



# DEATH SENTENCES AND EXECUTIONS 2011

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*Cover and back page images:* Stills from a “sand art” video produced by Amnesty International Korea to coincide with an event at the National Assembly in Seoul, Republic of Korea, in September 2011 to urge parliamentarians to adopt draft legislation on abolition of the death penalty. The bills remain pending.

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## **KEY**

This report only covers the judicial use of the death penalty. The figures presented in this report are the largest that can safely be drawn from Amnesty International's research, although we emphasize that the true figures in relation to some countries are significantly higher. Some states intentionally conceal death penalty proceedings; others do not keep or make available figures on the numbers of death sentences and executions.

Where "+" is indicated after a country and it is preceded by a number, it means that the figure Amnesty International has calculated is a minimum figure. Where "+" is indicated after a country and is not preceded by a number, it indicates that there were executions or death sentences (at least more than one) in that country but it was not possible to obtain any figures. For the purposes of calculating global and regional totals, "+" is counted as 2.

# THE USE OF THE DEATH PENALTY IN 2011

**“The evidence presented to me by former prosecutors and judges with decades of experience in the criminal justice system has convinced me that it is impossible to devise a system that is consistent, that is free of discrimination on the basis of race, geography or economic circumstance, and that always gets it right.”**

Governor Pat Quinn of Illinois, USA, 9 March 2011

In early 2011, Governor Pat Quinn spoke eloquently concerning his decision to seek an end to the death penalty in the US state of Illinois, but he was not the only person to speak out against executions. Around the world politicians, academics, lawyers and many others raised their voices against this most cruel, inhuman and degrading punishment.

The new Moroccan Constitution adopted in 2011 enshrines the right to life in Article 20. In June, just prior to the referendum vote that approved the new Constitution, the President of the Committee for the Revision of the Constitution, Abdelatif Mennouni, said “[t]his article is meant to put an end to executions.”<sup>1</sup>

In October 2011, at a public forum to mark the World Day against the Death Penalty in Malaysia, Law Minister Nazri Aziz said in his opinion the civil society initiative was a timely effort, and was in line with ongoing efforts by the government to review outdated laws and to introduce new laws which complied with the principles of human rights.<sup>2</sup> While Malaysia continues to use the death penalty, this was a strong statement from a senior government official signalling possible changing attitudes.

#### 4 Death sentences and executions in 2011

Speaking at the UN in November 2011, the Secretary General of the Iranian Judiciary's High Council for Human Rights, Mohammad Javad Larijani, discussed limiting the use of the death penalty, saying: "I think there are ways to bring down the number of executions. More than 74 per cent of executions in Iran are stemming from drug trafficking related crimes. Whether it is correct or not, there is a big question: 'Did this harsh punishment bring the crimes down or not?' In fact, [it] did not bring it down."<sup>3</sup>

Statements such as these from government officials reflect the global momentum toward abolition of the death penalty and are important expressions of the leadership that is needed to achieve this goal. But voices in civil society also contributed significantly to the debate.

In China, Peking University Law Professor Zhang Qianfan argued that if the public only has information about a small number of sensationalized death penalty cases, any real debate will be stifled. He noted "[o]nly when the number of executions is made public can China's rational debate on abolition of the death penalty begin."<sup>4</sup>

In December 2011 the Japan Federation of Bar Associations decided to establish a committee to pursue the abolition of the death penalty.<sup>5</sup> The Federation stated in a declaration adopted at its annual human rights meeting that "[t]he abolition of the death penalty has become an unshakable international trend, and now is the time to launch a social debate about its termination."<sup>6</sup>

Strongest, however, may be the voices of those who have lost loved ones to or have been victims of violent crime, and of those who have spent time on death row. In Texas in the USA, Rais Bhuiyan campaigned unsuccessfully for clemency for Mark Stroman, the man who shot him at point-blank range in a post-9/11 hate crime. He argued, "I never hated Mark. My religion teaches that forgiveness is always better than vengeance."<sup>7</sup>

Zimbabwe Defence Minister Emmerson Mnangagwa traces his opposition to the death penalty to his own experience as an inmate on death row before Zimbabwe's independence. "My views on the death penalty are, to a large extent, informed by the harrowing experiences I went through while on death row, the sanctity of life and the need to rehabilitate offenders."<sup>8</sup>

These voices echo the developments recorded by Amnesty International in 2011, which demonstrate that the global trend towards abolition of the death penalty continued. In 2011, Amnesty International recorded executions in 20 countries compared to 23 in 2010. Last year, 676 executions were recorded, an increase from 2010 and largely attributable to a significant increase in executions in three countries – Iran, Iraq and Saudi Arabia. Recorded death sentences were down from the previous year.

Progress was recorded in all regions of the world in 2011. While the USA was the only country in the Group of Eight (G8)<sup>9</sup> to have carried out executions, Illinois became its 16th abolitionist state, and in November the Governor of Oregon, John Kitzhaber, announced that he would not allow any further executions in that state during his time in office. Elsewhere in the Americas, fewer death sentences were handed down overall, by fewer Caribbean countries.

In the Asia-Pacific region, no executions were recorded during the year in Japan – for the first

time in 19 years – and Singapore, countries where the authorities have shown strong support for capital punishment. Significant debates on the death penalty and its abolition were recorded in countries such as China, Malaysia, South Korea and Taiwan.

In sub-Saharan Africa, Sierra Leone declared an official moratorium on executions; it was confirmed that a moratorium was in place in Nigeria. The Constitutional Review Commission of Ghana recommended abolition of the death penalty in the new Constitution. Senior politicians voiced their support for abolition in Burkina Faso and Zimbabwe. At its Universal Periodic Review at the UN Human Rights Council, the delegation of Swaziland described its status as “retentionist in law, abolitionist in practice”.

Decreases in the use of the death penalty were recorded in Lebanon, the Palestinian Authority and Tunisia, but the momentous change in the Middle East and North Africa region in 2011 made it even more difficult to monitor numbers of executions and sentences.

Belarus continued to be the only country in Europe and the former Soviet Union to have carried out executions. At the end of November, the parliament of Latvia abolished the death penalty for extraordinary crimes, making the country the 97th abolitionist for all crimes as of 1 January 2012.

#### **GLOBAL TREND TOWARDS ABOLITION**

- The USA was the only country in the G8 to have carried out executions in 2011. Three countries in the G20 carried out executions in 2011: China, Saudi Arabia and the USA.
- The USA and Belarus were the only two of the 56 Member States of the Organization for Security and Co-operation in Europe to have carried out executions in 2011.
- Four of the 54 Member States of the African Union were known to have carried out judicial executions in 2011: Egypt, Somalia, Sudan and South Sudan. Thirty-eight Member States are abolitionist in law or practice.
- Two of the 54 Member States of the Commonwealth were known to have carried out executions in 2011: Bangladesh and Malaysia.
- Nine of 22 Member States of the League of Arab Nations carried out executions in 2011: Egypt, Iraq, Palestinian Authority, Saudi Arabia, Somalia, Sudan, Syria, United Arab Emirates and Yemen.
- Two of the 10 Member States of the Association of Southeast Asian Nations were believed to have carried out executions in 2011: Malaysia and Viet Nam.
- 175 of the 193 Member States of the United Nations were execution-free in 2011.

On 11 October 2011 Honduras became the 12th State Party to the Protocol to the American Convention on Human Rights to Abolish the Death Penalty. Also in October Latvia passed legislation to ratify the 13th Protocol to the European Convention on Human Rights, which provides for the abolition of the death penalty in all circumstances. Legislation to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), which provides for the abolition of the death penalty but allows states parties to retain the

death penalty in time of war if they make a reservation to that effect, was adopted in Benin; a similar bill remained pending before the parliament of Mongolia at the end of the year.<sup>10</sup>

Positive steps towards restricting the use of the death penalty were recorded in several countries, including the reduction of the number of crimes punishable by the death penalty in China,<sup>11</sup> Gambia and Taiwan.

In 2011 commutations or pardons of death sentences were recorded in 33 countries: Algeria, Bahrain, Barbados, Cameroon, China, Ethiopia, Gambia, India, Iran, Jordan, Kenya, Kuwait, Malawi, Mali, Mauritania, Mongolia, Morocco/Western Sahara, Myanmar, Nigeria, Saudi Arabia, Sierra Leone, Singapore, South Korea, South Sudan, Sudan, Thailand, Tunisia, Uganda, United Arab Emirates, USA, Viet Nam, Yemen and Zambia.

Exonerations<sup>12</sup> were recorded in 12 countries: Barbados, Botswana, China, India, Sierra Leone, Singapore, Sri Lanka, Taiwan<sup>13</sup>, United Arab Emirates, USA, Yemen and Zambia in 2011.

#### **MORATORIUM ON EXECUTIONS: WHY?**

During his first term in office, Governor John Kitzhaber authorized the only two executions that have been carried out in Oregon since the USA resumed executions in 1977. Both were of inmates who had given up appeals against their death sentences. In 2011, during his third term in office, Governor Kitzhaber announced a moratorium on executions in Oregon.

In a statement released on 22 November 2011, Governor Kitzhaber said he was refusing to be a part of “this compromised and inequitable system any longer” and that Oregon’s death penalty was “neither fair nor just”, nor “swift or certain”, and that it was a “perversion of justice that the single best indicator of who will and who will not be executed” in Oregon is whether a prisoner “volunteers” for execution by giving up their appeals. He noted that many judges, prosecutors and legislators, as well as family members of victims of crimes were now in agreement that Oregon’s capital justice system was “broken”.

Governor Kitzhaber said that it was his hope and intention that the moratorium on executions he was imposing would bring about “a long overdue re-evaluation of our current policy and our system of capital punishment” because “we can no longer ignore the contradictions and inequities of our current system”. He concluded by saying that he was sure that Oregon can find a better solution, one that ensures public safety and supports the victims of crime and their families.

## **THE DEATH PENALTY IN 2011: GLOBAL NUMBERS**

At least 20 countries were known to have carried out executions in 2011. Even including newly-independent South Sudan, this is a reduction from 2010, when 23 countries were reported to have implemented death sentences, and shows a steep decline against the figure recorded a decade ago, when 31 countries were known to have carried out executions.



**REPORTED EXECUTIONS IN 2011**

Afghanistan (2), Bangladesh (5+), Belarus (2), China (+), Egypt (1+), Iran (360+), Iraq (68+), Malaysia (+), North Korea (30+), Palestinian Authority (3 in Gaza<sup>14</sup>), Saudi Arabia (82+), Somalia (10: 6 by the Transitional Federal Government; 3 in Puntland; 1 in Galmudug), South Sudan (5), Sudan (7+), Syria (+), Taiwan (5), United Arab Emirates (1), USA (43), Viet Nam (5+), Yemen (41+).

At least 676 executions were known to have been carried out worldwide in 2011, an increase on the 2010 figure of at least 527 executions worldwide. The increase is largely due to a significant increase in judicial killings in Iran, Iraq and Saudi Arabia. However, the 676 figure does not include the thousands of people who were believed to have been executed in China in 2011. Beginning in the 2009 report, Amnesty International ceased to publish its estimates on the use of the death penalty in China, where such figures are considered a state secret. Amnesty International renews its challenge to the Chinese authorities to publish figures for the number of people sentenced to death and executed each year, to confirm their claims that there has been a significant reduction in the use of the death penalty in the country over the last four years.

Amnesty International has also received credible reports of a large number of unconfirmed or even secret executions in Iran, which would almost double the number of officially acknowledged executions.

Official figures on the use of the death penalty in 2011 were available only in a small number of countries. In Belarus, China, Mongolia and Viet Nam data on the use of the death penalty continued to be classified as a state secret. Little or no information was available for Egypt, Eritrea, Libya, Malaysia, North Korea and Singapore. In Belarus, Japan and Viet Nam prisoners were not informed of their forthcoming execution, nor were their families and lawyers. In Belarus and Viet Nam the bodies of the executed prisoners were not returned to their families for burial.

**REPORTED DEATH SENTENCES IN 2011**

Afghanistan (+), Algeria (51+), Bahrain (5), Bangladesh (49+), Belarus (2), Botswana (1), Burkina Faso (3), Cameroon (+), Chad (+), China (+), Congo (Republic of) (3), Democratic Republic of Congo (+), Egypt (123+), Gambia (13), Ghana (4), Guinea (16), Guyana (3+), India (110+), Indonesia (6+), Iran (156+), Iraq (291+), Japan (10), Jordan (15+), Kenya (11+), Kuwait (17+), Lebanon (8), Liberia (1), Madagascar (+), Malawi (2), Malaysia (108+), Mali (2), Mauritania (8), Mongolia (+), Morocco/Western Sahara (5), Myanmar (33+), Nigeria (72), North Korea (+), Pakistan (313+), Palestinian Authority (5+: 4 in Gaza; 1 in West Bank), Papua New Guinea (5), Qatar (3+), Saint Lucia (1), Saudi Arabia (9+), Sierra Leone (2), Singapore (5+), Somalia (37+: 32+ by the Transitional Federal Government; 4 in Puntland; 1 in Galmudug), South Korea (1), South Sudan (1+), Sri Lanka (106), Sudan (13+), Swaziland (1), Syria (+), Taiwan (16), Tanzania (+), Thailand (40), Trinidad and Tobago (2), Uganda (5), United Arab Emirates (31+), USA (78), Viet Nam (23+), Yemen (29+), Zambia (48), Zimbabwe (1+).

At least 1,923 people were known to have been sentenced to death in 63 countries in 2011. This is the minimum figure that can be safely inferred from Amnesty International's research and represents a decrease from the 2010 figure of at least 2,024 death sentences worldwide.

At least 18,750 people were under sentence of death worldwide at the end of 2011, which is the minimum figure based on numbers Amnesty International obtained by country.

The following methods of executions were used in 2011: beheading (Saudi Arabia), hanging (Afghanistan, Bangladesh, Egypt, Iran, Iraq, Malaysia, North Korea, Palestinian Authority (Gaza), South Sudan, Sudan), lethal injection (China, Taiwan, USA), and shooting (Belarus, China, North Korea, Palestinian Authority (Gaza), Somalia, United Arab Emirates, Viet Nam, Yemen).

According to official reports, at least three people were executed in Iran for crimes that were committed when they were below 18 years of age, in violation of international law; unofficial reports indicate that there may have been seven such cases. One person who was officially described as a “juvenile” was executed in Saudi Arabia. Death sentences were imposed on three young men in Mauritania for crimes committed when they were under 18 years of age, but the punishment was commuted to twelve years imprisonment on appeal. Death sentences were confirmed for two juvenile offenders in Sudan. In Yemen four people, who could have been below 18 years of age when the crime was committed, were at imminent risk of execution. Often the actual age of the offender is in dispute if no clear evidence exists, such as a certificate of registration at birth.<sup>15</sup> Amnesty International remained concerned that in Nigeria, Saudi Arabia and Yemen persons who were juveniles at the time the alleged crimes were committed remained in detention under a sentence of death.

There were no reports of judicial executions carried out by stoning, or any new sentences of death by stoning. However, public executions were known to have been carried out in Iran, North Korea, Saudi Arabia and Somalia.

Amnesty International remained concerned that, in the majority of countries where people were sentenced to death or executed, the death penalty was imposed after proceedings that did not meet international fair trial standards, often based on “confessions” that were allegedly extracted through torture or other duress. This was particularly the case in Belarus, China, Iran, Iraq, North Korea, and Saudi Arabia. In Iran and Iraq, some of these “confessions” were then broadcast on television before the trial took place, further breaching the defendants’ rights to presumption of innocence.

The mandatory death penalty continued to be used in India, Iran, Malaysia, Pakistan, Singapore, Trinidad and Tobago and Zambia. Mandatory death sentences are inconsistent with human rights protections because they do not allow any possibility of taking into account the defendant’s personal circumstances or the circumstances of the particular offence.

In 2011 people continued to be sentenced to death or executed for crimes that did not involve the intention to kill resulting in the loss of life, therefore not meeting the threshold of “most serious crimes” as prescribed by Article 6 of the ICCPR. The death penalty was known to have been used to punish drug-related offences in countries such as China, India, Indonesia, Iran, Malaysia, Pakistan, Saudi Arabia, Singapore, Thailand, United Arab Emirates and Yemen.

Adultery and sodomy (Iran), religious offences such as apostasy (Iran) and blasphemy

(Pakistan), “sorcery” (Saudi Arabia), the trafficking of human bones (Republic of Congo) and economic crimes (China), as well as rape (Saudi Arabia) and forms of “aggravated” robbery (Kenya, Zambia), were also punished with death sentences in 2011. Finally, different forms of “treason”, “acts against national security” and other “crimes against the state” (such as “moharebeh” – enmity against God – in Iran), whether or not they led to a loss of life, were punished with death sentences in 2011 (Gambia, Kuwait, Lebanon, North Korea, Palestinian Authority and Somalia). In North Korea death sentences are often imposed even though the alleged crime is not subject to a death sentence under domestic law.

Two countries – Afghanistan and the United Arab Emirates – resumed executions in 2011, moving against the global trend towards abolition of the death penalty. The scope of the death penalty was known to have been expanded, in contravention of international human rights standards, in Bangladesh, China, Egypt, India, Iran, Nigeria and Syria.

Of concern during 2011 was the increased use and pursuit of the death penalty by military courts and tribunals, including against civilians, in countries such as Bahrain, Democratic Republic of Congo, Egypt, Lebanon, Palestinian Authority (in the West Bank and Gaza), Somalia and the USA.

# REGIONAL OVERVIEWS

## AMERICAS

While the USA was once again the only executioner in the region during the year, developments in 2011 continued to suggest that this country is also edging away from the use of the death penalty. Illinois became the 16th abolitionist state in the USA and the third state to enact legislation to abolish the death penalty since 2007, following New Jersey in 2007 and New Mexico in 2009. In addition, a moratorium on executions was established in the state of Oregon in November.

During 2011, 43 executions were recorded in 13 of the 34 US states that retain the death penalty. Of these, the majority (74 per cent) was carried out in the southern states with 13 executions in Texas accounting for 30 per cent of the total number. Other states that carried out executions were: Alabama (6), Arizona (4), Delaware (1), Florida (2), Georgia (4), Idaho (1), Mississippi (2), Missouri (1), Ohio (5), Oklahoma (2), South Carolina (1) and Virginia (1).

A US non-governmental organization (NGO), the Death Penalty Information Center, recorded 78 new death sentences in 2011. This figure represents a marked decline in the use of the death penalty, particularly when compared with the average of 280 death sentences per year in the 1980s and 1990s.

The Caribbean remained an execution-free area and the number of countries imposing new death sentences appeared to be in decline, with only three countries (Guyana, Saint Lucia and Trinidad and Tobago) known to have done so in 2011 compared to five last year. While authorities in several retentionist countries proposed legislative changes aimed at resuming executions as a response to increased crime rates in the region, the government of Barbados committed to amend legislation to abolish the mandatory death penalty by the end of the year. When draft legislation to this aim is enacted, Trinidad and Tobago will remain the only country in the Americas to retain the death penalty as a mandatory punishment for certain crimes.

Eighty-four new death sentences were known to have been imposed in the Americas in 2011: Guyana (3+), Saint Lucia (1), Trinidad and Tobago (2) and the USA (78).

No new death sentences were recorded in **Antigua and Barbuda** in 2011. The country's human rights record was reviewed under the Universal Periodic Review (UPR) at the UN Human Rights Council on 4 October 2011. In relation to the death penalty, the delegation stated that Antigua and Barbuda would work towards the realization of abolition of the death penalty.

The country's representatives also noted that Antigua and Barbuda had exercised a moratorium on the execution of death sentences clearly indicating the direction to which the country was leaning. The country's representatives committed to rigorously apply international standards for fair trial in all death penalty cases and respect national legal

procedures and the standards required by the Privy Council and the UN for the protection of the rights of prisoners sentenced to death. The delegation stated that it was endeavouring to shorten the time defendants have to spend in prison awaiting for their trials, including by replacing preliminary investigations in respect of indictable offences, such as murder, with paper committals. Recommendations to abolish the death penalty and to establish an official moratorium on executions were rejected by Antigua and Barbuda.

