

# **16<sup>th</sup> WORLD DAY AGAINST THE DEATH PENALTY**

**10 OCTOBER 2018**

On 10 October 2018 the Bar Human Rights Committee of England and Wales (BHRC) joins the World Coalition Against the Death Penalty and abolitionists around the world to raise awareness of the 16<sup>th</sup> World Day Against the Death Penalty. BHRC opposes the death penalty in all circumstances. It notes that the tide of international opinion is against the continuance of capital punishment, with successive countries abolishing the penalty by law or abandoning it in practice.

According to Amnesty International, at least 21,919 people were known to be under a sentence of death worldwide at the end of 2017.<sup>i</sup> The Cornell Center on the Death Penalty Worldwide estimates the number of people sentenced to death around the world to be slightly less than 40,000.<sup>ii</sup>

## **Prison conditions**

This year the World Day focuses on the living conditions of those sentenced to death.

Those under sentence of death experience similar inhumane conditions across the countries in which they are detained. In many countries, people sentenced to death are detained in solitary confinement and can spend almost the entire day confined to their cells; in other instances, there are also cases of gross prison overcrowding. Other conditions suffered include insufficient food and drinking water, an absence of medical care, deplorable sanitary conditions and subjection to physical violence. In addition, there is the constant anguish of living under a death sentence and not infrequently the so-called “death row phenomenon”, which is the combination of a prolonged delay under sentence of death and harsh conditions of detention.<sup>iii</sup>

Often the circumstances of those under sentence of death amount to torture or cruel, inhuman or degrading treatment and therefore a violation of the international human rights obligations of the State concerned, such as those pursuant to the International Covenant on Civil and Political Rights and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

On this World Day Against the Death Penalty, BHRC underlines the importance of maintaining human dignity in the conditions of detention of persons sentenced to death. These conditions affect also their families, relatives, lawyers and others.

BHRC takes this opportunity to advocate the proper treatment of those whose cases it has recently highlighted.

### **Bahrain**

On 6 October 2017 BHRC submitted an open letter to the King of Bahrain seeking clemency for Husain Ali Moosa and Mohamed Ramadan who had been sentenced to death on 29 December 2014.<sup>iv</sup> BHRC noted significant failures of due process in their trial.<sup>v</sup> Although their death sentences are currently under review, both men remain in detention facing possible execution.<sup>vi</sup> In May 2017 the UN Committee Against Torture expressed concern about overcrowding in detention facilities in Bahrain as well as reports of poor material and hygiene conditions, including inadequate bathing and toilet facilities, lack of access to adequate quantities of food and to good quality food, lack of access to health care, lack of outdoor activities and unnecessary restrictions on family visits.<sup>vii</sup> As to the specific conditions of those sentenced to death in Bahrain, Amnesty International describes the case of Ali Mohamed Hakeem al-Arab from early 2018. According to information Amnesty International received, he was placed in solitary confinement for a week after the court's verdict and was later held in a cell measuring one metre by two and half metres which he shared with two others. There was also information that he had very restricted contact with family members and may have been tortured.<sup>viii</sup>

### **United States**

On 15 June 2016, the US Supreme Court announced that it would hear the appeal of Bobby Moore, who was awaiting execution in Texas. Its decision followed the submission of an *amicus brief* in support of his case, signed by international bar associations including the BHRC.<sup>ix</sup> On 28 March 2017 the US Supreme Court ruled in his favour, finding that the state used an obsolete standard to assess whether he was intellectually disabled and exempt from capital punishment.<sup>x</sup> However, the legal process has continued. A sharply divided Texas Court of Criminal Appeals upheld his death sentence on 6 June 2018, and his death sentence now faces further appeal.<sup>xi</sup> In the meantime Bobby Moore remains on death row facing solitary confinement for more than 23 hours a day, an action proved to be especially cruel to those with intellectual disabilities.<sup>xii</sup> He has now spent 37 years on death row.<sup>xiii</sup>

### **Egypt**

BHRC condemned the mass trial and sentencing of 759 individuals on 8 September 2018 by the Cairo Criminal Court drawing attention to evidence of gross deficiencies in due process.

The Court handed down sentences which included 75 death penalties.<sup>xiv</sup> Detention conditions in Egypt are harsh with reports of severe overcrowding in prisons and other detention facilities.<sup>xv</sup> In its Annual Report for 2017/8, Amnesty International stated that torture and other ill-treatment remained routine in official places of detention.<sup>xvi</sup> In light of this, there are serious concerns about the situation of the 75 persons who were sentenced to death.

