antoine is Dean of the Faculty of Law, UWI, and former President of the Inter-American Commission for Human Rights. Panelists were:
- Mr. Douglas Mendes SC, President elect of the Law Association of Trinidad and Tobago;
- Hon. Mark Pritchard, UK MP and Co-Chair of the All-Party Parliamentary Group on the abolition of the death penalty; and
- Ms. Jadia Jn. Pierre, Student, Faculty of Law.

In his contribution, Senior Counsel, Douglas Mendes stated that TT is the only country in the Commonwealth Caribbean still adhering to the cyclical, political debate on the death penalty. Inter alia, he said: “The death penalty talk is cyclical and comes around every five years, and those are the facts…The death penalty should not be on the books.”

Hon. Mark Pritchard introduced himself as a “Commonwealth cousin” and warned against using the death penalty as a “quick fix to crime and violence.” He said he would “prefer to see an informed debate before any fast-tracking or changes in the law takes place and to see what is the latest data and statistical and academic analysis globally so that at least any changes or any fast-tracking is done in an informed way.”

Global figures

At least 1,032 people were executed in 23 countries in 2016. In 2015 Amnesty International recorded 1,634 executions in 25 countries worldwide - a historical spike unmatched since 1989.

Most executions took place in China, Iran, Saudi Arabia, Iraq and Pakistan – in that order.

China remained the world’s top executioner – but the true extent of the use of the death penalty in China is unknown as this data is considered a state secret; the global figure of at least 1,032 excludes the thousands of executions believed to have been carried out in China.

Excluding China, 87% of all executions took place in just four countries – Iran, Saudi Arabia, Iraq and Pakistan.

For the first time since 2006, the USA was not one of the five biggest executioners, falling to seventh behind Egypt. The 20 executions in the USA was the lowest in the country since 1991.

During 2016, 23 countries, about one in eight of all countries worldwide, are known to have carried out executions. This number has decreased significantly from twenty years ago (40 countries carried out executions in 1997). Belarus, Botswana, Nigeria and authorities within the State of Palestine resumed executions in 2016; Chad, India, Jordan, Oman and United Arab Emirates—all countries that executed people in 2015 – did not report any executions last year.

141 countries worldwide, more than two-thirds, are abolitionist in law or practice.

In 2016, two countries – Benin and Nauru– abolished the death penalty in law for all crimes. In total, 104 countries have done so – a majority of the world’s states. Only 64 countries were fully abolitionist in 1997.

Commutations or pardons of death sentences were recorded in 28 countries in 2016. At least 60 people who had been sentenced to death were exonerated in 9 countries in 2016: Bangladesh (4), China (5), Ghana (1), Kuwait (5), Mauritania (1), Nigeria (32), Sudan (9), Taiwan (1) and Viet Nam (2).

Amnesty International recorded 3,117 death sentences in 55 countries in 2016, a significant increase on the total for 2015 (1,998 sentences in 61 countries). Significant increases were recorded in 12 countries, but for some, such as Thailand, the increase is due to the fact that the authorities provided Amnesty International with detailed information.

At least 18,848 people were on death row at the end of 2016. The following methods of execution were used across the world: beheading, hanging, lethal injection and shooting. Public executions were carried out in Iran (at least 33) and North Korea.

Reports indicated that at least two people who were under 18 at the time of the crime for which they were sentenced to death were executed in 2016 in Iran.

In many countries where people were sentenced to death or executed, the proceedings did not meet international fair trial standards. In some cases this included the extraction of ‘confessions’ through torture or other ill-treatment, including in Bahrain, China, Iran, Iraq, North Korea and Saudi Arabia.
Regional analysis: Americas

For the 8th consecutive year, the USA was the only country to carry out executions in the Americas region with 20 people executed in 2016 (eight fewer than in 2015). This was the lowest number of executions recorded in a single year since 1991. This rate of executions is half that of 2007, a third that of 1997.

Five states executed people in 2016 compared to six the previous year. The number of executions carried out in Georgia almost doubled compared to the previous year (from 5 to 9); while the figure almost halved in Texas (from 13 to 7). Together these two states were responsible for the 80% of all executions in the country during the year. However, 2,832 people were still on death row in the USA at the end of 2016.

The number of death sentences in the USA also decreased from 52 in 2015 to 32 in 2016 (38% decrease). This is the lowest number recorded since 1973.

Only three other countries in the region, Barbados, Guyana and Trinidad and Tobago, imposed death sentences in 2016. Two Caribbean countries—Antigua and Barbuda and Bahamas—commuted their last remaining death sentences.


Involving Youth in the abolition movement

The World Coalition against the Death Penalty reports on an article by Lorene du Crest (20 April 2017) entitled “Commitment of youth to universal abolition”:

On Tuesday, April 18th 2017, Together Against the Death Penalty (ECPM) held an award ceremony at the City Hall of Paris for their ‘Educational Project on Human Rights and the Abolition of the Death Penalty’. On the occasion of the World Day Against the Death Penalty in 2016, ECPM launched 2 contests involving the commitment of the youth: an international drawing contest ‘Draw-me the Abolition’ in which 12 countries took part (France, Germany, Italy, Mexico, Morocco, Tunisia, Lebanon, DRC, Cameroun, Tanzania, Pakistan and Taiwan), open to junior and senior high school students. The goal was to create posters representing its commitment to the abolition. This competition was launched by ECPM together with the Teaching Abolition International Network. Also, a national YouTube-video contest for young youtubers #Causonsabolition (#letspeakaboutabolition) to which students from 6 high schools from 3 different regions in France participated. For this contest, the goal was to make videos against the death penalty. The videos are available on the YouTube channel of ECPM.

It’s important to underline the quality, creativity and relevance of all the abolitionist drawings and messages of the young participants. Besides from rewarding the best drawings and videos selected by an international jury composed of numerous abolitionist actors, this event was also an occasion to raise awareness on the importance of human rights and to value the commitment of the youth.

Several dedicated activists participated to this ceremony. The main speakers included Alexandra Cordebard, Deputy Mayor of Paris in charge of Schools’ Affairs, François Croquette Human Rights Ambassador, Raphaël Chenuil-Hazan, ECPM executive Director, and 2 witnesses which participated actively to the educational project on human rights and the abolition of the death penalty: Sabine Atlaoui (Serge Atlaoui’s wife, sentenced to death in Indonesia) and Sandrine Ageorges-Skinner (Hank Skinner’s wife, sentenced to death in Texas). François Croquette brought up some facts and figures on the death penalty underlining that ‘the use of the death penalty is declining, but not fast enough’ and that the fight against the death penalty must go on as ‘nothing can be taken for granted’.

All the speakers highlighted the major role of the youth in the mobilization against the death penalty, especially Raphaël Chenuil-Hazan who pointed out that the authenticity and spontaneity of the youth provides more weight to the fight against the death penalty. In addition, as addressing the project, Sabine Atlaoui’s pointed out: ‘The commitment is done through education’. The participants received different rewards and the 50 wining drawings presented in a catalogue will be exhibited at public awareness-raising events in all countries participating in this project and at the 7th World Congress Against the Death Penalty which will be held in Brussels in 2019.

GCL is recruiting new members!

Cultural and social changes are long-term processes. Individuals and organisations can contribute to incremental change in our countries and promote the establishment of more just societies without the death penalty. GCL believe that we can all speak much louder if we speak with one voice.

Therefore we are recruiting new members from the Greater Caribbean to join our organisation. If you, your friends, and/or organisations wish to join GCL, please write to contact@gclforlife.org.

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