No new death sentences were recorded in the **Bahamas**. At the end of the year one man remained at risk of imminent execution, as he had spent less than five years on death row and his death sentence could not yet be commuted in line with the 1993 Privy Council judgement in *Pratt and Morgan v. Attorney-General for Jamaica*. That judgement had held that a delay of more than five years in carrying out an execution constitutes inhuman or degrading punishment or treatment and that in such cases death sentences should be commuted to life imprisonment.

#### THE PRIVY COUNCIL AND THE “TWO PRINCIPLES” FOR DEATH SENTENCING

On 15 June 2011 the Judicial Committee of the Privy Council, the London-based final court of appeal for the overseas territories of the United Kingdom and several Commonwealth countries, upheld Maxo Tido's conviction for murder while remitting the case back to the Supreme Court of the Bahamas for resentencing. The judgement re-emphasized, in line with earlier rulings by the Committee<sup>16</sup> that the death penalty should be imposed only in cases “which on the facts of the offence are the most extreme and exceptional, ‘the worst of the worst’ or the ‘rarest of the rare’”; and where there is “no reasonable prospect of reform of the offender” and “the object of the punishment cannot be achieved by any means other than the ultimate sentence of death”. The judgement found that the case did not warrant the punishment of death and that the second condition could not be determined as no psychiatric report had been commissioned by the judge. The judgement concluded by affirming that a sentencing court, whenever contemplating the possible imposition of the death penalty, should require professional advice as to whether the possibility of reform exists.

The question of under what circumstances it is appropriate to impose a sentence of death was further answered by the Judicial Committee of the Privy Council in a judgement it issued in relation to a second case from the Bahamas last year. On 9 August 2011 in *Ernest Lockhart v. The Queen*, the Committee clarified that the nature of a murder itself must be assessed first and that only in cases that qualify as the “worst of the worst” the second principle, whether there is “no reasonable prospect of reform of the offender”, must be taken into consideration. The judgement reaffirmed that in every case in which the death penalty is being considered the report of a consulting psychiatrist is needed before the question of the reasonable possibility of reform can properly be addressed and also stated that a probation report from the prison alone could not provide a sufficient basis for such an important decision.

In October 2011 the Parliament of the Bahamas enacted legislation defining the circumstances for which the death penalty or life imprisonment would be imposed in murder cases. The Penal Code (Amendment) Act, 2011 retains a mandatory element of punishment, in that the courts can only decide between the death penalty and effective life-long imprisonment in cases of aggravated murder.

No new death sentences were known to have been imposed in **Barbados** last year. Attorney General and Minister of Home Affairs, Adriel Brathwaite, was reported in local newspaper *The Barbados Advocate* on 2 October 2011 as saying that he expected that changes in national

legislation to remove the mandatory imposition of the death penalty would be finalized by the end of the year, reducing the likelihood of death sentences being imposed in the country. The proposed legislation was pending before the Parliament at the end of the year.

No new death sentences were known to have been imposed in **Belize** in 2011. One person was on death row at the end of the year. However, on 13 May the government introduced into Parliament draft legislation aimed at facilitating the use of the death penalty. The *Belize Constitution (Eight Amendment) Act, 2011* would have amended Section 7 of the Constitution, prohibiting torture and inhuman or degrading punishment or treatment, to allow for the imposition of a death sentence or execution by any means. The draft legislation also specified that the use of the death penalty should not be held inconsistent with or in contravention of the Constitution “on any grounds whatsoever”, including a delay in the hearing or determination of a charge for a capital offence; a delay in executing the sentence of death; the conditions under which a person is held in prison, pending the execution of the sentence of death; or the effect of reading to the person, more than once, the warrant for the execution of the sentence passed on them.

Following applications made to the Inter-American Commission on Human Rights by the NGO Death Penalty Project and the Human Rights Commission of Belize to consider the proposed legislation, on 26 July 2011 the government of Belize announced that the *Belize Constitution (Eight Amendment) Act, 2011* had been withdrawn.

Following the commutations of the last death sentences in **Cuba** in 2010, no new death sentences were imposed in the country in 2011 and no one was known to be under sentence of death at the end of the year. The Committee on the Elimination of Racial Discrimination considered the periodic reports of Cuba on its implementation of the Convention on the Elimination of Racial Discrimination on 16 and 17 February 2011. In its Concluding Observations on 3 March, while noting with appreciation the classification of apartheid as a criminal offence, the Committee highlighted that the punishment in law for that crime could be death and invited the Cuban authorities to “consider the possibility of abolishing capital punishment or, failing that, to formalize the current moratorium on the death penalty.”<sup>17</sup>

In **Guatemala**, although no executions and no new death sentences were recorded last year, the death penalty continued to be referred to by political actors as a mechanism for dealing with the public security crisis. During the election campaign of 2011 many presidential candidates made a commitment to restart executions, including the eventual winner.

At least three people were sentenced to death and 34 people remained on death row in **Guyana** as of 31 December 2011. Guyana’s last execution took place in 1997. At the end of the year constitutional motions were pending before the High Court to overturn the death sentences of two prisoners on the grounds that the length of time they had spent on death row – 23 and 16 years – constituted cruel, inhuman or degrading treatment. Both men remained on death row at the end of the year.

No new death sentences were known to have been imposed but at least seven people were known to be under sentence of death in **Jamaica** at the end of the year. On 8 April 2011 the Governor General signed into law the *Charter of Fundamental Rights and Freedoms (Constitutional Amendment) Act, 2011*, which replaced Chapter III of the Constitution with a

new chapter to provide more and comprehensive protection for fundamental rights and freedoms. While the right to life and the right not to be subjected to torture or other cruel, inhuman or degrading punishment or treatment are recognized in the amended Chapter of the Constitution, the new text contains provisions (13.7 and 13.8) that are inconsistent with international and regional human rights standards. These provisions prevent challenges to the use of the death penalty by holding that the execution of a sentence of death should not be held inconsistent with or in contravention of the section of the Constitution recognizing fundamental rights and freedoms, including in relation to delays in the execution of the sentence and to the physical conditions or arrangements under which a prisoner is detained pending the execution of the sentence. International human rights standards and national and regional jurisprudence have repeatedly recognized these factors as possibly amounting to cruel, inhuman or degrading punishment, while recognizing the right of a prisoner under sentence of death to make the maximum use of the judicial processes available.

Jamaica's compliance with the International Covenant on Civil and Political Rights (ICCPR) was examined at the Human Rights Committee on 19 October 2011. While noting that Jamaica removed mandatory death sentencing for certain crimes in 2005, and that no judicial executions have been carried since 1988, the Human Rights Committee expressed its concerns at the lack of intention to abolish the death penalty and encouraged Jamaica to accede to the Second Optional Protocol to the ICCPR.

No new death sentences were recorded in **Saint Kitts and Nevis** in 2011. The country was reviewed under the UPR on 28 January 2011. The country's delegation stated that the government had decided to retain the death penalty as one of the sentences available to the courts, while accepting from the outset that there might be some evidence that the death penalty was not necessarily a deterrent. While the delegation accepted recommendations to review and investigate the administration of the legal rights of prisoners condemned to death to ensure their access to adequate recourse to appeals and other resources, recommendations to abolish the death penalty and to establish an official moratorium on executions were rejected by Saint Kitts and Nevis.<sup>18</sup>

One new death sentence was imposed in **Saint Lucia** in 2011. The country was reviewed under the UPR on 25 January 2011. With regard to the death penalty, Saint Lucia stated that it was reserved for the most heinous crimes and that no executions had been carried out in the past 15 years. The country's delegates added that the authorities were not in a position to move towards the establishment of an official moratorium on the use of the death penalty, or its abolition due to the upsurge in crime.<sup>19</sup> Saint Lucia rejected the following recommendations of the UN Human Rights Council: to establish a moratorium on executions with a view to abolishing the death penalty; to commute all death sentences; to support the next UN General Assembly resolution on a moratorium on the use of the death penalty; and to ratify the Second Optional Protocol to ICCPR.<sup>20</sup>

No new death sentences were known to have been imposed in **Saint Vincent and the Grenadines** in 2011. The country's human rights record was reviewed under the UPR on 10 May 2011. The representatives of Saint Vincent and the Grenadines stated that the mandatory imposition of the death penalty had been removed and that the death penalty is applicable only for the most serious crimes. Additionally, persons who had been on death row for over five years had had their sentences commuted to life in prison. Recommendations to

abolish the death penalty and to establish an official moratorium on executions were rejected by Saint Vincent and the Grenadines.<sup>21</sup>

**Suriname** was reviewed under the UPR on 6 May 2011. The delegation stated that a draft amendment to the Penal Code, in which the death penalty was removed, had been presented to the Council of Ministers and would subsequently be presented for approval to Parliament.<sup>22</sup> The proposed legislation remained pending before the National Assembly at the end of 2011.

Two people were known to have been sentenced to death in **Trinidad and Tobago** in 2011, while 31 people remained on death row at the end of the year. On 28 February the Parliament of Trinidad and Tobago voted against a bill introduced by the government to respond to high crime rates, which would have amended the Constitution and allowed for the resumption of executions in the country. Following debates in the Trinidad Parliament, the bill was defeated because of the lack of support from the opposition. The proposed bill would have allowed death sentences to be carried out when appeals were still pending and would have put dozens of people on death row in immediate danger of execution in violation of international human rights laws and standards.

#### **TRINIDAD AND TOBAGO AND THE MANDATORY IMPOSITION OF THE DEATH PENALTY**

The Constitution of Trinidad and Tobago forbids the Parliament to impose or authorize the imposition of cruel and unusual punishment or treatment. It however includes a “savings clause” in Chapter I, Part II, which makes an exception to prohibitions and protections of fundamental rights and freedoms for laws in existence when the Constitution was promulgated in 1976 and for enactments that alter an existing law but do not derogate from any fundamental right guaranteed in the Constitution “in a manner in which or to an extent to which the existing law did not previously derogate from that right.” The Constitution also stipulates that any proposed legislation which includes provisions that are inconsistent with fundamental rights and freedoms as enshrined in the Constitution and for which the “savings clause” is not applicable has to be supported at the final vote in both Houses of Parliament “by the votes of not less than three-fifths of all the Members of that House.”

The constitutionality of the mandatory imposition of the death penalty in Trinidad and Tobago has been examined by the Judicial Committee of the Privy Council several times in recent years, as convicted prisoners challenged their non-discretionary sentences as part of their final appeals to that judicial body. Over the years, international, regional and national bodies have ruled the mandatory imposition of the death penalty is inconsistent with human rights. The Human Rights Committee, has stated for instance that “the automatic and mandatory imposition of the death penalty constitutes arbitrary deprivation of life, in violation of article 6, paragraph 1, of the Covenant, in circumstances where the death penalty is imposed without any possibility of taking into account the defendant’s personal circumstances or the circumstances of the particular offence”.<sup>23</sup>

In 2003 the Judicial Committee of the Privy Council, in the case of *Balkissoon Roodal v. The State of Trinidad and Tobago*, ruled that the mandatory death penalty was a violation of the constitutional right not to be subject to cruel and unusual treatment or punishment and that the current legislation should be interpreted to mean that death should be the maximum but not the only punishment for murder.

This judgement was overruled in 2005 by a subsequent Privy Council decision. In *Charles Matthew v. The State of Trinidad and Tobago*, while reaffirming that the mandatory imposition of death penalty was cruel and



unusual punishment, the judicial body found that the non-discretionary sentencing in Trinidad and Tobago was constitutional as the *Offences Against the Person Act 1925* was an existing law when the Constitution was enacted in 1976. The mandatory imposition of the death penalty could therefore only be repealed through legislative changes, with a three-fifth majority of both Houses of Parliament as required in the Constitution.

In 2011 the Judicial Committee of the Privy Council looked again at the question of the mandatory death penalty. In *Nimrod Miguel v. The State of Trinidad and Tobago* the appellant questioned his non-discretionary death sentencing for felony murder under Section 2A(1) of the *Criminal Law Act*, as amended in 1997. The judgement, issued on 15 June 2011, found that “it is common ground that the mandatory death sentence is cruel and unusual punishment”; and that the *Criminal Law (Amendment) Act 1997*, which amended the Criminal Law introducing the mandatory death penalty for felony murder, had introduced an offence, felony murder, that did not exist in the country’s law when the Constitution was enacted. As such this legislation should have needed a Parliamentary three-fifths majority to be enacted, in line with the “savings clause” in the Constitution. Nimrod Miguel’s conviction was therefore upheld but his mandatory death sentence was quashed.

Trinidad and Tobago was reviewed under the UPR on 5 October 2011. The country’s delegation stated that, although no official moratorium had been declared by the authorities, “in fact, since 1999 there had been a functional moratorium on such penalties, none of which had been implemented since that year.” The representatives added that a rich debate on the issue was continuing within the government and society but rejected recommendations to abolish the death penalty and to establish an official moratorium on executions.<sup>24</sup>

In 2011 the isolation of the **USA** in a world that is moving away from judicial killings became even more evident. While the rest of the region continued to be an execution-free area, the USA was the only country in the G8 to carry out executions last year. If in 2011 numerous politicians and legislators in the USA and in other leading global economies questioned and debated the death penalty, the US federal government appeared to stand strong on its retentionist policy, thereby failing to provide much needed domestic leadership for abolition, the goal expected under the spirit of international human rights law.<sup>25</sup>

In March 2011, the USA provided its formal written response to the recommendations made by other governments during scrutiny of the USA’s human rights record under the UPR process in November 2010. It dismissed calls from 23 countries to establish a moratorium on executions with a view to abolition of the death penalty. The US government said it was in principle supportive of studies into and effective strategies against racial disparities in the application of the death penalty. It rejected calls from Cuba and Ireland for an end to its use against people with mental illness, stating that it supported the recommendation only with respect to executions of persons with certain intellectual disabilities, but not regarding all persons with any mental illness. In responding to another recommendation, the USA stated that “we will continue to ensure that implementation of the death penalty complies with our international obligations”.<sup>26</sup>

Inconsistent with this latter commitment, however, and within weeks of having made it, the US Department of Defense announced that the government would seek to pursue the death penalty in cases against six foreign nationals, who had been detained at the US Naval Base at Guantánamo Bay in Cuba and charged for trial by military commission.<sup>27</sup> The US military

commissions fail to meet international fair trial standards. Among other flaws, the commissions lack independence from the political branches that have authorized the commission of, and blocked accountability and remedy for, human rights violations, including crimes under international law, committed against Guantánamo detainees, including those facing prosecution before these tribunals. The commissions are also discriminatory because US nationals have the right to a civilian jury trial in an ordinary federal court, whereas these Guantánamo detainees are to be tried before a panel of US military officers, operating under rules and procedures that provide a lesser standard of fairness. Consequently, the imposition of the death penalty after such proceedings would violate the prohibition under international law to use of the death penalty after trials that do not meet the highest standards of fairness.<sup>28</sup> None of the trials against the six detainees in question began in 2011.

As it had done in other cases in earlier years, in 2011 the USA once again violated its international obligations by executing Humberto Leal on 7 July. In 2004 the International Court of Justice (ICJ) had ruled that the USA had violated Article 36 of the Vienna Convention on Consular Relations (VCCR) in the cases of 51 Mexican men – including Humberto Leal – sentenced to death in the USA after being denied their consular rights after arrest. The ICJ ordered the USA to provide judicial “review and reconsideration” of the convictions and sentences to determine if the defence of these individuals had been harmed by the VCCR violations. After the 2008 execution in Texas of one of these men, José Medellín, the ICJ confirmed that its original ruling was “fully intact”, including that Humberto Leal should not be executed pending such review and reconsideration. The ICJ stressed that its judgement placed an obligation on the USA which “must be performed unconditionally; non-performance of it constitutes internationally wrongful conduct.” Despite this and the fact that on 14 June 2011 Senator Patrick Leahy introduced a bill in the US Congress to implement the ICJ judgement, the courts refused to grant a stay of Humberto Leal's execution and the Texas Board of Pardons and Paroles voted against a reprieve to allow time for Congress to act.

The use of the death penalty in the USA against persons with mental disabilities continued to be a concern in 2011. On 15 November Reginald Brooks, a 66-year-old man diagnosed with paranoid schizophrenia, was executed in Ohio after nearly three decades on death row. He was sentenced to death in November 1983 for killing his three sons in March 1982. Eddie Duval Powell, a 41-year-old African American man, was executed on 16 June in the state of Alabama despite claims that he had a learning disability that would render his execution unconstitutional under the 2002 Supreme Court ruling in *Atkins v. Virginia*.

While in many cases, family members of the murder victim were supportive of the execution of the condemned person, in other cases family members actively opposed the execution of a death sentence. For example, the family of Chong Hoon Mah, a South Korean immigrant to the USA who was shot and killed by Johnnie Baston in 1994 in Ohio, opposed the use of the death penalty in his case because of their belief that it was incompatible with respect for human life. In another case, Rais Bhuiyan, who survived being shot by Mark Stroman in 2001 in one of a series of violent crimes committed in reaction to the 9/11 attacks, campaigned against Stroman's execution, which was nevertheless carried out in Texas on 20 July 2011.

**Mark Stroman** was sentenced to death in 2002 for the murder on 4 October 2001 of an Indian immigrant. At his trial for the murder of Vasudev Patel, the state also introduced evidence that on 15 September 2001 Mark Stroman had shot and killed a Pakistani immigrant, Waqar Hasan and on 21 September 2001 had shot **Rais Bhuiyan**, an immigrant from Bangladesh. Rais Bhuiyan survived, despite being shot in the face with a shotgun at close range, and lost sight in his right eye.

Nonetheless, he appealed for Mark Stroman not to be executed and for his death sentence to be commuted. He said: "Hate doesn't bring a peaceful solution to any situation, which I realized after I became a victim of a hate crime because of the September 11, 2001 World Trade Center tragedy. This single incident changed my entire life and helped me to realize that hate only brings fear, misery, resentment and disaster into human lives. It creates obstacles to healthy human growth, which, in turn, diminishes society as a whole... I forgave Mark Stroman many years ago. I believe he was ignorant, and not capable of distinguishing between right and wrong, otherwise he wouldn't have done what he did."

In a 2011 interview with the New York Times, Rais Bhuiyan was asked why he was trying to save Mark Stroman's life. He said: "I was raised very well by my parents and teachers. They raised me with good morals and strong faith. They taught me to put yourself in others' shoes. Even if they hurt you, don't take revenge. Forgive them. Move on. It will bring something good to you and them. My Islamic faith teaches me this too. He [Stroman] said he did this as an act of war and a lot of Americans wanted to do it but he had the courage to do it — to shoot Muslims. After it happened I was just simply struggling to survive in this country. I decided that forgiveness was not enough. That what he did was out of ignorance. I decided I had to do something to save this person's life. That killing someone in Dallas is not an answer for what happened on Sept. 11."

Abolition activism and public debate on the issue of the death penalty were particularly marked in the lead-up to the execution of Troy Davis, carried out by the State of Georgia on 21 September 2011. Serious doubts surrounded his conviction for the 1991 murder of a police officer: the case against him primarily rested on witness testimony and seven of the nine key witnesses had recanted or changed their testimony after the original trial. Some alleged they had been pressured or coerced by police into testifying or signing statements implicating Troy Davis.

Thousands of individuals and many organizations from around the world took part in a campaign developed by Amnesty International from 2007 against the execution of Troy Davis and called for the commutation of his death sentence. Approximately one million signatures were delivered in appeals for clemency and his case was extensively covered in media around the world.

## ASIA-PACIFIC

Seven countries in Asia-Pacific carried out executions in 2011, including Afghanistan which resumed executions after two years. However, positive signs questioning the legitimacy of capital punishment were evident throughout the region. For the first time in 19 years, no executions were recorded in Japan in 2011.