## **Jamaica**

BHRC ran a 5-year project where its barristers worked in appeals of those on death row from 2003 to 2007. Much of the work involved frequent trips to St. Catherine’s prison in Spanish Town – where “death row” is located. In November 2016 the UN Human Rights Committee noted the *de facto* moratorium on executions in Jamaica since 1988 but expressed concern that the conditions on death row remained inhuman.<sup>xvii</sup> Earlier in a submission for a session of the Committee in March 2016 by Advocates for Human Rights and Greater Caribbean for Life, overcrowding and poor physical conditions for death row inmates and allegations of guards’ abuse of prisoners were highlighted.<sup>xviii</sup>

Kirsty Brimelow QC, Chair of BHRC said,

“The death penalty is a symptom of State brutality; it is not a remedy. Globally there is an increasing abolitionist trend. Today should be used to strengthen this trend and to drive Capital punishment back to the pages of violent State history.”

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<sup>i</sup> Amnesty International Global Report: Death Sentences and Executions 2017

(<https://www.amnesty.org/download/Documents/ACT5079552018ENGLISH.PDF>).

<sup>ii</sup> World Coalition Against the Death Penalty, Detailed Factsheet on Living Conditions on Death Row, p.1. (<http://www.worldcoalition.org/resourcecentre/document/id/1530780189>).

<sup>iii</sup> World Coalition Against the Death Penalty, Detailed Factsheet on Living Conditions on Death Row, pp. 3-5, 8 (<http://www.worldcoalition.org/resourcecentre/document/id/1530780189>).

<sup>iv</sup> <http://www.barhumanrights.org.uk/bhrc-calls-for-clemency-for-two-men-on-death-row-in-bahrain/>.

<sup>v</sup> <http://www.barhumanrights.org.uk/bhrc-calls-for-clemency-for-two-men-on-death-row-in-bahrain/>.

<sup>vi</sup> <https://reprieve.org.uk/update/the-death-penalty-in-bahrain-what-you-need-to-know/>.

<sup>vii</sup> UN Committee Against Torture, Concluding observations on the second and third periodic reports on Bahrain (2017) CAT/C/BHR/CO/2-3, para. 22

([https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/BHR/INT\\_CAT\\_COC\\_BHR\\_27465\\_E.pdf](https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/BHR/INT_CAT_COC_BHR_27465_E.pdf)).

<sup>viii</sup> <https://www.amnesty.org/download/Documents/MDE1180412018ENGLISH.pdf>.

<sup>ix</sup> <http://www.barhumanrights.org.uk/us-supreme-court-agrees-to-hear-death-penalty-case-following-submissions-from-bhrc-and-others/>.

<sup>x</sup> <https://uk.reuters.com/article/uk-usa-court-deathpenalty/u-s-supreme-court-rules-for-texas-death-row-inmate-over-iq-claim-idUKKBN16Z1ZO>.

<sup>xi</sup> <https://deathpenaltyinfo.org/node/7119>.

<sup>xii</sup> <https://www.theroot.com/why-is-bobby-moore-still-on-death-row-despite-a-recent-1826167193>.

<sup>xiii</sup> <http://www.barhumanrights.org.uk/us-supreme-court-agrees-to-hear-death-penalty-case-following-submissions-from-bhrc-and-others/>.

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<sup>xiv</sup> <http://www.barhumanrights.org.uk/bhrc-condemns-mass-trial-and-sentencing-of-759-individuals-in-egypt-75-receiving-the-death-penalty-45-life-sentences-and-5-10-year-sentences-for-remaining/>.

<sup>xv</sup> Human Rights Watch Report 2017 – Egypt

(<http://www.refworld.org/topic,50ffbce582,50ffbce5ee,587b584ac,0...EGY.html>) .

<sup>xvi</sup> Amnesty International Annual Report 2017/18: The State of the World's Human Rights

(<https://www.amnesty.org/en/latest/research/2018/02/annual-report-201718/>).

<sup>xvii</sup> UN Human Rights Committee, Concluding observations on the fourth periodic report on Jamaica (2016) CCPR/C/JAM/CO/4, para. 35

([https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fJAM%2fCO%2f4&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fJAM%2fCO%2f4&Lang=en)).

<sup>xviii</sup>

[https://www.theadvocatesforhumanrights.org/uploads/jamaica\\_list\\_of\\_issues\\_iccpr\\_death\\_penalty\\_january\\_2016.pdf](https://www.theadvocatesforhumanrights.org/uploads/jamaica_list_of_issues_iccpr_death_penalty_january_2016.pdf).