



OPEN LETTER TO KAMLA PERSAD-BISSESSAR, PRIME MINISTER OF TRINIDAD AND TOBAGO

21st July 2010

We, the under named write to express our concern and dismay at the recent announcement of the new Government of Trinidad and Tobago that it will imminently resume execution of its death row prisoners. Our organisations exist to promote the rule of law, democracy and human rights throughout the world.

We understand that Trinidad and Tobago has not carried out an execution since 1999. The crime rate since this date has increased considerably, and with the rest of the Caribbean region intentional homicides have reached the highest in the world.¹ This has undoubtedly led to many people in the islands fearing for their safety. We welcome the new Government's commitment to tackling and reducing crime. Yet we urge you to consider the extensive global research on the deterrent effect of capital punishment and its conclusive findings: there is no correlation between execution and the murder rate. Murder has many complexities which do not contemplate deterrence. In the particular circumstances of Trinidad and Tobago, the difficulties in even bringing the perpetrators of these heinous crimes to justice further distances the act of execution from those engaged in criminal activity.

We advocate the alternatives and commend the detailed report and recommendations of the United Nations to solving these problems.² Trinidad and Tobago needs a radical review of the police service

¹ According to the most recent statistics, UN Office on Drugs and Crime, latest figures 2003 – 2008 available at <http://www.unodc.org/unodc/en/data-and-analysis/homicide.html>

² *Crime, Violence, and Development: Trends, Costs, and Policy Options in the Caribbean*, Joint Report by the United Nations Office on Drugs and Crime and the Latin America and the Caribbean Region of the World Bank, Report No. 37820, March 2007, available at http://www.unodc.org/pdf/research/Cr_and_Vio_Car_E.pdf

and weapons importation. The government must regain the public's trust and support so that people feel able to report crime and give testimony in the courts to bring perpetrators to justice. We do not consider that reduction in crime will be achieved through executing convicts who, despite their heinous crimes, continue to be human beings.

South Africa, which has an almost equal intentional homicide rate per capita to Trinidad and Tobago, with similar crime related problems, abolished the death penalty in 1997. The Constitutional Court in 1995 acknowledged³ that the level of violent crime had reached alarming proportions, but it held that this could not simply be attributed to the moratorium on executions; the upsurge in violent crime came at a time of great social change associated with political turmoil and conflict. It further held that executing a few people each year would not solve this. The greatest deterrent to crime was the apprehension, conviction and punishment of criminals, an effective system lacking in South Africa then as it is in Trinidad now.

As to retribution, the Court observed that punishment must to some extent be commensurate with the offence, but there is no requirement that it be equivalent or identical to it. As such, they commented, a person who causes blindness in an assault is not given blindness as punishment, nor is a rapist castrated. Equally, the state does not need to engage in the cold and calculated killing of murderers in order to express moral outrage at their conduct. A long prison sentence can achieve the same goal. The Court referred to the South African Constitution, which enshrines similar values to that of Trinidad and Tobago:

We have made the commitment to "a future founded on the recognition of human rights, democracy and peaceful co-existence...for all South Africans." Respect for life and dignity lies at the heart of that commitment. One of the reasons for the prohibition of capital punishment is "that allowing the State to kill will cheapen the value of human life and thus [through not doing so] the State will serve in a sense as a role model for individuals in society." Our country needs such role models.

Many other courts and parliaments across the world have reached a similar conclusion. There are now 139 countries who are abolitionist in law or in practice, in comparison to 59 countries retaining the penalty.⁴

Furthermore, Trinidad and Tobago maintains a mandatory death penalty. Whilst some jurisdictions within the United States retain capital punishment, it was acknowledged as long ago as 1972 by the US Supreme Court in *Furman v Georgia* that a penalty administered without a discretionary sentence, weighing up the aggravating and mitigating factors involved in the crime, could not be constitutional.

³ In *S v Makwanyane and Another* [1995] ZACC 3

⁴ As at 23rd March 2010, Amnesty International.

The Inter-American Court of Human Rights has recently reiterated the same in relation to Barbados and the matter is before Parliament. The mandatory imposition of the death penalty:

*treats all persons convicted of a designated offence not as uniquely individual human beings, but as members of a faceless, undifferentiated mass to be subjected to the blind infliction of the death penalty.*⁵

Execution obliterates life. The mechanics of death should not be exercised lightly. We call upon you not to recommence executing your prisoners, but to fully review the imposition of the mandatory penalty and its place within the free and democratic society Trinidad and Tobago can proudly claim itself to be.

Amicus
Bar Human Rights Committee of England and Wales
Centre for Capital Punishment Studies
International Commission of Jurists
Law Society International Human Rights Committee of England and Wales
Penal Reform International
Reprieve

CC: Attorney General, Anand Ramlogan

⁵ *Boyce at al v Barbados*, 20th November 2007, Series C No. 169 and followed in *Dacosta Cadogan v Barbados*, 24th September, 2009, Series C No. 204