No executions were recorded in Singapore. Brunei Darussalam, India, Indonesia, Laos, Maldives, Mongolia, Myanmar, Pakistan, South Korea, Sri Lanka and Thailand continued to be execution-free countries. The Pacific sub-region remained a death penalty-free area with the exception of five death sentences in Papua New Guinea. The issue of the death penalty was debated at the national level in China, Japan, Malaysia, South Korea and Taiwan, and several governments intervened on behalf of their own nationals under sentence of death abroad.

Despite these positive developments, governments in the Asia-Pacific region continued to use the death penalty in violation of international standards. Courts throughout the region continued to impose capital punishment after unfair trials, often based on “confessions” allegedly extracted through torture or other duress. Foreign nationals continued to be disproportionately affected by the flaws in the justice systems of various countries. Many foreign nationals were sentenced to death for crimes that did not meet the threshold of “most serious crimes”, such as drug-related offences, which are often punished by mandatory death sentencing.

Most governments in the region did not release data on their use of the death penalty. Amnesty International could not confirm figures on the use of the death penalty in China and could not gather accurate information on Malaysia, North Korea or Singapore. In Mongolia the death penalty remained classified as a state secret, while in Viet Nam publishing statistics on the use of the death penalty continued to be prohibited in law.

At least 51 executions, not counting the thousands that were believed to have taken place in China, were reported to have been carried out in seven countries in the Asia-Pacific region: Afghanistan (2), Bangladesh (5+), China (+), Malaysia (+), North Korea (30+), Taiwan (5) and Viet Nam (5+).

At least 833 new death sentences were known to have been imposed in 18 countries in the region in 2011: Afghanistan (+), Bangladesh (49+), China (+), India (110+), Indonesia (6+), Japan (10), Malaysia (108+), Mongolia (+), Myanmar (33+), North Korea (+), Pakistan (313+), Papua New Guinea (5), Singapore (5+), South Korea (1), Sri Lanka (106), Taiwan (16), Thailand (40) and Viet Nam (23+).

After two years without executions, judicial killings resumed in **Afghanistan** on 20 June 2011, when two men were executed by hanging at Pul-e-Charkhi prison outside Kabul. The men, Zar Ajam, a Pakistani national from North Warizistan, and Mateullah from Kunar province in Afghanistan, were convicted of killing approximately 40 people and injuring some 78 others during a raid at a branch of Kabul Bank in the eastern city of Jalalabad on 19 February 2011. The Taleban claimed responsibility for the attack. Death sentences were known to have been imposed in 2011 and at least 140 to be under sentence of death at the end of the year.

Demonstrations against the death penalty were held in the cities of Herat, Kabul and Mazar-e-Sharif on 21 January, to protest against the use of capital punishment in Iran where up to 4,000 Afghan nationals were believed to be under sentence of death at the end of 2011.

At least five executions were known to have been carried out and at least 49 death sentences

to have been imposed in **Bangladesh** last year. In July 2011 the government started the legislative process to expand the scope of the death penalty. The *Human Trafficking Prevention and Curbing* bill, which was approved by the cabinet on 11 July 2011 and was pending before the Parliament at the end of the year, sought to add human trafficking to the list of offences for which capital punishment may be imposed. A second bill seeking to expand the use of the death penalty was approved by the Bangladeshi Cabinet on 26 December 2011. The final draft of the *Anti-terrorism (amendment) Act, 2011*, which was adopted by the Bangladeshi Parliament in February 2012, sought the imposition of the death penalty for involvement in, supporting or financing of militancy and terrorist activities in the country.

While still accounting for the majority of the world's executions, in 2011 the **Chinese** authorities continued to shroud the country's use of the death penalty in secrecy and impeded verification of their claims of a significant reduction in the use of capital punishment since 2007. In the absence of published official figures, state-owned media coverage of several high profile cases sparked intense discussion within China in 2011, however, without the facts needed to inform the debate adequately.

Although in 2011 the Chinese government eliminated the death penalty for 13 crimes, mainly white-collar offenses for which executions were rarely carried out, it retained the death penalty for many other non-violent crimes, such as corruption and drug-trafficking. The authorities also expanded the scope of capital punishment to include crimes such as forcing or deceiving someone to donate their organs, which in some circumstances can now be classified as intentional wounding or intentional killing – both punishable by death. The government also expanded the circumstances under which a death sentence can be imposed for producing and selling fake drugs or poisonous or harmful foodstuffs.

People facing the death penalty in China continued not to receive fair trials in 2011. The accused were not presumed innocent, but had to prove it, and police often extracted confessions through torture or other ill-treatment. Under Chinese legislation, prisoners under sentence of death do not have the right to seek pardon or commutation of their sentence from the executive branch. Severe procedural flaws continued to expose thousands of people to the risk of arbitrary deprivation of life.

Three men, **Chen Ruiwu**, **Shang Zhihong** and **Yang Hongyi**, were acquitted of their charges on 12 November 2009 by a written judgement of the Hebei Provincial Higher People's Court. However, it took two years before the men were pronounced innocent and set free by the Langfang City Intermediate People's Court, the court of first instance, on 4 November 2011.

Speaking at a legal seminar in Beijing on 27 November 2011,<sup>29</sup> Chen Ruiwu reportedly described his first-hand experience of police investigations and death row in China.

He alleged that he had been subjected to torture from his first day of detention in 2001. Copper wires from an old telephone were wrapped around his fingers and toes and the telephone handle was cranked, sending an electric current through the wires. He recalled how the guards had repeatedly shaken him and tried to extract a confession from him.

According to the Heilongjiang Daily, at his court appearance Chen Ruiwu spoke about how he had been

tortured. He spoke of shocks to his genitals from an electric baton, being forced to drink hot-chili water, suffocation with a plastic bag, burning of the soles of his feet with a lighter, squeezing his fingers with pliers, as well as the telephone wire technique described above. During his detention, Chen Ruiwu reportedly tried to commit suicide by biting his own tongue, and was hospitalized and treated with seven stitches before returning to prison.

After more than a month of continued torture, Chen Ruiwu reportedly confessed to the crime. However, “when the policeman grabbed his hand to sign the transcript of the hearing, he deliberately erred in signing his family name, signing with a Chinese character that is slightly different. He did this with the faint hope that ‘If I really died, maybe the superior court would find that my signature was false, and maybe they’d investigate...I didn’t want to shame my family name.’”

Foreign nationals continued to be sentenced to death in China, particularly for crimes that do not meet the threshold of “most serious crimes”. A Pakistani man, Syed Zahid Hussain Shah, was executed by lethal injection on 21 September 2011 after the Supreme People’s Court in Beijing had approved his death sentence. He had been sentenced to death in Shanghai in March 2010 for drug trafficking, although he claimed he was innocent. His family stated that he had not received adequate consular assistance during his detention and that they had sent letters to Pakistani Prime Minister Yousaf Raza Gilani and President Asif Ali Zardari to ask for help. Pakistan’s Advisor for Human Rights told Amnesty International he had asked Pakistan’s President to intervene in the matter and to request that his Chinese counterpart delay the execution.

Amendments to China’s Criminal Procedure Law were being drafted and debated during 2011. Provisions in the draft circulated for public consultation in 2011 included significantly enhanced procedures for suspects and defendants in capital cases, and provided some clarification of the role of lawyers in the final review process. The revisions propose that interrogations of all suspects may be recorded or videoed but should be recorded in full for suspects facing a potential death sentence or life imprisonment (new Article 120). They require a court of second instance to hold a hearing in all capital cases and other cases where the defence and prosecution disagree on the facts or evidence (amended Article 222). Concerning the procedure for final approval of the death sentence by the Supreme People’s Court (SPC), the revisions (amended Article 238) broaden the SPC’s powers so that in addition to remanding a case for retrial if it does not approve a death sentence, it may also, in all cases, hold a hearing itself and revise the sentence (*tishen yu gaipan*). The proposed revisions require the SPC to question the defendant during the review process, and also listen to the arguments of the defence lawyer if requested to by the lawyer (amended Article 239).

These proposed amendments are limited but welcome enhancements to procedures in capital cases, which international standards demand must incorporate the most stringent safeguards. However they might not be passed in full when considered by the National People’s Congress in March 2012. Proposals on the SPC final review process have attracted particular controversy for introducing something akin to a third instance trial, with significant resource implications.

**Leng Guoquan**, a seafood trader, had his death sentence commuted to life imprisonment on 23 November 2011. He had been sentenced to death on 16 December 2009 by the Dandong City Intermediate People’s Court in Liaoning after he was charged with being a leader of a criminal gang engaged in smuggling and trafficking

drugs. His conviction followed an unfair trial, and was based on his confession and testimonies from witnesses who have either subsequently retracted their statements or say they were tortured into testifying against him. Leng Guoquan always denied the charges and says he confessed because he was tortured.

Leng Guoquan was detained on 19 January 2009 and testified he had been subjected to repeated torture until 24 March 2009, when he was forced to recite a confession script in front of a camera. This recording is the first formal report of his interrogations included in his case file. The prosecution did not provide any material evidence to support the witness statements during the first trial.

The torture allegations were not considered by the Dandong City Intermediate People's Court that initially tried Leng Guoquan in 2009. On 23 August 2010 the Liaoning Provincial Procuratore concluded that indeed there were scars and wounds on Leng Guoquan's body, but there was not sufficient evidence to conclude that the injuries were inflicted by the criminal investigation sub-team. Leng Guoquan was also told then that no matter who else he complained to, it was the Dandong City Procuratorate that would conduct the investigation and their decision was final.

Leng Guoquan appealed against the judgement to the Liaoning Provincial Higher People's Court. At his appeal hearing he showed the court the scars on his head, wrists and legs, which he said were inflicted by torture. The defence had called 56 witnesses but the court only allowed three of them to be heard. On 6 May 2011, the Liaoning court sent Leng Guoquan's case back for retrial due to "unclear facts" and "lack of evidence". Following the retrial by Dandong City Intermediate Court, Leng was sentenced to life imprisonment on 23 November. He maintains his innocence.

For the seventh consecutive year **India** did not carry out any executions, but at least 110 new death sentences were imposed in 2011, bringing the total number of people believed to be under sentence of death at the end of 2011 to between 400 and 500.

At the end of May 2011 President Pratibha Patil rejected the mercy petitions—the last appeals available to death row prisoners in India—in the cases of Devinder Pal Singh Bhullar and Mahendra Nath Das. Bhullar was sentenced to death in 2001 for plotting terrorist attacks that killed nine people in Delhi in 1993, while Das has been on death row since 1997 for committing a murder in Guwahati, Assam, in 1996. Three more mercy petitions were rejected by the President in August 2011 in the case of three men who had been convicted in relation to the assassination of former Prime Minister Rajiv Gandhi. Murugan, Santhan and Arivu (alias Perarivalan) were sentenced to death in January 1998 by a Special Anti-Terrorist Court and had their sentences confirmed by the Supreme Court of India in May 1999. However, executions in the above mentioned cases were suspended by courts to allow for the consideration of separate legal challenges on the delay in the decision of the mercy petitions, and the constitutionality of the prolonged stay on death row.

On 16 June 2011, the Mumbai High Court found that the mandatory imposition of the death penalty under Section 31-A of the *Narcotic Drugs and Psychotropic Substances Act, 1985* violated Article 21 of the Constitution of India, and ruled that it be changed to give judges a discretionary choice of punishment. Following the judgement, engaging in the production, manufacture, possession, transportation, import into India, export from India or trans-shipment of narcotic drugs as well as financing, directly or indirectly, any of these activities are offences that are punishable by death at the discretion of the judge.

In December 2011, the Indian Parliament approved legislation making acts of terrorism aimed at sabotaging oil and gas pipelines punishable by death, in cases where the act of sabotage is likely to cause death of any other person. During the same month in the western state of Gujarat a law making the production and sale of toxic alcohol punishable by death came into force.

For the third year in a row, no executions were reported in **Indonesia** in 2011. At least six people were known to have been sentenced to death there in 2011 and over 100 were believed to be on death row at the end of 2011. During the year it was reported that a special task force had been created to look at the situation of Indonesian nationals facing the death penalty in other countries. In July 2011 Manpower and Transmigration Minister Muhaimin Iskandar reportedly stated that the government had been seeking clemency on behalf of Indonesia nationals on death row abroad. The government reportedly intervened with the Malaysian and Saudi Arabian authorities, countries where several Indonesian nationals had relocated as migrant workers. According to figures released by the spokesman of Indonesia's Migrant Workers Protection Task Force, Humphrey R. Djemat, on 3 November 2011, a total of 221 Indonesians were facing the death penalty in three foreign countries: 45 in Saudi Arabia, 148 in Malaysia and 28 in China. Maftuh Basyuni, chairman of the task force, was reported in the Indonesian newspaper *Jakarta Globe* as saying that in 2011 his team had managed to secure the release of 37 migrant workers facing death sentences. They included eight workers in Saudi Arabia, 14 in Malaysia, 11 in China and one in Iran.<sup>30</sup>

For the first time in 19 years, no executions were recorded in **Japan**. Minister of Justice Satsuki Eda, who had been appointed on 14 January 2011 and was personally against capital punishment, was replaced by Hideo Hiraoka on 2 September as part of a cabinet reshuffle. Neither Minister signed any execution warrants during their time in office in 2011. Significant pressure to execute was reportedly applied by officials in the cabinet and inside the Ministry. At the end of October 2011 Chief Cabinet Secretary Osamu Fujimura reportedly encouraged Minister Hiraoka at a parliamentary committee meeting to exercise his power to authorize executions.

On 7 October 2011 the Japan Federation of Bar Associations (JFBA) adopted a declaration at the end of its annual human rights meeting in Takamatsu, Kagawa Prefecture, announcing its opposition to the death penalty. The JFBA called on the government to immediately start "cross-society discussions" with a view to abolition and to suspend executions while the discussions are ongoing.

Nevertheless Japan imposed the death penalty in ten new cases in 2011 and 130 people were known to have been on death row, with their sentences finalized, at the end of 2011. The death penalty continued to be used against people with mental disabilities. The mental health of Hakamada Iwao, who has been on death row since 1968 following his conviction for murder, continues to be a matter of concern. According to Article 479 of the Japanese Code of Criminal Procedure, he should be taken off death row since "if a person condemned to death is in a state of insanity, the executions shall be stayed by order of the Minister of Justice". As part of Hakamada's appeal for a retrial, the Shizuoka District Court authorized a DNA analysis of blood-stained clothes said to have been worn by Hakamada Iwao at the time of the murder. The result of the DNA analysis, which tested for evidence that the blood on the clothes belonged to the victims, was made public on 23 December 2011 and deemed



inconclusive. Further DNA testing was scheduled to take place in early 2012.

On 27 January 2011 the Committee on the Rights of the Child considered the second report by **Laos** on the country's implementation of the Convention on the Rights of the Child (CRC). In its concluding observations, adopted on 4 February 2011, the Committee expressed its concern that the death penalty is not explicitly prohibited for children in national legislation, and urged Laos to take into account the Committee's General Comment No. 10 (2007) on the administration of juvenile justice,<sup>31</sup> which refers to the explicit prohibition under Article 37(a) of the CRC on imposing the death penalty or life imprisonment against people under 18 years of age when the crime was committed.<sup>32</sup>

Amnesty International was not able to confirm the number of executions that were carried out in **Malaysia** in 2011, but counted at least 108 new death sentences imposed during the year. Some two-thirds of the death sentences were imposed for drug-related offences and one third of these involved foreign nationals. According to figures released by Home Minister Hishammuddin Hussein in response to a parliamentary question on 2 April 2011, 696 people were awaiting execution in the country and a total of 441 people had been executed since 1960.<sup>33</sup> Malaysian authorities continued to demand the commutation of the death sentence of Malaysian national Yong Vui Kong who is on death row in Singapore.

For the first time in recent years, no new death sentences were known to have been imposed in **Maldives** in 2011. On 18 April 2011 the Parliament of Maldives accepted amendments to the *Clemency Act*, which require death sentences to be implemented whenever upheld or issued by the Supreme Court, removing the President's power to grant clemency in those cases.

The death penalty in **Mongolia** continued to be classified as a state secret and figures for any new death sentences imposed in 2011 and prisoners remaining on death row at the end of the year were not public. The Supreme Court of Mongolia informed Amnesty International that death sentences were on the decline but were still being handed down. The President of Mongolia Tsakhia Elbegdorj continued to commute the sentences of death row inmates who appealed for clemency – a commitment he made in January 2010. At the end of 2011 the parliament, the State Great Khural, had yet to vote on the Law on Ratification of the Second Optional Protocol to the ICCPR.<sup>34</sup> On 21 and 22 March 2011 the Human Rights Committee considered the fifth periodic report submitted by Mongolia on the country's compliance with the ICCPR.<sup>35</sup> In its concluding observations, adopted on 30 March, the Committee noted with concern that the death penalty had yet to be abolished despite the welcome moratorium on executions and urged Mongolia to take the necessary measures to abolish the death penalty in legislation at the earliest possible moment, and consider acceding to the Second Optional Protocol to the ICCPR.<sup>36</sup> In May 2011 the Mongolian parliament passed a resolution to implement recommendations of the UN human rights bodies including a commitment to "take measures to remove capital punishment from legislation" between 2011-2012.

At least 33 new death sentences were known to have been imposed in **Myanmar** in 2011. On 16 May under the President's Office Order No. 28/2011, 657 people, including 16 women, had their death sentences commuted to life imprisonment. Fifteen foreigners were among these: six Chinese nationals, one Malaysian, five Singaporeans, one Taiwanese and two Thai nationals. At least 30 people, including two women, were believed to remain under sentence

of death at the end of the year.<sup>37</sup>

Myanmar was reviewed under the Universal Periodic Review (UPR) at the UN Human Rights Council on 27 January 2011.<sup>38</sup> In relation to the death penalty, Myanmar stated that no executions had been carried out since 1988 but rejected recommendations to abolish the death penalty. The country's delegation however indicated that the executive and relevant ministries would consider ratifying several human rights treaties, noting that the final decision would lie with the legislature. It was unclear whether the ratification of the Second Optional Protocol to the ICCPR was going to be considered.<sup>39</sup>

**Nauru** was reviewed under the UPR on 24 January 2011. The country's delegation stated that in 2004 the Government had begun a comprehensive review of the Constitution, whose Article 4(1) allows for the imposition of the death penalty. The constitutional review process resulted in two draft laws, which received the unanimous support of the Parliament in 2009. The second of these bills, which included provisions to delete references to the death penalty in the Constitution, required further endorsement through a referendum. The delegation reported that in February 2010 voters rejected the proposed amendments and that the failure of the referendum was currently under review by a Standing Committee of Parliament, the Constitutional Review Committee. The head of the delegation stated that he thought that the rejection of the referendum amendments likely had more to do with the complexity and number of amendments than with any concern on the part of Nauruans with the proposed changes. The delegation further specified that the law of Nauru does not provide for the use of the death penalty and that it deemed it unlikely that the Parliament would introduce such punishment, as Nauru is a signatory to the Second Optional Protocol to the ICCPR, and it is likely something that neither the Nauruan population nor the international community would tolerate.<sup>40</sup> Following the review, Nauru communicated in its written responses that recommendations to ratify the ICCPR and its two Optional Protocols, and to abolish the death penalty, had been accepted by the government of Nauru.<sup>41</sup>

In **North Korea**, while the number of death sentences and executions reported in the media appeared to have declined in 2011, at least 30 executions were reported to have been carried out during the year. The figure however appears to be a gross underestimate of the reality of the death penalty in the country. No trials in North Korea meet international standards of fairness and due process, given the lack of independence of the judiciary and several problematic constitutional and legal provisions.

In January 2011 unconfirmed reports suggested that more than 200 officials had been detained by the State Security Agency in a move to consolidate the leadership succession of Kim Jong-un, raising concerns that some of them had been executed. In July 2011, Amnesty International received unconfirmed reports that North Korean authorities had either executed by firing squad or killed in staged traffic accidents 30 officials who had participated in inter-Korean talks or supervised bilateral dialogues with South Korea. Public executions, including within political prison camps, are believed to have taken place throughout the year. Public executions are a breach of North Korea's own penal code. In addition to the number of "judicial executions", Amnesty International believes that a high number of extra-judicial executions are taking place in the country.

On 10 March 2011, the Special Rapporteur on Extrajudicial, Summary or Arbitrary

Executions sent a communication to the government of North Korea regarding 37 reported cases of executions for economic crimes between 2007 and 2010.

While no executions were recorded in **Pakistan** for the third consecutive year, at least 313 new death sentences were imposed in 2011. Over half of all those sentenced to death last year were found guilty of murder, while others were convicted for offences such as drug trafficking, rape and kidnapping for ransom. Three people were sentenced to death for blasphemy, but no execution was known to have been carried out for this offence. At the end of the year, at least 8,300 people were on death row.

On 12 August 2011 an Anti-Terrorism Court sentenced Shahid Zafar, a member of the paramilitary Rangers, to be hanged for the shooting dead of Sarfaraz Shah in Karachi in June. On 21 September another Anti-Terrorism Court in Gujranwala, Punjab province, sentenced to death seven out of 22 people convicted for murdering two teenage brothers. The Anti-Terrorism Courts fall short of internationally recognized standards of due process.

Five new death sentences were known to have been imposed in **Papua New Guinea** last year. The human rights record of Papua New Guinea was reviewed under the UPR on 13 May 2011. In response to comments and recommendations regarding the death penalty, the country's delegation stated that the death penalty was currently part of the country's laws and that only when parliament repealed or amended the law would the death penalty cease to be applicable. It also added that courts had invoked the death penalty in some cases and that for all of those cases the Supreme Court had commuted the death sentence on appeal. The delegation pointed out that it would be erroneous to state that a moratorium existed as the death penalty had been invoked. However, the issue has been debated in the country and a discussion on this punishment had to be undertaken within the country's communities.<sup>42</sup> In its written response of 30 September, the delegation of Papua New Guinea rejected recommendations to abolish the death penalty.<sup>43</sup>

Amnesty International was not able to confirm any executions in **Singapore**. At least five new death sentences were known to have been imposed, all but one against foreign nationals. The death penalty continued to be imposed mandatorily, including for drug-related offences.

On 6 May 2011 Singapore was reviewed under the UPR. On the issue of capital punishment, Singapore ignored international human rights standards and referred to the absence of an international consensus for or against capital punishment, including mandatory capital punishment. The country's delegation stated that capital punishment was only imposed for the most serious crimes, after due judicial process and in accordance with the law, and that statistics on executions were published.

Despite ongoing concerns raised by civil society and other members of the UN Human Rights Council, Singapore indicated that it considered as already implemented or in the process of implementation recommendations to modify its legislation in such a way as to shift the burden of proof of the guilt of those facing the death penalty to the prosecution instead of requesting those accused to prove their own innocence; and to make available statistics and other factual information on the use of the death penalty. Recommendations to declare an immediate moratorium on executions with the aim of abolishing the death penalty; ratify the ICPPR and its Second Optional Protocol; make public information about past executions and

death sentences handed down by the courts; and review the Penal Code and the Misuse of Drugs Act with a view to repealing all provisions on the mandatory death penalty were rejected by Singapore.<sup>44</sup>

On 9 September 2011 an appeal on behalf of death row prisoner Ramalingam Ravintran was brought before the Court of Appeal of Singapore, challenging the constitutionality of the imposition of the death penalty in his case in light of fair trial violations and the different treatment of the co-defendant in the case. The appeal was dismissed on 12 January 2012.

There were no executions in **South Korea** in 2011. On 8 September, South Korean NGOs commemorated 5,000 execution-free days. Sixty people were on death row with their death sentences finalized in South Korea at the end of the year and one new death sentence was known to have been imposed in 2011. On 8 September 2011 four Members of Parliament supported an event held at the National Assembly to urge members of the Legislation and Judiciary Committee to consider and adopt draft legislation on the abolition of the death penalty. The bills remained pending at the end of the year.

Official information received by Amnesty International indicated that one-hundred and six new death sentences were imposed in **Sri Lanka** in 2011 and 362 people were on death row at the end of the year. In late December 2011 the National Human Rights Commission announced that it intended to propose that the government abolish the death penalty. However, the Secretary to the Ministry of Prison Reforms and Rehabilitation A. Dissanayake was reported as saying that the prison authorities had already requested the approval of the Management Service Department of the Treasury to recruit a hangman and that they had received a number of applications for the post. According to Dissanayake, in late December there were nearly 750 inmates on death row.

Five men, who had been separately sentenced to death for crimes committed between 1988 and 2005, were executed by shooting in **Taiwan** on 4 March 2011. The end of the 11 months' hiatus on the use of the death penalty had been reportedly announced by Justice Minister Tseng Yung-fu during a hearing at the Legislative Yuan, the legislature of Taiwan, on 1 March. However, the executed prisoners, their families and lawyers were not notified of the executions before they were carried out.

The executions occurred just a month after President Ma Ying-jeou had formally apologized for the execution of an innocent man in 1997, former Air Force private Chiang Kuo-ching. Another man had been arrested and had confessed to the crime at the end of January 2011.

Sixteen new death sentences were known to have been imposed last year and 55 people were known to be on death row at the end of the year. In 2011, prisoners under sentence of death in Taiwan remained unable to seek pardon or commutation of their sentence – a right recognized in the ICCPR, which the government of Taiwan has committed to implement by passing domestic legislation in 2009 requiring all laws and regulations to be in compliance with the international treaty by December 2011. The imposition of the death penalty after unfair trials also continued in 2011.

On 4 April 2011 the Legislative Yuan amended the *Punishment Act for Violation to the Military Service System* and removed the death penalty as an option for punishment under its

Articles 16 and 17. According to the revised articles, those who carry weapons in a group and seriously harm people performing their military duties are now subject to the maximum penalty of life imprisonment. The removal of kidnapping, gunrunning, obstruction of military services, and counterfeiting of banknotes from the list of crimes for which the death penalty can be imposed had been reportedly considered in 2011. In September 2011 the Judicial Yuan, Taiwan's highest judicial organ, completed draft revisions to the Code of Criminal Procedure. If adopted, prosecutors would no longer be allowed to demand retrial of defendants after final verdicts are issued by judges.

Taiwanese national **Chiou Ho-shun** was sentenced to death in Taiwan in 1989 after an unfair trial. On 25 August 2011, the Prosecutor General rejected a request to seek an extraordinary appeal for a retrial putting him at risk of imminent execution.

Chiou Ho-shun was detained in 1988 and tried in connection with two separate crimes: the kidnapping and killing of Lu Cheng and the murder of Ko Hung Yu-Lan. Only Chiou Hu-shun was sentenced to death; his 11 co-defendants were sentenced to prison terms, which they have all completed, apart from one who died in prison.

Chiou Ho-shun and his co-defendants say that they were held *incommunicado* for the first four months of their detention and they were tortured to make them confess. They later retracted their confessions.

In 1994, after an official investigation, two public prosecutors and 10 police officers handling the case of kidnapping and killing of Lu Cheng were convicted of extracting confessions through torture. Police admitted in 2003 that they had covered up the fact that another death row inmate had confessed, just before his execution, to the killing of Lu Cheng.

During the 23 years Chiou Ho-shun has been in custody, his case has bounced back and forth between the High Court and Supreme Court 11 times. The courts have failed to exclude as evidence his confession, though it was extracted under torture; and have not investigated the confession of the other death row inmate to the killing of Lu Cheng.

For the second consecutive year, no executions were recorded in **Thailand**. Figures provided by the Ministry of Foreign Affairs indicated that 40 new death sentences were imposed in 2011, including nine for drug-related offences and that 81 men and six women were on death row with their death sentences finalized by Thai courts at the end of 2011. Forty-nine of these men and all six of the women had been sentenced to death for drug-related offences. At least 610 people in total were under sentence of death at the end of the year. The proposal in the Thai government's Second National Human Rights Plan for 2009 to 2013 to replace the death penalty with life imprisonment was not fulfilled in 2011. The first coalition against the death penalty was established by Thai civil society in February 2011.

On 5 October 2011 Thailand was reviewed under the UPR. In relation to the death penalty, Thailand emphasized that it had abolished the death penalty for persons under 18 and was no longer applying capital punishment to pregnant women and persons suffering from mental disorders. The country's delegation decided to consider and provide a response at the 19th session of the Human Rights Council in March 2012 on recommendations to ratify the Second Optional Protocol to the ICCPR; enact legislation abolishing the death penalty as foreseen in the national human rights action plan; review the imposition of the death penalty for offences related to drug trafficking; commute death sentences; and establish as soon as

possible a moratorium on executions with a view to the definitive abolition of the death penalty.<sup>45</sup>

While statistics on the use of the death penalty in **Viet Nam** continued to be classified as a state secret in 2011, Amnesty International recorded at least five executions and at least 23 new death sentences imposed in the country during the year, the majority of which were for drug-related offences. A senior official at the Ministry of Public Security, Cao Ngoc Oanh, was quoted by Vietnamese newspaper *Thanh Nien* on 24 September 2011 as saying that approximately 100 death sentences are imposed every year in Viet Nam. *Thanh Nien* also reported on 3 November 2011 that Major General Ho Thanh Dinh, Deputy Director of the Department of Execution of Criminal Judgments and Judicial Support, had indicated that more than 360 prisoners were on death row nationwide, most of them in Ho Chi Minh City, Hanoi, Nghe An and Son La. Executions continued to be carried out in 2011.

The coming into force of the 2010 law on *Execution of Criminal Judgments*, which had been planned to take effect in July 2011, was postponed to November and then to the beginning of 2012. The law would substitute shooting by firing squad with lethal injection as the method of judicial executions and provides, for the first time, the possibility for relatives and legal representatives of executed prisoners to claim their bodies for burial. In order to do so, the families of the executed prisoner would have to pay for the transport of the body and to guarantee public order and environmental hygiene. The law also requires city and provincial governments to grant land for burials or assign burial places in cases where the family does not want to be involved.

According to statements by senior officials released in November 2011, the government was planning to build five lethal injection facilities in Hanoi, Ho Chi Minh City and in the provinces of Son La, Nghe An and Dak Lak in late 2011, while teams of executioners were being trained. Reports indicated that the Ministry of Defense was planning to build three more lethal injection facilities, and that gradually lethal injection facilities would be built in each locality in the country.

#### **NO HUMANE WAY TO KILL**

Lethal injection in Viet Nam is carried out by using three substances – five grams of sodium thiopental, an anesthetic; 100 milligrams of pancuronium bromide, a muscle relaxant; and 100 grams of potassium chloride to stop the heart.

Le Thi Thu Ba, chairwoman of the National Assembly's Justice Committee, reportedly stated that "the new system is widely used in the world, more humane, will cause less pain to the convicted and their family, and relieve pressure on executors. It also helps keep the body of the executed prisoners intact."<sup>46</sup> Similar statements were released by other senior officials.

In the 2007 report, *Execution by lethal injection: a quarter century of state poisoning*<sup>47</sup> Amnesty International challenged the claim that lethal injections are a "humane" alternative to "traditional" execution methods like hanging, beheading, shooting, gassing or electrocution.

The report describes a series of botched executions carried out by lethal injection. Some prisoners endured prolonged deaths of over an hour, others went into convulsions or suffered skin burns or bloody 'cut-down'

operations to find veins. The medical “efficiency” of lethal injection has also been called into serious question, with grave concerns that its cocktail of drugs can result in a prisoner being put into a “chemical straitjacket” - conscious but totally paralyzed and unable to move or cry out while suffering excruciating pain and extreme mental suffering before death.

In 2011 Vietnamese newspaper *Tuoi Tre* published two series of articles<sup>48</sup> on the death penalty in Viet Nam, providing a rare insight on the reality of capital punishment in the country. Through interviews with law enforcement officials, eye witnesses, former death row inmates and lawyers, the articles depict the secrecy and emotions that surround the last moments before executions take place, as well as how these impact on the prison officers, families and people living around the execution facilities.

According to the accounts, in Viet Nam as soon as prisoners are sentenced to death they are moved to death row, which is always a separate area from where other prisoners are detained. Prisoners on death row are called “living ghosts” and their cells are narrower, with two cement bunks for sleeping and shackles at the end of these. The cells are designed for two prisoners though in some prisons they host just one prisoner. Death row inmates often talk to or play chess verbally with each other through the prison walls, without ever seeing the other prisoner. No notice of the execution is given to the prisoners, or to their families or lawyers.

After the final appeals are rejected, prisoners are woken up one day at 3am and are notified of their imminent execution by the prison supervisor. The prisoners take a bath, change into new clothes and have one last meal, consisting of a bowl of soup, a glass of water, and, should they desire, a cigarette. Prisoners are allowed to write a letter or record a message to their family. Prisoners are then escorted out of death row and are formally handed over to the death penalty implementation committee for the final formalities, which include fingerprint checking.

Up until the end of 2011, executions in Viet Nam were carried out by firing squad, which was generally made up of five men. The prisoner was led to a wooden stake and the chairman of the death penalty implementation committee read out the sentence. The firing range was also the place of burial: each grave was marked by a wooden marker inscribed with the deceased’s name, home town, age and date of death. The bodies were not handed over to the families for burial.

In 2011 the **Anti-Death Penalty Asia Network** (ADPAN) increased its presence in Asia and the Pacific with membership now across 24 countries. ADPAN launched its first major publication, showing how in law and practice international standards of fair trial are being denied and thousands are executed in Asia after unfair trials.<sup>49</sup> Individual appeal cases were included from China, India, Indonesia, Japan, Malaysia, Singapore, Taiwan and Pakistan. In its publication and appeal cases, ADPAN recommended that pending abolition, laws, policies and practices be revised to ensure fair trials in line with international standards, especially those upholding the presumption of innocence, the right to legal counsel and the protections against forced confessions and discrimination.

## EUROPE AND CENTRAL ASIA

**Belarus** was the only country in Europe and the former Soviet Union to carry out executions in 2011. Twenty-eight year-old Andrei Burdyka and one other man were executed between 14 and 19 July for an armed robbery committed in 2009. Neither of the men's families were officially informed of the executions prior to or immediately after they were carried out. Only when the mother of Andrei Burdyka visited the prison where her son had been held, was she informed that he had already been shot and was handed his belongings. The executions were carried out although the Human Rights Committee had formally requested a stay in order to assess their case.

On 30 November Dzmitry Kanavalau, aged 25, and Uladzslau Kavalyou, 26, were sentenced to death by the Supreme Court acting as the court of first instance, for a series of bomb attacks in Belarus, including an explosion in a Minsk metro station on 11 April. Their sentencing followed a flawed trial that fell short of international fair trial standards and left no recourse for appeal, other than an appeal to the President for clemency, in violation of international law. There were allegations that the two men were forced into confessing and there was no forensic evidence linking either of them to the Minsk explosion and no traces of explosives were found on either of them. During the trial, Uladzslau Kavalyou retracted his confession. His mother claimed that both men were beaten during interrogation.

In November 2011, the Committee against Torture expressed concerns at reports of the poor conditions of persons sentenced to death in Belarus and that some death row prisoners were not provided with fundamental legal safeguards.<sup>50</sup> The Committee was especially concerned about the secrecy and arbitrariness surrounding the execution of persons sentenced to death, including reports that the families of those sentenced to the death penalty are only informed days or weeks after the execution has taken place; they are not given the opportunity for a last visit to the prisoner; the body of the executed prisoner is not handed over to the family and the place of burial is not disclosed to them. The Committee called on Belarus to take all necessary measures to improve the conditions of detention of persons on death row; to ensure they are afforded all the protections provided by the Convention against Torture; and to remedy the secrecy and arbitrariness surrounding executions so that family members do not experience added uncertainty and suffering.

On 9 December, representatives of Amnesty International and Belarusian human rights organizations, Viasna and Belarus Helsinki Committee, were turned away while attempting to deliver a petition with over 250,000 signatures from all over the world to Belarusian President Lukashenka, calling for an end to executions in Belarus.

In **Kazakhstan**, the official moratorium on executions established on 19 December 2003 continued to be observed in 2011. On 28 March 2011, the Head of the Presidential Commission for Human Rights called on the government to abolish capital punishment, and recommended the ratification by Kazakhstan of the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR). In July 2011, the Human Rights Committee expressed concerns over inconsistencies between the extraordinary circumstances under which the death penalty is still allowed under the constitution, and the wider list of crimes subject to the death penalty contained in the Criminal Code. The Committee



recommended abolishing the death penalty and acceding to the Second Optional Protocol to the ICCPR.<sup>51</sup>

In its final observations on an individual complaint, the Human Rights Committee in March 2011 stated that **Kyrgyzstan** had violated Article 19 of the ICCPR by denying access to State-held information on the number of individuals sentenced to death. The Committee stated that information on the use of the death penalty was of public interest, and that therefore a right to access to that information existed in principle. The Human Rights Committee stated that any denial of information must therefore be justified by the State Party, which Kyrgyzstan had failed to do in this case.<sup>52</sup> In another case the Human Rights Committee found that the imposition of a death sentence in 2001 after proceedings that did not meet the fair trial requirements amounted to a violation of Article 6 of the ICCPR.<sup>53</sup>

On 13 October the **Latvian** parliament voted to ratify Protocol No. 13 to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) concerning the abolition of the death penalty in all circumstances. At the end of November it also removed the death penalty for all remaining crimes with effect from 1 January 2012, thereby completing all legislative steps in the process towards full abolition. Previously Latvia had been abolitionist for ordinary crimes only.

The **Russian** moratorium on the death penalty, established by the Constitutional Court in 1999 for an indefinite period, continued in 2011. But no further steps to abolish the death penalty were taken. Russia is the only Member State of the Council of Europe that has signed, but not ratified Protocol No. 6 to the ECHR concerning the abolition of the death penalty, and apart from abolitionist Azerbaijan the only one which has not signed Protocol No. 13 to the ECHR concerning the abolition of the death penalty in all circumstances.

During a session of the Parliamentary Assembly of the Council of Europe in April 2011, the Vice-Chairman of the Committee on Legal and Judicial Affairs of the Russian Federation Council, Nikolai Shaklein, stated that the death penalty nowadays was “unnatural” and expressed the hope that Protocol No. 6 would be ratified in the near future. But calls for the application of the death penalty for those convicted of committing terrorist acts received significant public support following the Moscow Metro bombings of 2010 and the Moscow Domodedovo Airport terrorist bombing of 24 January 2011. In March, the Human Rights Committee found that Russia had violated Article 6 of the ICCPR when it had imposed a death sentence in 1995 after proceedings that did not meet fair trial requirements, and during which allegations of torture were not investigated.<sup>54</sup>

No executions or death sentences were recorded in **Tajikistan** in 2011, continuing the official moratorium implemented in 2004. Tajikistan remains the only country in Central Asia which retains the death penalty for ordinary crimes only. During its review under the UPR in October 2011, the delegation of Tajikistan stated that the inter-ministerial working group established by Presidential order in 2010 is continuing to study the social and legal aspects of the abolition of the death penalty. It further stated that a “Law on Amnesty” adopted in August 2011 did not apply to persons originally condemned to death.

Two separate cases are currently pending before the European Court of Human Rights of the **Council of Europe** concerning the potential violation of the right to life under the ECHR by

Albania and Poland when these states co-operated in the transfer of individuals into US custody, despite an alleged risk of the death penalty at the time.<sup>55</sup> Almir Rrapo, an Albanian and US national, is currently in US pre-trial detention following his extradition from Albania in 2010 to stand trial in a US federal court in New York on numerous serious criminal charges; while originally the intended charges included the possibility of the death penalty, this was later dropped. On 6 May 2011, 'Abd al-Rahim al-Nashiri lodged a complaint alleging mistreatment during detention at a secret prison in Poland, and that state's complicity in transferring him to the US Naval Base at Guantánamo Bay. He is due to be tried by a US military commission and could face the death penalty if convicted. The Parliamentary Assembly of Council of Europe adopted a resolution 1807 (2011) on the death penalty in Council of Europe member and observer states on 14 April 2011 in which it urged the USA, Japan and Belarus to move towards abolition.

In the **European Union**, the European Commission on 21 December 2011 brought into effect amendments to Council Regulation (EC) 1236/2005, concerning the trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment. These amendments added barbiturate anaesthetic agents to the list of items for which an export authorization is required, making it more difficult for medicinal products to be exported from the EU to countries where they could be used in executions. A guidance note was also published which gave advice to EU member states on how to assess the risk that such products might be used in executions. The European Parliament passed resolutions on the death penalty, and the High Representative of the EU for Foreign Affairs Catherine Ashton made statements on the death penalty throughout 2011. Among other things, they criticized the use of the death penalty in Iran, Bahrain and Gaza, and its potential implementation by military commissions in Guantánamo Bay and in India.

## MIDDLE EAST AND NORTH AFRICA

The uprisings in North Africa, starting in Tunisia and spreading to Egypt, Libya, Yemen, Bahrain, Syria, Iraq and elsewhere, changed the political landscape in North Africa and the Middle East dramatically. Long-standing rulers of Tunisia, Egypt, Libya and Yemen were toppled from power. However, initial hopes that this would also lead to positive changes with regard to the death penalty have yet to be realized.

The continuing violence in countries such as Libya, Syria and Yemen has made it particularly difficult to gather adequate information on the use of the death penalty in the region in 2011. No information was available about judicial executions in Libya in 2011, and no death sentences are known to have been imposed. Extrajudicial executions, torture and arbitrary detention were frequently reported instead.

At least 558 executions in eight countries could be confirmed in 2011: Egypt (1+), Iran (360+), Iraq (68+), the Palestinian Authority (3 in Gaza), Saudi Arabia (82+), Syria (+), United Arab Emirates (UAE) (1), and Yemen (41+). The UAE executed for the first time since 2008.

At least 750 death sentences were imposed in 15 countries in 2011: Algeria (51+), Bahrain (5), Egypt (123+), Iran (156+), Iraq (291+), Jordan (15+), Kuwait (17+), Lebanon (8), Morocco/Western Sahara (5), the Palestinian Authority (5+: 4 in Gaza; 1 in West Bank), Qatar (3+), Saudi Arabia (9+), Syria (+), United Arab Emirates (31+), Yemen (29+).

The authorities of Algeria, Jordan, Kuwait, Lebanon, Morocco/Western Sahara and Qatar imposed death sentences but continued to refrain from carrying out executions. Bahrain did not carry out any executions in 2011.

The number of countries executing and passing death sentences has slightly decreased in comparison to 2010. The total number of death sentences recorded as imposed in the region in 2011 has decreased by approximately a third. However, the number of confirmed executions increased by almost half; this is mainly due to very high numbers of executions in Iran, Iraq and Saudi Arabia. Decreases in the use of the death penalty, in comparison to previous years, were recorded in Lebanon, the Palestinian Authority and Tunisia. Of the 19 countries in the region, just four – Iran, Iraq, Saudi Arabia and Yemen – accounted for 99 per cent of all recorded executions.

In addition to continuing concerns over fair trials, worrying trends in large parts of the region included the increased use of military courts, as well as the imposition of the death penalty for drugs offences, which are not recognized as “most serious crimes” and for vaguely-worded political offences, including charges under anti-terrorism laws.

**Algeria**, where the 19-year-old state of emergency was lifted in February, is abolitionist in practice and has the potential to move towards full abolition. There have been no executions since 1993. However, at least 51 death sentences were imposed in 2011, mostly against people tried in their absence for terrorism-related offences.

No executions were carried out in **Bahrain** in 2011, but five people were sentenced to death for alleged killings committed during the protests which began on 14 February, lasted several months and drew a violent response from the government. These five were the first Bahraini nationals to be sentenced to death for more than 10 years.

Some 2,500 individuals were arrested in relation to the protests in Bahrain and most faced grossly unfair trials before a military court – the National Safety Court – set up under emergency rule. The state of emergency was lifted in June, but the National Safety Court continued to operate until October.

Four of the five death sentences were imposed against civilian protesters who were first tried in closed session before the National Safety Court and on 28 April were sentenced to death by firing squad on charges of killing two policemen during the unrest. The UN High Commissioner on Human Rights expressed deep concern over these sentences. On 22 May, Bahrain’s National Safety Appeals Court confirmed two of the death sentences – those against ‘Ali ‘Abdullah Hassan al-Sankis and ‘Abdelaziz ‘Abdelridha Ibrahim Hussain – but commuted the death sentences of the other two men to life imprisonment. A retrial before civilian courts of the two men whose death sentence had been upheld was postponed to 2012.<sup>56</sup>

# DEATH SENTENCES AND EXECUTIONS IN 2011 FACTS AND FIGURES

## EXECUTION METHODS

WERE

**BEHEADING**  
**HANGING**  
**LETHAL INJECTION**  
**SHOOTING**

## PUBLIC EXECUTIONS

WERE CARRIED OUT IN

**IRAN**  
**NORTH KOREA**  
**SAUDI ARABIA**  
**SOMALIA**

**58** ARE CLASSIFIED AS  
**RETENTIONIST**  
COUNTRIES

**20** CARRIED OUT  
**EXECUTIONS**  
COUNTRIES

**140**  
COUNTRIES ARE  
**ABOLITIONIST**  
IN LAW OR PRACTICE

**3** PEOPLE WERE  
**EXECUTED IN IRAN**  
FOR CRIMES COMMITTED WHEN THEY  
WERE BELOW 18 YEARS OF AGE

**BELARUS**  
WAS THE ONLY COUNTRY  
IN EUROPE AND THE FORMER SOVIET UNION  
TO EXECUTE

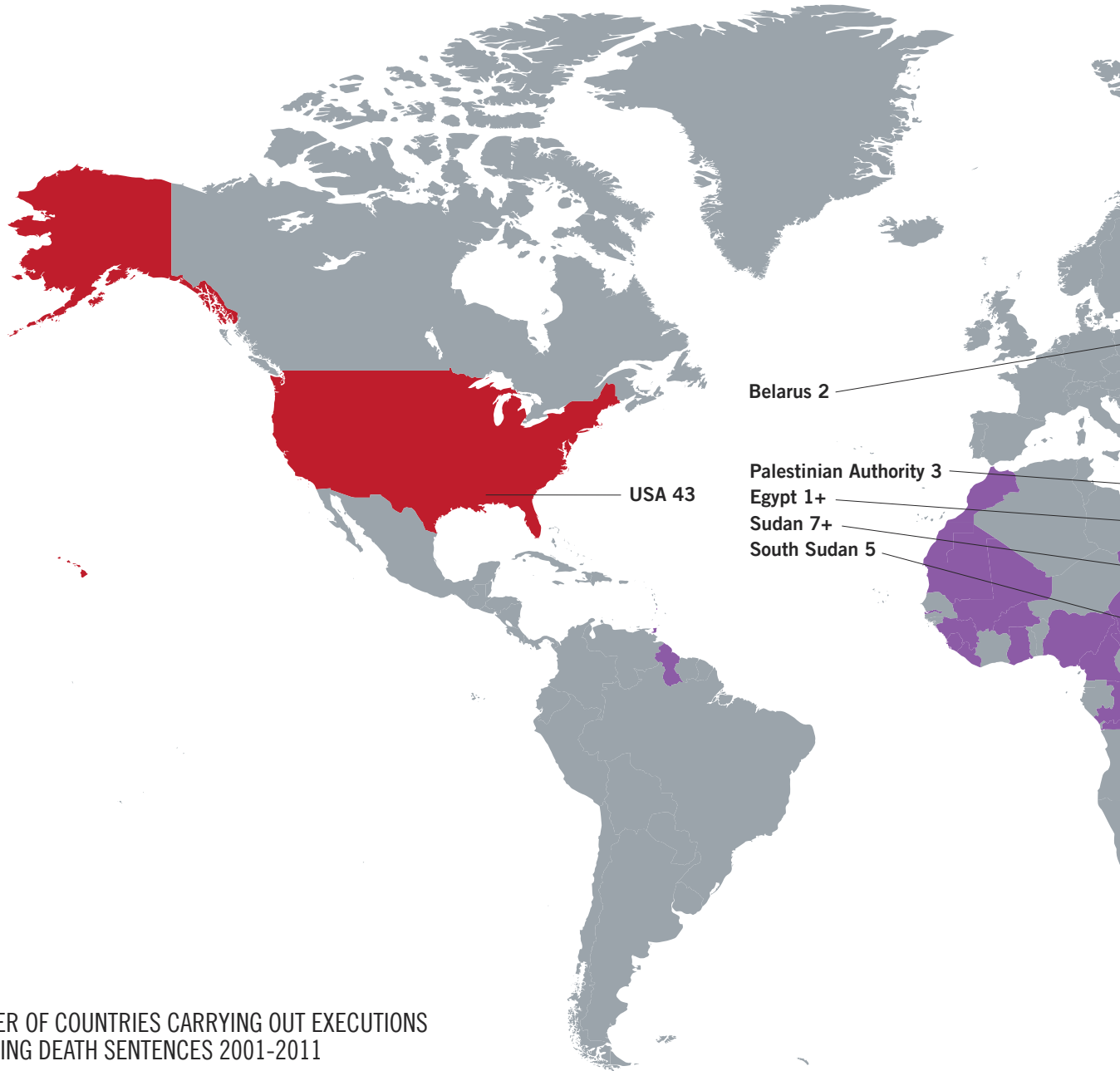
**18,750** PEOPLE  
WERE UNDER SENTENCE  
OF DEATH

**USA**  
WAS THE ONLY COUNTRY IN THE G8  
TO EXECUTE

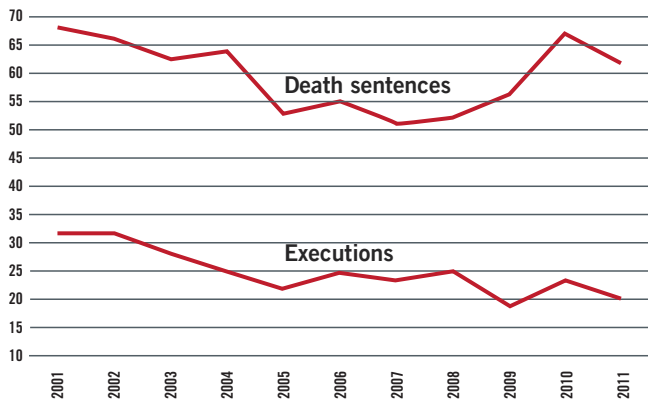
FOR THE FIRST TIME IN 19 YEARS  
**NO EXECUTIONS**  
WERE RECORDED IN  
**JAPAN**



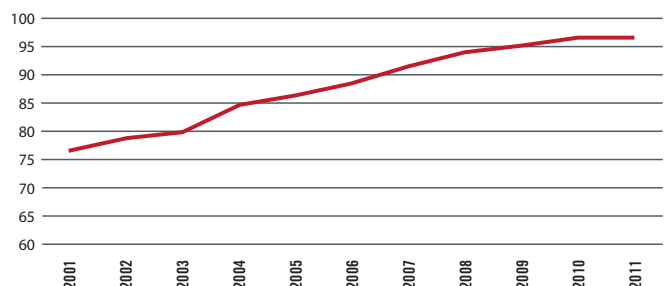
# EXECUTIONS AND DEATH SENTENCES IN 2011

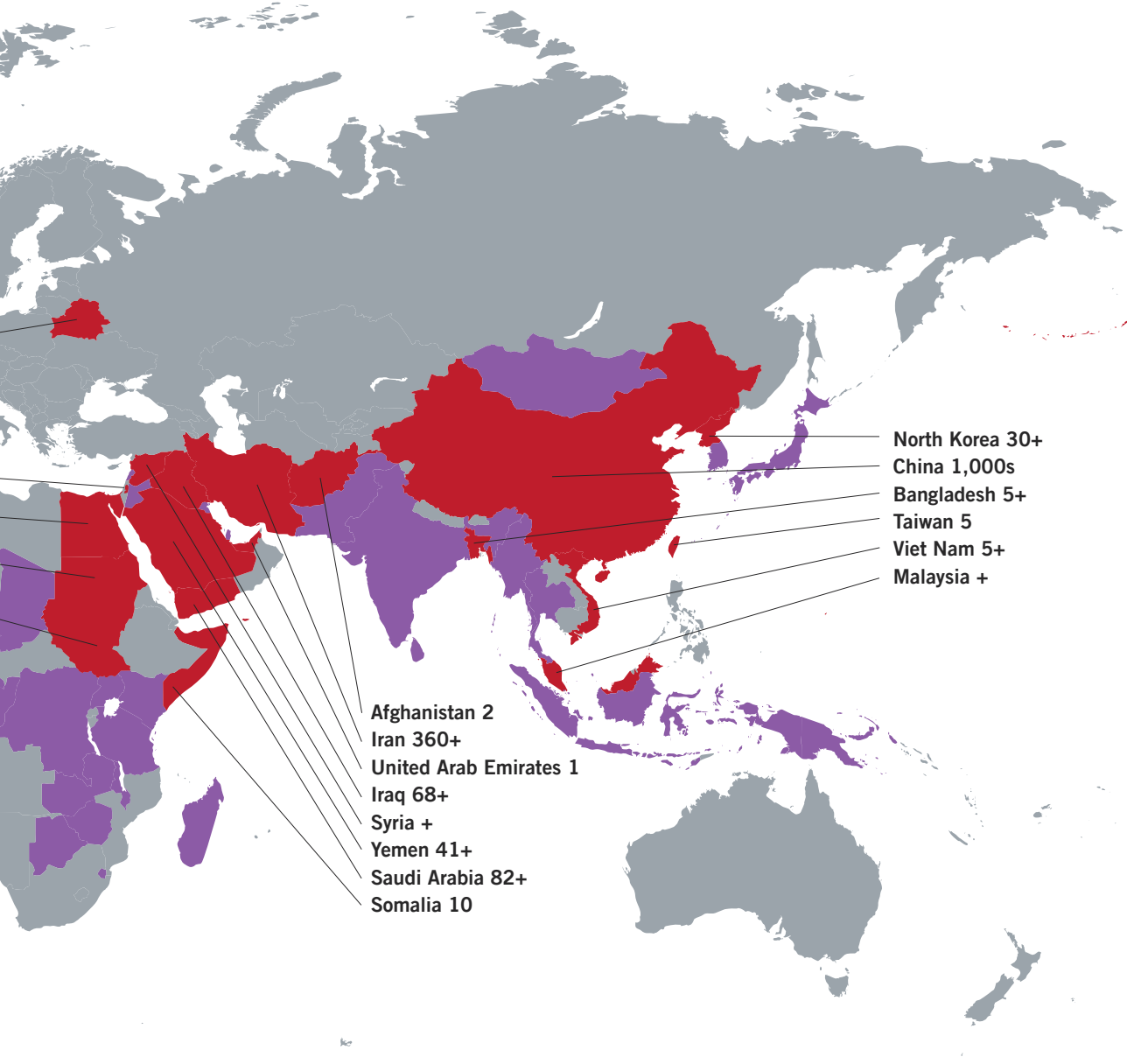


THE NUMBER OF COUNTRIES CARRYING OUT EXECUTIONS AND IMPOSING DEATH SENTENCES 2001-2011



THE NUMBER OF COUNTRIES ABOLITIONIST FOR ALL CRIMES 2001-2011





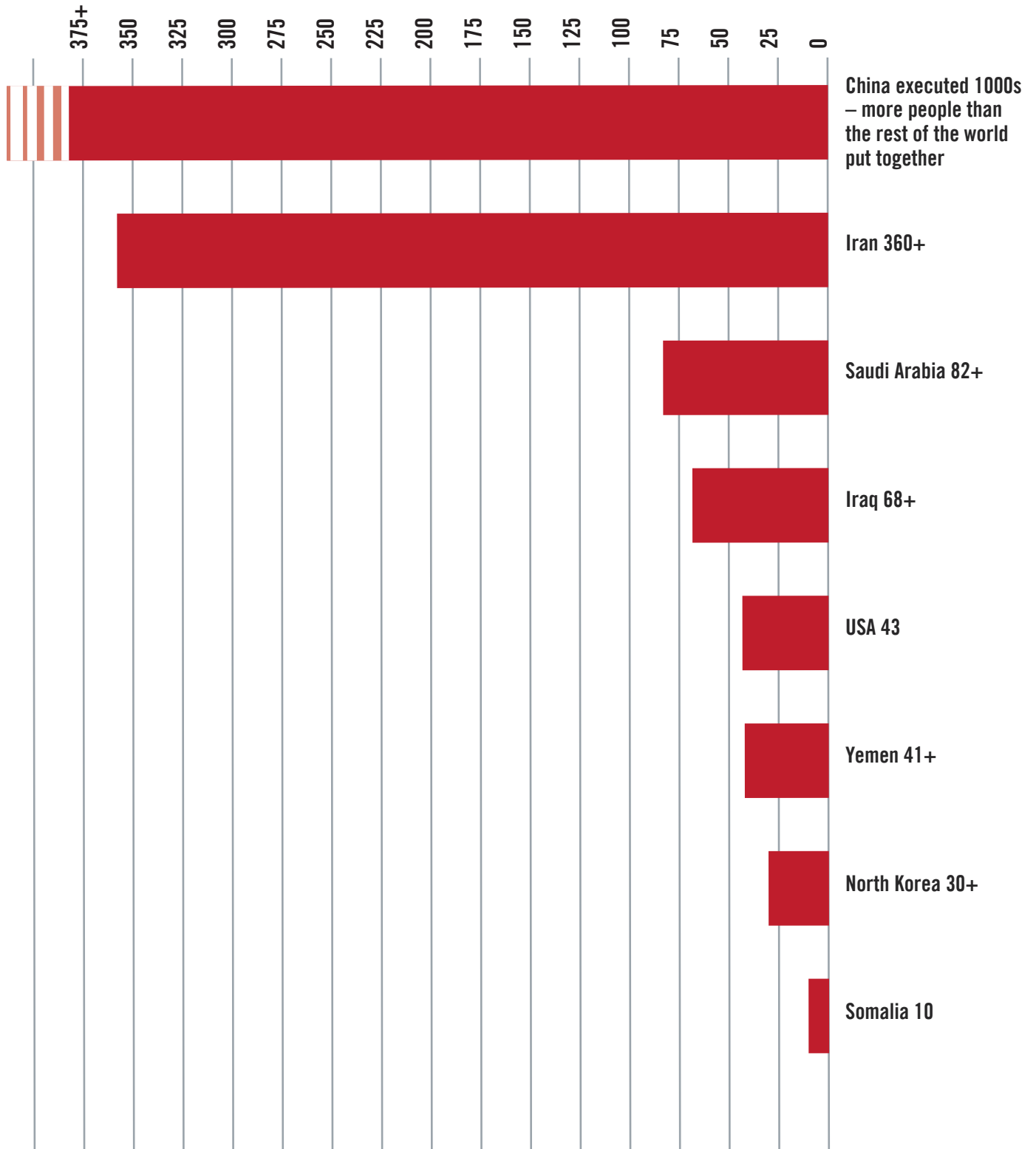
Countries with executions and death sentences, with number of executions

Countries with death sentences only

+ indicates that the figure Amnesty International has calculated is a minimum. Where + is not preceded by a number, it indicates that there were executions (at least more than one) but that it was not possible to specify a figure.

This map indicates the general locations of boundaries and jurisdictions and should not be interpreted as Amnesty International's view on disputed territory.

# COUNTRIES WITH THE HIGHEST NUMBER OF EXECUTIONS IN 2011



In September, a fifth protester, Ali Yousef Abdulwahab al-Taweel, was sentenced to death for the killing of a policeman and for joining illegal gatherings for "terrorist goals" in Sitra during the unrests; his case was awaiting appeal at the end of the year. In November the Bahrain Independent Commission of Inquiry, set up to investigate and report on the events in Bahrain in February and March 2011 and their consequences, recommended that death sentences arising out of these events should be commuted, in the light of the preference of Article 6 of the International Covenant on Civil and Political Rights (ICCPR) for the abolition of the death penalty and the concerns identified by the Commission in regard to the fairness of trials conducted by the National Safety Court.

In **Egypt** at least one person was executed and at least 123 death sentences imposed. On 16 January, Mohamed Ahmed Hussein was sentenced to death by an Emergency Supreme State Security Court for the killing of six Coptic Christians and a Muslim police guard in a drive-by shooting in January 2010. He was executed by hanging on 10 October 2011, the World Day against the Death Penalty, and one day after a bloody crackdown by authorities on Coptic protesters in Cairo. Both the original death sentence and the execution followed situations of sectarian violence, making it likely that the execution was an attempt by the authorities to stem the public outrage. Following further violent sectarian clashes in Imbaba in early May, the Minister of Justice announced that the death penalty would be used to punish "thuggery and sectarian incitement".

On 11 February, Hosni Mubarak, who had ruled Egypt for 30 years, announced his resignation after mass protests. On 3 August, proceedings began against Hosni Mubarak, together with his former interior minister Habib El Adly and four aides for their role in the killing and injuring of protesters during the uprising, as well as corruption.<sup>57</sup>

The Supreme Council of the Armed Forces (SCAF), after taking power, maintained the state of emergency continuously in force since 1981, and expanded the potential application of the death penalty. The SCAF added new offences to the already wide range of capital crimes in Egypt, stating that they are to be used to combat "thuggery", rape and sectarian violence. Under decree issued on 14 March 2011, the Penal Code was amended with two articles on "Hooliganism, Terrorizing and Thuggery", which are now punishable by death if accompanied by the crime of murder. On 1 April, the SCAF announced the death penalty for convicted rapists if the victim was under 18 and that the law would also apply to juvenile offenders.

Since the SCAF took power, military courts have also handed down death sentences against civilians following unfair trials. These military courts, whose judges are serving members of the military, do not provide the safeguards prescribed by international law, including fair and public trials by independent tribunals and the right to effective appeals. The military judiciary stated that in the months February to August, some 12,000 had faced prosecution by the military judiciary. At least 17 people have reportedly been sentenced to death by military courts.

The Committee on the Rights of the Child, in its concluding observations of 17 June 2011, expressed concern at reports that a person was sentenced to death for an offence committed while he was under 18, in possible violation of national and international law, and urged an investigation into the case.<sup>58</sup> The SCAF later announced that the person in question was 21.



Excluding China, **Iran** is the only country where Amnesty International confirms hundreds of executions every year. As in other years, the organization believes that there are a large number of additional judicial killings, not officially acknowledged. In 2011 Iran was also one of the few countries in the world which exhibited an upward trend in the use of the death penalty overall. Amnesty International registered a marked rise in executions in 2011 continuing an increase begun in mid-2010. This was mostly due to a very high number of executions for alleged drugs offences.

Amnesty International recorded 360 executions acknowledged by judicial or officially licensed media sources within Iran. Among these were at least four women and three individuals who were under the age of 18 at the time the alleged crimes were committed. However, it is believed that the true number is likely to be considerably higher.<sup>59</sup> Credible sources within and outside of Iran provided information that there were at least 274 reported but not officially confirmed additional executions in 2011, including at least 148 executions in Vakilabad Prison in Mashhad. This brings the total number of executions to 634. At least 50 public executions were carried out, a near-quadrupling of the number in 2010, despite a 2008 directive from the former Head of the Judiciary that public executions should not be carried without his permission.<sup>60</sup> At least 156 new death sentences were officially acknowledged, but the true number is probably much higher.

Accurate and complete information about the number of people under sentence of death in Iran is not published by the authorities and the legal situation in many individual cases often remains unclear for months, sometimes for years. The lack of information is exacerbated by the fact that families or lawyers may have only very limited access to the convicted person, but also by contradictory statements between various branches of government, and between regional and central authorities. It seems that in some cases the government may be deliberately creating confusion for political purposes, and to test the reaction of the international community.

The scope of the death penalty is very broad in Iran. At least three executions were carried out for “sodomy”, and one execution for “spreading corruption on earth” and “apostasy” from Islam. In another case a Christian pastor, Yousef Nadarkhani, was sentenced to death by hanging for “apostasy”; the outcome of a re-trial was pending at the end of the year. A new Anti-Narcotics law came into force on 4 January 2011, expanding the application of the death penalty even further. The most recent changes introduced the death penalty for trafficking or possessing more than 30 grams of specified synthetic, non-medical psychotropic drugs; and for recruiting or hiring people to commit any of the crimes under the law, or organizing, running, financially supporting, or investing in the commitment of any of the crimes under the law, where the original crime itself is punishable with life imprisonment. The altogether 17 offences that carry the death penalty in the new law include a mandatory death sentence for the “heads of the gangs or networks”, although there is no definition given for a gang or network.

When official and unofficial sources are combined, at least 488 people were executed for alleged drug offences in 2011; this is more than three quarters of the total of 634 acknowledged and unacknowledged executions for all crimes for 2011, and nearly a threefold increase on the 2009 figures, when Amnesty International recorded at least 166 executions for similar drug offences. Members of marginalized groups – including impoverished

communities, ethnic minorities that suffer discrimination, and foreign nationals, particularly Afghans – are most at risk of execution for drugs offences. There may be as many as 4,000 Afghan nationals on death row for drugs offences. Children convicted of drug offences are also on death row.

Iranian activists have expressed their fear that the government may use the cover of its “war on drugs” to execute political opponents.

On 2 January 2011, **Zahra Bahrami**, a dual Iranian-Dutch national, was sentenced to death for an alleged drugs offence, and executed on 29 January, apparently in Evin Prison, after months in *incommunicado* detention and an unfair trial in which she did not have the right to appeal. She had originally been arrested in 2009 in the aftermath of demonstrations related to the disputed presidential election earlier that year and was awaiting the completion of her trial on charges relating to the demonstrations and her alleged contacts with a banned opposition group. Her body was never given back to her family, and was buried so far away that the family could not attend the funeral.

**Mohammad Jangali**, a 38 year old trainee truck driver from the Kouresunni minority, was executed on 10 October 2011 after drugs were found in a truck he was driving in 2008. He is believed to have signed a "confession" prepared by the Ministry of Intelligence under torture. His family was given no information about the case by the authorities until they were contacted by the prison to say that he would be executed in eight hours and they should come now if they wanted to see him. He maintained until his death that he had not known that the truck contained drugs.

The Iranian authorities continued to execute political prisoners, and to use the death penalty as a tool against minorities.

**Hossein Khezri**, a member of Iran's Kurdish minority was executed on 15 January 2011 after being convicted of *moharebeh* due to his membership of the Party For Free Life of Kurdistan (PJAK). He said in a letter written in October 2010 from Oroumieh Prison that he was tortured after his arrest. He claimed that the torture took place in detention centres belonging to the Revolutionary Guards in Kermanshah and Oromieh, north-west Iran and also at a Ministry of Intelligence detention facility, by methods including beatings for several hours a day; threats against himself and his family; kicks to the genitals which caused bleeding and severe swelling for 14 days; kicks to the legs resulting in an 8cm wound which was still open in late 2010; and harsh baton blows to the entire body for 49 days, causing bruising and inflammation. He said that he complained about his treatment and was then moved for three days to an Intelligence Ministry facility in February 2010 where he was interrogated about his complaint, but his request for an investigation into the complaint was rejected. Kurdish political prisoner **Zeynab Jalalian** learned in December her death sentence had been commuted.

Over the past two years, politically motivated executions were carried out in relation to the unrest following the disputed presidential election of 2009. Several take place specifically each January, which is seen as a warning to potential opposition protesters ahead of yearly celebrations marking the anniversary of the Iranian Revolution on 11 February. For the past three years, the Iranian authorities have stepped up their efforts to curtail freedom of expression in public media. The 2008 Audio-Visual Crimes law, which provides for the death penalty, was strictly enforced in 2011, including against persons associated with media outlets critical of the government and technical web administrators. These prosecutions were seen as part of the overall strategy of the Iranian government to stifle dissent, including on the internet and by cutting SMS services, filtering websites and blocking social networking

sites like *Facebook*, electronically attacking websites critical of the government, as well as targeting journalists, bloggers and film industry workers for repression.

**Gholamreza Khosravi Savajani**, an alleged supporter of the People's Mojahedin Organization of Iran (PMOI) was sentenced to death in late 2011 after being convicted of "*moharebeh*" (enmity against God) in connection with his alleged support to the pro-PMOI TV station *Sima-ye Azadi* (Voice of Freedom). Three further alleged PMOI supporters – Ali Saremi, Ja'far Kazemi and Mohammad Ali Haj Aghaei were executed in Iran between 26 December 2010 and 24 January 2011 on the same grounds.

Concerns over grossly unfair trials, including lack of access to effective legal representation and a real appeals process, remained high. Some defendants are forced to make televised "confessions" before trials begin, prejudicing the presumption of their innocence. Access to lawyers is often denied, as is access to consular assistance in the case of foreign defendants, particularly Afghans and those holding dual nationality. The opportunity for defendants to exercise their right to appeal, as required by international law, was severely curtailed. Under the Code of Criminal Procedures, sentences of more than 10 years' imprisonment, amputation, flogging or death can be appealed to the Supreme Court. In cases of drugs offences prosecuted under the Anti-Narcotics Law, those sentenced to death seem not to have any right to appeal at all. Under the law, death sentences must be confirmed by either the Head of the Supreme Court or the Prosecutor General, but reports indicate that all such sentences are now being passed to the Prosecutor General. Convicts retain the possibility of a pardon by the Supreme Leader on the recommendation of the Amnesty and Clemency Commission. Prisoners, especially those held for political reasons, are often held in solitary confinement in pre-trial detention for weeks, months or even occasionally years. There were many credible reports of torture and other ill-treatment, mainly before, but sometimes after trial. Families and lawyers of those accused often received little or no warning that executions were due to take place, despite the requirement in Iranian law that lawyers should be notified 48 hours in advance of their clients' execution. In some cases, family members have said they had to pay money to the Iranian authorities for the return of their relatives' bodies.

Executions are usually carried out by hanging, sometimes in public using large construction cranes. In July, the Japanese crane company Tadano, announced it would discontinue selling cranes to Iran for this reason. The Iranian authorities contend that judicial killings in the form of "retribution" (*qesas*) in punishment for alleged murder under Islamic law do not fall under the death penalty, and state that such cases involved private rights of the victims' families which could not be overruled by the judiciary.<sup>61</sup> However this contention is not accepted in international law, as the death sentences are still imposed and carried out by state authorities. Additionally, the associated possibility of a *diyeh* settlement – the family's forgiveness in return for possible monetary compensation – does not fulfill the requirements for state clemency under international law even if a state court accepts this "private pardon" and commutes the death sentence.

Some executions are carried out in secret, which means that they are not publicly reported by the authorities and neither the condemned persons' families nor their lawyers are given adequate notice of the execution. According to local activists, the prisoners themselves are informed only hours before they are killed. On 21 December, Ayatollah Sadegh Larijani, Head of the Judiciary, categorically denied that any secret executions took place in Iran. Mass executions are sometimes carried out in prisons, which may involve between 20 and 60

persons at the same time. In Vakilabad prison, individuals are hanged from long beams in prison hallways. Mass executions also take place in other prisons.

Iran was the only country worldwide in 2011, as in 2010, to still execute juvenile offenders – those under the age of 18 at the time the crime was committed. Such executions are strictly prohibited under international law. Amnesty International continues to record such executions, despite Iranian officials' claims that these are no longer taking place.<sup>62</sup> Most juvenile offenders who are executed in Iran have been convicted of murder, but some death sentences are imposed on children convicted of alleged drugs offences. According to official reports, two juvenile offenders were executed in the southern port of Bandar Abbas in April. A third, Ali Reza-Molla Soltani, was publicly hanged on 21 September in Golshahr Square in Karaj, near Tehran, where he had stabbed a man, which he claimed he had done in self-defence. The Iranian authorities claimed that he was already 18 according to the “shorter Islamic calendar”. In addition, Amnesty International received reports of a possible four other executions of juvenile offenders.

In November, Iran's Supreme Court approved the death penalty for Shayan Omidi, and one adult, for murder and robbery. Shayan Omidi was reportedly only 16 when he committed the crime in October 2010. At the end of 2011, Amnesty International had compiled a list, begun in 2008, containing 145 names of juvenile offenders on death row in Iran, although it has proved difficult to monitor the fate of the individuals in all cases.

Women make up only a very small proportion of the total number of people sentenced to death and executed in Iran. Most have been convicted of murder, but some women face capital punishment after engaging in small-scale drug trafficking to feed their families. Three women – Hourieh Sabahi, Leila Hayati and Roghieh Khalaji, all mothers of dependent children – were executed in September 2011 for small-scale drug trafficking. At least 14 women and men faced stoning to death after conviction of “adultery while married”, although no such sentence has actually been carried out since 2009. Sakineh Mohammadi Ashtiani remained at risk of execution throughout the year. Sentenced to stoning in 2006 as well as to a prison sentence for her alleged role in the murder of her husband, the Iranian authorities reportedly discussed in December 2011 whether she could be executed by hanging instead.

A small but growing Iranian anti-death penalty movement, mostly composed of Iranians in exile, became more visible in 2011. Participants include human rights defenders and their lawyers, who had to flee Iran to countries such as Turkey.

Amnesty International is also aware of at least nine lawyers who are currently held in detention in Iran apparently on account of their defence work for other human rights activities, or the legitimate exercise of their freedom of expression. Despite this, Mohammad Javad Larijani, the Secretary General of the Iranian Judiciary's High Council for Human Rights, stated at a UN conference on 16 November 2011 that “[n]o lawyer is in prison because he is a lawyer or he is a defender of human rights.”

Human rights lawyer **Abdolfattah Soltani** was arrested on 10 September 2011 and was held pending completion of his trial on charges of alleged “relations with terrorist groups”, “spreading propaganda against the system”, “establishing an illegal group opposed to the system” [the Centre for Human Rights Defenders], and “gathering and colluding with intent to harm state security”. He is also facing a further charge relating to

his acceptance of what the authorities have termed “an unlawful prize” – the Nuremberg International Human Rights Award which he was awarded in 2009, although he was banned from travelling to Germany to accept it.

The use of the death penalty in Iran received substantial attention at the UN. In February the UN High Commissioner for Human Rights, the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on the independence of judges and lawyers, warned in public statements of the dramatic surge in death sentences in Iran, that were carried out in the absence of internationally recognized safeguards. Throughout the year, the UN Secretary-General drew special attention to increasing number of cases in which political prisoners were accused of *moharebeh* (enmity against God) offences which carry the death penalty.<sup>63</sup> In Iran’s law, *moharebeh* relates to the use of armed violence; however the UN High Commissioner for Human Rights, UN Special Procedures mandate holders and other independent experts have repeatedly questioned the problematic and arbitrary nature of such charges. The Special Rapporteur on the situation of human rights in the Islamic Republic of Iran, in his report to the UN General Assembly in September, expressed particular concern over secret group executions inside prisons as well as public executions.<sup>64</sup> A fourth Special Rapporteur, on torture and other cruel, inhuman or degrading treatment or punishment, on 22 September joined his colleagues in a public call on the government of Iran to immediately implement a moratorium on the death penalty particularly in drug-related and juvenile cases. The Human Rights Committee, in its concluding observations of 2 November 2011 on Iran’s country report, expressed its concerns in relation to the fact that members of the lesbian, gay, bisexual, and transgender community faced harassment, persecution, cruel punishment and even the death penalty; the wide range and often vague definition of offences for which the death penalty is applied; and the continued use of public executions as well as stoning as a method of execution. It also noted with concern the high incidence of state executions in ethnic minority areas, the continued execution and sentencing to death of minors, and that Article 225 of the draft Penal Code provided for a mandatory death penalty for convicted male apostates.<sup>65</sup>

The government of **Iraq** rarely discloses information about executions, especially names of those executed and exact numbers. According to Amnesty International information, at least 68 people were executed in Iraq, including two foreigners and three women. Hundreds of people were sentenced to death; 735 death sentences were referred to the Iraqi Presidency for final ratification between January 2009 and September 2011, of which 81 have been ratified. Most death sentences were imposed, and executions carried out, on people convicted of belonging to or involvement in attacks by armed groups, including murder, kidnapping, rape or other violent crimes.

On 16 November, 11 people, including one woman, convicted of terrorism-related offences, were reported to have been executed in al-Kadhimiya Prison in Baghdad. Among the executed men were an Egyptian and a Tunisian national, Yosri Trigui, who was arrested in 2006 by US forces for his alleged involvement in terrorism-related acts. He was sentenced to death by the Central Criminal Court of Iraq (CCCI) for his alleged involvement in a bomb attack in Samarra the same year, in a trial that did not appear to meet international standards. The intervention of Tunisian Ennahda leader Rached Ghannouchi had initially led to a short postponement of the execution.

Trial proceedings before the CCCI were very brief, often lasting only a few minutes before

verdicts are handed down. Defendants in criminal cases often complained that “confessions” are extracted under torture and other ill-treatment during pre-trial interrogation. They were often held incommunicado in police stations or in detention without access to their legal representatives or relatives, not brought before an investigative judge within a reasonable time and not told of the reason for their arrest. The “confessions” extracted from them are often accepted by the courts without taking any or adequate steps to investigate defendants’ allegations of torture. The “confessions” are also frequently broadcast on the Iraqi government-controlled satellite TV Al Iraqiya, which undermines the presumption of innocence.

On 27 April 2011, the Court of Cassation in Baghdad upheld the 2006 death sentence against **Mu’ayyad Yassin ‘Aziz ‘Abdel-Razzaq**, a former colonel of the Iraqi army under Saddam Hussein. He had been arrested by US forces and transferred to Iraqi custody in 2004. Between 2004 and 2006, he was allegedly tortured into signing a “confession” incriminating himself, and then brought before CCCI for the first time. His family told Amnesty International that they only found out about his place of detention, trial and death sentence through the news on TV in November 2006. They were allowed to visit him for the first time in 2009, over four years after he was arrested.

In December, it was announced that Tariq Aziz, deputy prime minister and foreign minister under Saddam Hussein, would be executed in 2012 after US forces had pulled out of the country. Aziz was sentenced to death in October 2010. It was also announced that a new law was under consideration that would require death sentences to be ratified by the president within 15 days of their being handed down.

A number of politicians in **Israel** called for the death penalty for two Palestinians accused of killing an Israeli family in the West Bank settlement of Itamar in March; however, they received multiple life sentences. Israel has only ever carried out one death sentence, on Adolf Eichmann in 1962.

No executions were carried out in **Jordan** since 2006, but reportedly at least 15 death sentences were imposed in 2011. Murder is punishable by death in Jordan but courts regularly commute sentences, sometimes because the victims’ families agree to allow leniency.

No executions were recorded in **Kuwait** since 2007, however, at least 17 new death sentences were imposed in 2011 for murder and drug-trafficking, including on three women. The death penalty is provided for by the country’s criminal code, aspects of which are based on Shari’a law. Capital cases in Kuwait often involve foreigners, both as alleged perpetrators and as victims. In January, an Egyptian man was sentenced to death for murdering his Filipina wife. Two Iranians and one Kuwaiti were sentenced in the first instance in March for spying for Iran; they have lodged appeals. In June three Bangladeshis were sentenced to death for the alleged murder of a taxi driver of the same nationality. A death sentence first imposed in 2010 against a Kuwaiti woman who allegedly set fire to the tent of a wedding party, killing 57 guests, was upheld by the Court of Appeals in June. This is only the second death sentence ever imposed on a woman in Kuwait.

In November 2011, the Human Rights Committee urged Kuwait to establish a formal moratorium on the death penalty. However, it also expressed concerns about the large

number of offences for which the death penalty can be imposed, including vague offences relating to internal and external security and drug-related crimes and “about the lack of clarity on the primacy of the [ICCPR] over conflicting or contradictory national legislation, including both Sharia law and matters not based in Sharia law”; the Committee recommended remedying violations of Article 6(2) of the ICCPR by removing those offences which do not constitute most serious crimes within the meaning of the ICCPR and to accede to the Second Optional Protocol to the ICCPR.<sup>66</sup>

No executions were carried out in **Lebanon** in 2011 for the seventh consecutive year, but according to local organizations eight new death sentences were issued in 2011, including to five people tried in their absence. At least three death sentences were imposed in trials by a military court on persons charged with collaborating with Israel. Under Lebanese law, executions require the approval of the president, the speaker of Parliament and the prime minister. At workshops on the occasion of the World Day Against the Death Penalty in October, several local NGOs called for the abolition of the death penalty. They alleged that the judiciary was defective and lacked independence, and cited a survey showing 53 per cent of respondents in favour of abolition and 70 per cent saying they did not trust the judicial system. Another NGO survey conducted in 2009 among members of parliament was reported to show that 74 per cent supported an “immediate or gradual abolition of the death penalty”.

No information was available about death sentences or executions in **Libya** in 2011. Large parts of the country were no longer under government control after February 2011, and the judicial system was mostly non-operational for much of the year. In the absence of functioning courts and in an apparent atmosphere of impunity, extrajudicial executions, torture and arbitrary detention were often resorted to instead, by both al-Gaddafi forces and opposition fighters.

Until the outbreak of the uprising and the subsequent armed conflict in late February, the death penalty and other cruel punishments remained in force for a wide range of offences. Since the overthrow of the government of Colonel Mu’ammar al-Gaddafi, there have been no changes in the law, but no death sentences are known to have been imposed as no trials have yet been held. Mu’ammar al-Gaddafi himself, some members of his family and a large number of alleged Gaddafi supporters were captured and unlawfully killed by opposition fighters. His son Saif al-Islam al-Gaddafi was captured and remained detained in Zintan by a militia outside the control of the central authorities at the end of the year. The Libyan authorities have declared their intention to try him in the country despite an existing arrest warrant issued by the International Criminal Court (ICC), and to seek the death penalty for his alleged role in the conflict. They are also seeking to try for possible capital crimes Abdullah al-Senussi, Libya’s former intelligence chief, similarly wanted by the ICC but at large at year end. In late November, the prosecutor of the ICC Luis Moreno-Ocampo said that Saif al-Islam al-Gaddafi could be tried in Libya despite concerns, expressed by Amnesty International among others, about whether the Libyan justice system, which had not been independent for over 40 years, could guarantee a fair trial without recourse to the death penalty.

Five death sentences were reported in **Morocco/Western Sahara** but no executions have been carried out since 1993. In October, Adil al-Atmani was sentenced to death for planning a bombing attack in Jamaa Lafna, Marrakech, under a 2003 anti-terrorist law that made crimes punishable by death if they are designated as terrorist crimes. In April, King Mohammed of

Morocco commuted five death sentences to terms of imprisonment as part of a larger pardon. In June, the director for penal affairs at the Ministry of Justice Mohamed Abdennabaoui stated that some 103 death row prisoners, including two women, were awaiting execution in Morocco.<sup>67</sup> He also said that the new constitution adopted on 1 July, which enshrined the right to life, would speed up the process to abolish the death penalty. Further planned steps include the reduction of the number of capital crimes from 30 to nine in line with the principle of “most serious crimes”.

No executions were reported from **Oman** in 2011, and during the year it was officially confirmed that this had also been the case in 2010.

Three men were executed in the **Palestinian Occupied Territories**, and at least five death sentences imposed. All executions took place in Gaza under the Hamas *de facto* administration, and were carried out without the approval of the President of the Palestinian Authority (PA) Mahmoud Abbas as required under Palestinian law. One death sentence was reported from the PA-controlled West Bank, but President Abbas has refrained from approving any executions. The PA and Hamas have their own cabinets, and use different legal texts in the administration of criminal justice on their respective territories. Both authorities use the 1979 Revolutionary Code of the Palestinian Liberation Organization (PLO) in military courts where the majority of death sentences are handed out. The Hamas administration uses the death penalty actively, while there is a draft Penal Code in the West Bank that abolishes this form of punishment. Palestinian law defines collaboration with Israel, murder and drug trafficking as capital crimes. The three executions in Gaza involved persons convicted by Hamas military courts of “collaborating with Israel”. On 5 May, one man was executed by firing squad for allegedly collaborating with Israel, and on 26 July, father Muhammad and son Rami Abu Ganas were executed by hanging for the same offence.

No executions were reported in **Qatar** for 2011, and during the year it was officially confirmed that this had also been the case in 2010. But at least three new death sentences were reportedly imposed in 2011.

Confirmed executions in **Saudi Arabia** more than tripled in 2011. At least 82 people – compared to at least 27 in 2010 – were executed, including 28 foreign nationals and five women. This reverses the continuous downward trend of the previous years and makes Saudi Arabia one of the few countries in the world where known executions had decreased year-on-year – since 2007 – only to increase sharply in 2011. At least nine death sentences were imposed although the real figures are believed to be much higher. Hundreds more people are believed to be under sentence of death, many of them foreign nationals convicted of drugs offences. Most of the prisoners did not receive a fair trial conforming to international standards. They often had no defence lawyer and in many cases have not been informed of the progress of legal proceedings against them. They may be convicted solely on the basis of confessions obtained under duress or deception.

Persons who were children at the time the alleged crimes were committed remained in detention under the sentence of death. Bandar bin Juza' bin Rumaithan al-Luhaibi, executed on 10 October 2011, was named in a Ministry of Interior statement as a “juvenile”, without however giving any indication of his age at the time of the alleged offence or the execution.



Many of those executed over the past years were foreign nationals, mostly migrant workers from developing countries in Africa and Asia. They remain particularly vulnerable to the secretive and summary nature of the criminal justice process. On 7 October, eight Bangladeshi male migrant workers were beheaded in Riyadh for the alleged murder of an Egyptian man in 2007. In reaction, home governments in countries such as Indonesia, Pakistan, the Philippines and Sri Lanka have increased efforts to intervene through diplomatic channels, secure legal representation, or even facilitate *diyah* payments to the victims' relatives, who under Saudi Arabian law can forgive convicts.

The brothers **Muhammad Jaber Shahbah al-Ja'id** and **Sa'ud Jaber Shahbah al-Ja'id** were at imminent risk of execution after their sentences were ratified by the King in April 2011. They had been sentenced to death in 1998 for murder following what appeared to have been unfair trial proceedings. According to lawyers who assisted them after their sentences, neither of the two brothers had access to a lawyer at the original trial and Sa'ud Jaber Shahbah al-Ja'id confessed to the murder under duress after the authorities arrested his elderly father to put pressure on him. The two brothers had spent over a decade in prison waiting for the children of the man who was killed to reach adulthood. In 2009, after all the children reached the age of majority, they informed the court that they would not accept *diyah* payments, and wanted the two men to be executed.

In 2011 Saudi Arabia applied the death penalty to a wide range of offences ranging from murder, rape, robbery and kidnapping to, sorcery and drugs-related offences. On 19 September a Sudanese national, Abdul Hamid bin Hussain bin Moustafa al-Fakki, was beheaded in Medina after being convicted on "sorcery" charges, and on 12 December a woman convicted of "witchcraft and sorcery" was executed. A draft for a new anti-terror law, the Penal Law for Terrorism Crimes and Financing of Terrorism, was tabled in 2011. The draft contains 27 instances where the death penalty could be applied, increasing the scope of the death penalty even further should the law be adopted. The draft law contains only vague definitions of relevant offences, but no provision prohibiting the imposition of the death penalty on juvenile offenders or on the mentally ill; it also lacks adequate safeguards to ensure fair trials.<sup>68</sup>

Death sentences continued to be imposed in **Syria**. There were unconfirmed reports of executions. In Syria the government does not inform the families of executed persons. The on-going violence, mainly directed by the government against peaceful pro-reform demonstrators, and the government's crack-down on members of civil society, made it even more difficult to monitor and gather information on the use of the death penalty.

In late December President Bashar al-Assad reportedly signed into effect a law allowing for a death sentence for anyone providing, or helping to provide, arms "intended for the carrying out of terrorist acts". This new law is targeting anti-government protesters, whom the Syrian government claimed to be "armed terrorists". These protests against the 40-year regime of the Assad family which have claimed the lives of more than 4,300 people, including 200 children, continued at year end.

Nobody has been executed in **Tunisia** since 1991. For the first time since 2008 no new death sentences were passed. On 14 January, after less than a month of largely peaceful protests in Tunisia, President Zine El Abidine Ben Ali fled to Saudi Arabia, abruptly ending 23 years of autocratic rule. According to official figures, at least 300 people died and 700 were injured during the uprising. In June, the justice ministry said that Zine El Abidine Ben

Ali would be tried in his absence if not extradited from Saudi Arabia, and that he could face the death penalty for murder and torture if convicted. After elections in October, in which the Islamist party Ennahda received the largest share of the votes, a new coalition government was formed. The new Constituent Assembly will draft a new constitution and a new interim President, Moncef Marzouki, a human rights activist and former Amnesty International prisoner of conscience, took office; both providing new opportunities to advance abolition of the death penalty.

On 1 February 2011, the Council of Ministers of the transitional Government in Tunisia announced its intention to ratify various international human rights instruments. Saber Ragoubi, originally sentenced to death in 2007 under the 2003 anti-terrorism law, was released in February as part of a general amnesty. In July Tunisia joined the Rome Statute of the ICC, which rejects the death penalty. In a meeting with Amnesty International Tunisia in December, President Marzouki confirmed his commitment for abolition of the death penalty, and that the policy not to execute will be maintained. In December the President successfully called on the government of Mali to pardon Bachir Simoun, a Tunisian national sentenced to death, and to return him to Tunisia. The intervention of Ennahda leader Rached Ghannouchi on behalf of another Tunisian, Yosri Trigui, sentenced to death in Iraq for an alleged bomb attack, only led to a short postponement, but in the end could not halt the execution.

The **United Arab Emirates** (UAE) resumed executions for the first time since 2008. On 10 February, Rashid Rabee al-Rashidi was executed by firing squad at a shooting range in Dubai. He had been convicted of raping and killing a 4-year old boy, Moosa Mukhtiar Ahmed, in a mosque in 2009. At least 31 death sentences were imposed, with at least 12 persons sentenced to death for smuggling drugs into the country. As in other countries in the sub-region, the death penalty is often imposed on migrant workers, especially from Africa and Asia, who suffer particular disadvantages in terms of effective legal assistance, being informed of the court proceedings and the final sentence, and the possibility of offering financial compensation (*diyah*) to victims' families.

Seventeen Indian migrant workers convicted for the murder of a Pakistani national, whose appeals processes were adjourned in late 2010, had their death sentences commuted on 12 September. The Court of Appeals in Sharjah reduced the sentence to two years imprisonment, already served, and the payment of *diyah*, after the victim's family accepted 3.4 Million AED (approximately 1 Million US\$) and dropped their request of retribution. However, they were still in detention at the end of 2011, as other criminal and civil charges were still pending in relation to the same incident.

In reaction to Amnesty International's report on the use of the death penalty in 2010, a judge at the Federal Supreme Court in early April 2011 reportedly rejected the organizations' findings, stating that capital offences had to be tried under Shari'a law. This demanded that only the victim's family, not the judges, could decide against the death penalty in murder cases, or otherwise the family would seek revenge. With regard to alleged death sentences for juvenile offenders he argued that adulthood depended on physical evidence of puberty. However, the Convention of the Rights of the Child (CRC) states that nobody below the age of 18 at the time the offence was committed may receive a death sentence. The UAE has been bound by the CRC since 1997. Press reports indicate that Dubai's Court of Cassation – the highest court in its own, separate legal system – generally adheres to the CRC; however, the

UAE's Supreme Court in Abu Dhabi has handed down death sentences to juvenile offenders in violation of international law.

The **Yemeni** authorities executed at least 41 people and sentenced at least 29 to death in 2011. The real number is believed to be higher. Official sources reported in 2011 that 62 executions were carried out in 2010, which surpasses the 53 recorded by Amnesty International for that year. Hundreds of people remained under sentence of death at year end. The death penalty was used extensively for a wide range of offences in Yemen, including for offences not involving lethal violence. Death sentences are often imposed after proceedings that fall short of international standards of fairness, and on individuals who may have been under the age of 18 at the time of the alleged crime.

Despite the fact that Yemeni law currently prohibits both the imposition and application of the death penalty for juveniles, executions of alleged juvenile offenders continued to take place because of disputes over whether they were over or under 18 years of age at the time of the alleged crime. In some cases this is unclear because they do not have a birth certificate. In January 2011 the Attorney General rejected final appeals against the death sentences for Muhammed Taher Thabet Samoum and Fuad Ahmed Ali Abdulla, who were possibly under 18 years old when they committed their alleged crimes in 1999 and 2004, respectively.<sup>69</sup> At that time, Amnesty International was aware of at least eight other people on death row who were possible juvenile offenders. In February and April, courts in Sana'a upheld death sentences imposed on a Syrian and Iranian, respectively, for bringing drugs into the country. This is in violation of international law, as drugs offences do not fall under "most serious crimes" for which the death penalty may be applied.

At the end of 2011, processes to write new constitutions were ongoing in **Egypt, Libya and Tunisia**, and constitutional reforms were being discussed in **Algeria, Bahrain, Syria and Yemen**.

## SUB-SAHARAN AFRICA

In 2011, Benin adopted legislation to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), aiming at the abolition of the death penalty; the law has yet to be promulgated. Sierra Leone declared an official moratorium on executions; it was confirmed that a moratorium was also in place in Nigeria. The Constitutional Review Commission in Ghana recommended the abolition of the death penalty in the new Constitution.

Amnesty International recorded at least 22 executions in three countries in sub-Saharan Africa in 2011: Somalia (10), South Sudan (5) and Sudan (7+). In 2010 the number of countries executing convicted prisoners was four (Botswana, Equatorial Guinea, Somalia and Sudan), with 19 executions in total, while in 2009 only two countries carried out executions (10 recorded executions in total in Botswana and Sudan). Executions in this region are rare and limited to a very small number of countries.

Amnesty International recorded at least 254 death sentences imposed in 25 countries in sub-Saharan Africa in 2011: Botswana (1), Burkina Faso (3), Cameroon (+), Chad (+), Democratic Republic of Congo (+), Republic of Congo (3), Gambia (13), Ghana (4), Guinea (16), Kenya (11+), Liberia (1), Madagascar (+), Malawi (2), Mali (2), Mauritania (8), Nigeria (72), Sierra Leone (2), Somalia (37+; TFG: 32+, Puntland: 4, Galmudug: 1), South Sudan (1+), Sudan (13+), Swaziland (1), Tanzania (+), Uganda (5), Zambia (48) and Zimbabwe (1+).

The continuing positive trend away from use of the death penalty in sub-Saharan Africa is demonstrated by the fact that in most countries where death sentences are still passed, these are few in number and rather exceptional across the year. Only in Nigeria, Somalia and Zambia, and to a lesser extent in Kenya, Mauritania and Sudan, are death sentences still a more regular feature of the criminal justice process.

On 18 August, **Benin's** National Assembly voted in favour of ratifying the Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty, but President Boni Thomas Yayi had yet to finalize the process of ratification by year end. While Benin's penal code still allows for the death penalty to be handed down for various offences, the last execution was carried out in 1987.

Nobody was executed in **Botswana** in 2011; however, one person was sentenced to death. Ten previous sentences were commuted or pardoned. One of these was the death sentence imposed in 2008 on South African born Michael Molefe for the murder of two Zimbabweans in 2000. On appeal, the court found there were extenuating circumstances, including that the murder was not premeditated, and Molefe's sentence was commuted to 20 years' imprisonment in May. The government hardened its stance on not giving any assurances to other countries that criminal suspects facing the death penalty would not be subjected to the death sentence if extradited to Botswana. According to a statement by the authorities in July, seven persons charged with murder in Botswana were present in South Africa, and Botswana was demanding their extradition.

In **Burkina Faso**, three new death sentences were imposed during the year, all for murder. One person was convicted in his absence. A draft bill aiming at ratification of the Second Optional Protocol to the ICCPR was prepared during 2011 and several government representatives made statements in favour of abolition. During a meeting with a delegation from Amnesty International in March, the then-Minister of Human Rights informed the delegation of her intention to request the ratification of the Second Optional Protocol. During a meeting with Amnesty International in December, the President of the National Assembly, Roch Marc Christian Kaboré, also expressed his willingness to support these efforts should the bill be introduced in parliament. The Minister of Justice Jérôme Traoré equally expressed his willingness to promote abolition. In December a workshop on abolition was held by Amnesty International Burkina Faso and other NGOs, drawing on experiences from neighbouring Benin.

No executions were reported, but death sentences continue to be imposed in **Cameroon**. According to a presidential decree issued on 3 November 2011, some prisoners on death row had their sentences commuted to life imprisonment. However the decree, the third one since 2009, excluded those who had been convicted of murder or aggravated robbery and did not

specify how many people had their sentences commuted. The government also informed Amnesty International in March 2011 that 17 people had been sentenced to death the previous year (2010), but the actual number of prisoners on death row remained unclear.

The Minister of Justice of the **Central African Republic (CAR)** Firmin Feindiro indicated his country's willingness to consider abolition during a conference on the death penalty in Rwanda in October 2011. He said that the death penalty was being maintained in CAR due to public opinion being firmly in favour of the death penalty, but that in light of the discussion at the conference his government would re-consider abolition. At that conference, officials from Rwanda and Namibia had argued that with regard to the death penalty, governments needed to show leadership in abolition, rather than to wait for public opinion to become supportive of this move first.

Death sentences continued to be imposed in **Chad** in 2011. Chad's government continued to demand the extradition of its former President Hissène Habré from Senegal, where he has been living since he was ousted in 1990. Habré had been sentenced to death in his absence in Chad in 2008 for planning to overthrow the government. The Senegalese authorities declared in 2011 that they did not intend to try him, despite repeated requests by the Committee against Torture and a 2006 decision by the African Union to that effect; nor would they extradite Habré to Belgium, where he faces charges for allegedly ordering the killing and torture of opponents between 1982 and 1990. In July, the Senegalese government threatened to extradite Habré to Chad, but this decision sparked a wave of protests and was not taken any further.

Three people were sentenced to death in the **Republic of Congo** in July after a court convicted them of trafficking human bones.

In the **Democratic Republic of Congo (DRC)**, the death penalty remains on the statute books, and death sentences continue to be handed down, including by military courts against civilians. The penal code provides for the death penalty in Article 5, with the method of execution to be determined by the President under Article 6. Also the Military Penal Code (Code pénal militaire) provides for the death penalty, and the manner of carrying out punishments is governed by the Military Justice Code. In June, a military court in Goma sentenced to death Ali Kambale for his involvement in the killing of three Indian UN peacekeepers in 2010. One soldier was sentenced to death in October by a military court in Mbandaka for the murder of a 19-year-old woman.

Draft legislation for a specialized mixed court to complement the International Criminal Court (ICC) on the national level with regard to violations of humanitarian law was adopted by the Council of Ministers in July, but ultimately rejected by the Senate. The draft provided for the death penalty as an applicable punishment. In October, the Minister of Justice and Human Rights, Luzolo Bambi Lessa, reportedly confirmed the suspension of the moratorium that had been in place from 1998 to 2002, and named a number of pre-conditions before abolition could be considered, including a more effective judiciary and police, and a lower level of insecurity in post-conflict DRC.

No executions were carried out in **Equatorial Guinea** and no death sentences imposed in 2011.

In **Eritrea**, official information on the use of the death penalty is very difficult to obtain. Thousands of political prisoners and prisoners of conscience continue to be held in arbitrary detention, some for up to 17 years. Most prisoners are not charged with a recognizable criminal offence and are not brought to trial. The government refuses to provide information on detainees, including their health status and location. People were reported to have been killed in detention. In this context, no new executions or death sentences were reported for 2011.

No executions or new death sentences were reported from **Ethiopia** in 2011. On 28 May, Ethiopian President Girma Woldegiorgis commuted to life imprisonment the death sentences of 23 high-profile members of the former government of Mengistu Haile Mariam, imprisoned since Mengistu's removal from power in 1991 and convicted of genocide in 2008 for their parts in killings and torture during the Mengistu era.

In July, the Human Rights Committee expressed concerns that the death penalty was still imposed by courts for crimes which appear to have a political dimension, as well as following in-absentia trials without adequate legal safeguards. The Committee recommended abolition of the death penalty, or to at least limit its application to "most serious crimes" and to ensure fair trial standards are respected in all cases. It also recommended the commutation of all death sentences and the accession to the Second Optional Protocol to the ICCPR.<sup>70</sup>

No executions were carried out, but 13 new death sentences were passed in **Gambia** in 2011. The sentences were handed down for murder but also for treason, after often grossly unfair trials. In April, the Court of Appeal confirmed death sentences for seven of the eight people on whom such sentences were imposed in 2010 for plotting to overthrow the Government. On 4 April, Gambia abolished the death penalty for drug-related offences, which had been extended only in 2010, and replaced it with life imprisonment. Amendments were also made to the Criminal Code Act and the Trafficking in Persons Act 2007, to make them compatible with the 1997 Constitution. Article 17(2) of the Constitution prohibits the death penalty for offences not involving violence, or the administration of a toxic substance, resulting in the death of another person.

No executions have been carried out since 1993, but four new death sentences were imposed in **Ghana**, including on one woman, in 2011. One hundred thirty-eight people, including four women, are on death row. In most cases, death sentences are commuted to life in prison after 10 years. In its Final Report presented on 20 December, the Constitutional Review Commission in Ghana recommended to the President that the death penalty should be abolished in the new Constitution. Any amendment to the Constitution to remove the death penalty would have to be approved by a national referendum.

In July, the recently elected President of **Guinea** Alpha Condé reportedly said that the death penalty did not exist anymore in Guinea. But in September 16 people were sentenced to death, eight in their absence, in the City of Kankan for their involvement in inter-ethnic violence in south-eastern region of Guinea in May.

Even though the mandatory death penalty for murder was declared unconstitutional by the Court of Appeal of **Kenya** in June 2010, mandatory death sentences for "robbery with violence" continued to be imposed. At least 11 death sentences were reportedly passed for

murder and violent robbery during 2011. In murder cases, court decisions are conflicting: some judges refuse to follow the 2010 precedent of the Court of Appeals which stated that mandatory death sentences in murder cases were unconstitutional.<sup>71</sup>

But in May the Attorney General conceded that Section 204 of the Penal Code must now be read in such a way that a trial judge retains the discretion not to impose the death penalty as may be warranted by the circumstances of the particular case. In June 2011, the High Court on appeal commuted a death sentence for murder to 30 years imprisonment and declared the mandatory death penalty still contained in the Penal Code to be incompatible with the right to life enshrined in the new constitution of August 2010, thereby confirming the 2010 precedent of the Court of Appeals.

In May, Justice and Constitutional Affairs Minister Mutula Kilonzo proposed that the death penalty should be included as a punishment for corruption in the proposed Ethics and Anti-Corruption Bill 2011. Muslim clerics in Mombasa called for an expansion of the death penalty to include religious leaders who engage in acts of sodomy, such as those involving children in the care of religious institutions.

In April 2011 the Special Rapporteur on extrajudicial, summary or arbitrary executions criticized Kenya for not implementing recommendations made by his predecessor in 2009, namely that Kenya should amend its death penalty laws so that it only applied to the crime of intentional deprivation of life, and would not be mandatory following conviction.<sup>72</sup>

In 2011, one new death sentence was imposed in **Liberia**, in continuing violation of Liberia's obligations as a state party to the Second Optional Protocol to the ICCPR, and despite a poorly functioning criminal justice system.

At the 16th session of the UN Human Rights Council in March 2011, Liberia acknowledged its international obligations under the Second Optional Protocol to the ICCPR, which it acceded to in 2005, and stated that it was holding consultations with a view to repealing the 2008 law imposing the death penalty for armed robbery, terrorism and hijacking offences, if these resulted in death. However, no further steps were taken to abolish the death penalty.

No executions were recorded, but death sentences continue to be imposed in **Madagascar**. According to official figures, 58 prisoners were on death row at the end of September 2011.

In **Malawi**, reports from within the country indicate that two new death sentences were imposed. All death sentences are commuted to life imprisonment in practice.

Courts imposed at least two new death sentences in **Mali** in 2011, although no executions were reported.<sup>73</sup> The draft bill for abolition adopted by the government in 2007 was re-tabled in 2011, but again postponed by the National Assembly. In November, Tunisian citizen Bachir Simoun was sentenced to death for "terrorism" after an attack on the French embassy on 5 January, allegedly on behalf of al-Qa'ida in the Islamic Maghred (AQIM), leading to the death of one Malian citizen. But the Malian President Amadou Toumani Touré pardoned Simoun on 15 December after the President of Tunisia Moncef Marzouki intervened successfully to halt the execution and asked for his extradition.

Although **Mauritania** has not carried out any executions since 1987, and there is no risk of imminent execution, death sentences continue to be handed down by courts. Eight death sentences were pronounced in 2011. In March, three people were sentenced to death for offences under the law against terrorism. These three people and 11 others, five of whom had been sentenced to death previously, were subjected to enforced disappearance and transferred to an unknown place of detention on 23 May, without access to their families and lawyers. On 15 May, the Criminal Court in Nouakchott imposed death sentences on three young men for murders committed when they were under 18 years of age, in violation of national and international law. However, on 8 December the Court of Appeal commuted the sentences to twelve years' imprisonment – the maximum sentence allowed under national law – and the payments of fines, following an appeal by the prosecutor.

No executions or death sentences were reported in **Niger**. During the Universal Periodic Review at the UN Human Rights Council (UPR) in February 2011, government representatives stated that Niger was continuing to develop a strategy for approval of the Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty, despite the National Consultative Council's rejection of a proposed order to abolish the death penalty in 2010.

There are approximately 830 death row inmates in **Nigeria's** prisons.<sup>74</sup> Since the move from military rule to democracy in May 1999, at least 750 people have been sentenced to death in Nigeria. During the same period, at least 22 people were executed, and possibly more. No executions have been carried out since 2006, but at least 72 new death sentences were imposed in 2011. Many death row inmates were sentenced following blatantly unfair trials or after more than a decade in prison awaiting trial. The majority of death sentences are imposed by courts at the state level. Under Nigeria's penal legislation, the following crimes carry a mandatory death sentence: treason; homicide; murder and culpable homicide punishable with death; and armed robbery. Under the Shari'a penal codes applicable in twelve northern states, rape, sodomy and adultery are also punishable with death.

In October, the Attorney General of the Federation and Minister of Justice stated that Nigeria had introduced an official moratorium on executions. However, no official gazette was issued to confirm this. A study group has been created to discuss the further use of the death penalty. However, in June, the scope of the death penalty was expanded to include supporting terrorism resulting in death. Provisions under the Terrorism Act are imprecise, too broad, and inconsistent with human rights standards for the lawful deprivation of liberty and fair trials. In October, the National Assembly discussed a bill extending the death penalty to kidnapping and hostage-taking.

In April 2011, on the occasion of the 50th anniversary of independence, the government of **Sierra Leone** pardoned at least four death row prisoners, including one woman, and commuted all other death sentences to life imprisonment, except that of Baby Allieu, who remained on death row after being sentenced to death for murder in November 2010. In December, a woman who was formerly on death row was discharged by the High Court after her conviction was overturned on appeal. She had been on bail since 2010. Nobody was executed, but two new death sentences were passed for murder, both in May.

In the UPR concluded on 22 September 2011, Sierra Leone accepted in principle



recommendations on a moratorium on executions, abolition of the death penalty, and ratification of the Second Optional Protocol to the ICCPR. The same month the Minister of Justice in a meeting with an Amnesty International delegation confirmed that Sierra Leone had established an official moratorium on the use of the death penalty. Amnesty International now considers Sierra Leone to be abolitionist in practice.

Ten executions were carried out and at least 37 people were sentenced to death in total in **Somalia**.<sup>75</sup> The Transitional Federal Government (TFG) resorted to a military court to deal with infighting among TFG-allied security forces, looting and crime, including crimes allegedly committed by or against civilians. An emergency decree was issued by the TFG President on 13 August 2011, following the withdrawal of al-Shabab, the armed Islamist group that controls much of the country, from the capital Mogadishu. The decree gave the TFG military court jurisdiction over all alleged crimes committed in some Mogadishu areas vacated by al-Shabab, including those committed by civilians. In Mogadishu, the TFG carried out six executions and imposed at least 32 death sentences, including on one woman, in 2011.

On 22 August 2011 two government soldiers convicted of murder by a military court of the TFG were executed, with no opportunity to appeal. On 29 August, the military court sentenced two further defendants, including a female civilian, to death for allegedly intending to sell ammunition to al-Shabab. In September the TFG military court sentenced to death at least 14 people.

Cases before the TFG's military court, established in 2009, have failed to respect fair trial standards, such as the right to present a defence and the right not to be compelled to testify against oneself. In addition, those convicted by the military court had no right to appeal and seek pardon or commutation of sentence. Further, civilians have been prosecuted before the TFG military court, in violation of international human rights standards. After the death sentence against a female civilian on 29 August, the TFG was reported to have given assurances that civilians tried by the military court would not be executed, and that civilians would be tried by ordinary courts in the future.

During the UPR, the TFG in September 2011 committed itself to work towards declaring a moratorium on the death penalty with a view to its eventual abolition, and to look into adopting the Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty. However, no follow-up to this promise was apparent at year end, and death sentences continued to be handed down by the military court.

Three executions were carried out, and at least four persons were sentenced to death, in the semi-autonomous region of Puntland. One person was sentenced to death and executed in Galmudug. No new death sentences were reported in the self-declared Republic of Somaliland.

The government of **South Africa** appealed a High Court decision that effectively prevented the removal of a person to Botswana where he was at risk of the death penalty. The South Gauteng High Court ruled on 22 September in the case of *Tsebe and one other v. the Minister of Home Affairs and eight others* that the deportation, extradition or removal of persons to a retentionist state, without having asked for and obtained written assurances that

they would not face the death penalty there under any circumstances, would be unconstitutional and unlawful. The High Court reconfirmed as established law that the death penalty in South Africa is “completely unconstitutional with no exceptions” and that the extradition of a person to a country where “they are likely to face the death penalty” was an unacceptable limitation on the right to life. On the occasion of the opening of the “Gallows Museum” at the Pretoria Central Correctional Centre on 15 December, President Jacob Zuma recalled that after the pain South Africa experienced, it democratically chose to outlaw the death penalty, stating that “[t]he South African State does not need to kill people to show that killing people or committing serious crimes is wrong.”

Since **South Sudan** became an independent state on 9 July, five persons were executed, four in November alone. All had been sentenced to death for murder. South Sudan carried over Sudan’s status as a retentionist country and the Transitional Constitution adopted in July provides for the death penalty. At least one new death sentence was imposed in 2011.

In South Sudan executions were conducted in three death rows, which exist at Juba Prison (Central Equatoria State), Wau Prison (Western Bahr el Ghazal State) and Malakal Prison (Upper Nile State). In early November, there were 91 condemned prisoners at Juba, 32 at Wau and 27 at Malakal. All those condemned were reportedly male and convicted of murder. Trials are often flawed, as many cases in the past have been tried without legal representation, conducted in Arabic even if the defendant does not understand that language, and without an effective appeals review. Once an execution warrant is issued and the condemned is transferred to death row, the prison service may facilitate a meeting of the prisoner with the victims’ families. This sometimes leads to a settlement, such as the payment of cattle in lieu of the death sentence. After execution, prison authorities bury the body if it is not claimed by relatives.

At least seven executions were carried out in **Sudan**. Seven prisoners in North Darfur had their death sentences under the 2005 Terrorism Act and the Sudanese Criminal Act upheld by the Special Criminal Court in North Darfur on 29 November. Two of them were under 18 years old at the time of the alleged crime. The seven prisoners are part of a group of ten people, allegedly affiliated with the Darfur armed opposition group “Justice and Equality Movement” (JEM), and were tried by the South Darfur Special Criminal Court in 2010 for a carjacking in May of that year. In June, the Supreme Court in Khartoum ordered a retrial due to the inclusion of minors in that trial. A further appeal was submitted to the Supreme Court on 4 December. During the UPR in May 2011, the government of Sudan accepted the recommendations to ensure that the death penalty would not be applied for juvenile offenders, in line with its Constitution and the Child Act of 2010.

In **Swaziland**, three people were under sentence of death at the end of the year, including one sentenced in 2011. In April, a decade after his arrest, David Simelane was sentenced to death by the High Court after being convicted of the murders of 34 women. He lodged an appeal. Although the 2006 Constitution permits the use of capital punishment, no executions have been carried out since 1983. During the UPR in October 2011, the Minister of Justice and Constitutional Affairs of Swaziland stated “though a retentionist state in law, it is abolitionist in practice”. He also confirmed the government’s intention to consider taking further steps towards abolition, and stated that since 1983 the sentences in 42 of the 45 death penalty cases had been commuted to life imprisonment.

Courts continued to hand down the death penalty for capital offences in **Tanzania**. During the UPR in October 2011, the delegation stated that Tanzania had not acceded to the Second Optional Protocol to the ICCPR because public opinion was still divided on the death penalty. The Minister of Good Governance Mathias Chikawe further stated that Tanzania had mechanisms in place restricting the application of the death penalty, leading to an unofficial moratorium on executions for the 16 previous years. A bill providing for a constitutional review process was signed into law on 29 November. Justice and Constitutional Affairs Minister Celina Kombani reportedly stated that the review would include the compatibility of the death penalty with the right to life enshrined in the constitution. A court petition filed by three local civil society organizations in 2008 challenging the constitutionality of the death penalty remained pending in the High Court.

In **Uganda**, five death sentences were imposed in 2011. Furthermore, legislative attempts to allow the death penalty for so-called "aggravated homosexuality" continued to be discussed. In May 2011 a draft bill, originally proposed in 2009, was adjourned after the country's parliament was officially dissolved. But its supporters remained intent on reintroducing the bill in the new parliament.<sup>76</sup> This law would entrench discrimination against and would sanction hatred and violence towards lesbian, gay, bisexual and transgender people.

On 11 November 2011 the High Court commuted the death sentences for Susan Kigula and Patience Nansamba's to prison sentences of 20 and 16 years, respectively. Both had been sentenced to death in 2002 due to a law prescribing a mandatory death sentence for all cases of murder, regardless of the individual circumstances. But in 2009 the Supreme Court of Uganda struck down Kigula's mandatory death sentence, and those of 417 other convicted persons. The High Court now held that an individualized assessment of these two cases did not warrant death sentences. Reportedly only about one third of the cases still remain from the 2009 Supreme Court judgement after other releases and commutations have had new hearings leading to individualized sentences. The practice of courts in re-sentencing seems to be very inconsistent, due in part to the absence of clear sentencing guidelines.

During the UPR in October 2011, the delegation of Uganda stated that the death penalty for capital offences had been retained as recommended by the Constitutional Review Commission, which had found that the majority of Ugandans supported the use of the death penalty for capital offences.

According to official information, 48 new death sentences were imposed in **Zambia**, for murder and "aggravated" robbery. Two hundred eighty eight persons were under the sentence of death by year end, including five women. Thirteen people had their death sentences commuted. On 16 November, President Michael Sata appointed a technical committee to undertake the drafting of the Constitution over the next twelve months.

At least one new death sentence was imposed in **Zimbabwe** in 2011. But no executions were carried out for the fifth consecutive year. In July, a trial against six Zimbabwean activists charged with treason began. They were arrested in February as they were attending a seminar on the uprisings in Egypt and Tunisia, organized by the university law lecturer and former MP for the Movement for Democratic Change (MDC) Munyaradzi Gwisai and entitled "what lessons can be learnt". This, the prosecution argued, implied the attendees were planning a similar revolt. While the treason charges were subsequently dropped, this offence can still

carry the death penalty in Zimbabwe.

During the UPR in October 2011, the delegation of Zimbabwe stated that abolition of the death penalty was under consideration as part of the process of writing a new Constitution, which started in 2010 and is supposed to be concluded in 2012. Defense Minister Emmerson Mnangagwa, a former justice minister and Zanu-PF legal secretary himself sentenced to death under colonial rule, and a former High Court judge reportedly have both called for abolition. In June, Acting Secretary for Justice and Legal Affairs Maxwell Ranga was reported to say that the cabinet had not acted for a number of years on execution papers for the then 55 persons on death row – which is a pre-requisite for execution – because of the possibility that the law will be changed in the constitutional review process.

At the end of 2011 Constitutional reforms were ongoing in **Ghana, Tanzania, Zambia and Zimbabwe**.

Existing bills to abolish the death penalty are still waiting full discussion in **Burkina Faso and Mali**. In **Benin**, the process of ratifying the Second Optional to the ICCPR is not yet completed.

At the end of 2011, 38 Member States of the **African Union** (AU), and of the African Charter on Human and Peoples' Rights (African Charter), were abolitionist in law (16) or practice (22). This means that at the regional level, more than two thirds of African countries do not use the death penalty anymore, just as globally over two thirds of all countries are abolitionist in law or practice. The African Commission on Human and Peoples' Rights (African Commission) continued discussions on an Optional Protocol to the African Charter, first proposed in 2010, which would provide for the abolition of the death penalty. On 2 May 2011, the member of the African Commission Zainabou Sylvie Kayitesi, in her report as Chairperson of the African Commission's Working Group on the Death Penalty in Africa during the 49th Ordinary session of the Commission in Banjul, Gambia, stated that "capital punishment ... represents a most grave violation of ... the right to life under Article 4 of the African Charter".

This view was supported by AU Commission Chairperson Jean Ping of Gabon at a Regional Conference on the Abolition or Moratorium on the Execution of the Death Penalty in Kigali, Rwanda, in October 2011. There he reportedly said "that the death sentence is a violation of [the African] Charter". He also expressed support for abolition and the upcoming vote on a new UN General Assembly calling for a moratorium in 2012. The conference was organized by the NGO Hands off Cain and the Rwandan Ministry of Justice. The President of Rwanda Paul Kagame stated that he did not believe the death penalty to be an effective deterrent, and that his country had wanted to clearly break with the violence of the past when it abolished the death penalty in 2007. The Ministers of Justice of Rwanda and Namibia pointed out that governments needed to show leadership even in the face of adverse public opinion and to convince the citizens that abolition is the right thing to do.

# ANNEX I: REPORTED DEATH SENTENCES AND EXECUTIONS IN 2011

This report only covers the judicial use of the death penalty. The figures presented are the largest that can safely be drawn from Amnesty International's research, although we emphasize that the true figures are significantly higher. Some states intentionally conceal death penalty proceedings, others do not keep or make available statistics on the numbers of death sentences and executions.

Where "+" is indicated after a country and it is preceded by a number, it means that the figure Amnesty International has calculated is a minimum figure. Where "+" is indicated after a country and is not preceded by a number, it indicates that there were executions or death sentences (at least more than one) in that country but it was not possible to obtain any figures. For the purposes of calculating global and regional totals, "+" is counted as 2.

## REPORTED EXECUTIONS IN 2011

China 1000s	Viet Nam 5+
Iran 360+	South Sudan 5
Saudi Arabia 82+	Taiwan 5
Iraq 68+	Palestinian Authority 3 (by the Hamas <i>de facto</i> administration in Gaza)
USA 43	Afghanistan 2
Yemen 41+	Belarus 2
North Korea 30+	Egypt 1+
Somalia 10 (6 by the Transitional Federal Government; 3 in Puntland; 1 in Galmudug)	United Arab Emirates 1
Sudan 7+	Malaysia +
Bangladesh 5+	Syria +

## REPORTED DEATH SENTENCES IN 2011

China +	Taiwan 16	Belarus 2
Pakistan 313+	Jordan 15+	Malawi 2
Iraq 291+	Sudan 13+	Mali 2
Iran 156+	Gambia 13	Sierra Leone 2
Egypt 123+	Kenya 11+	Trinidad and Tobago 2
India 110+	Japan 10	South Sudan 1+
Malaysia 108+	Saudi Arabia 9+	Zimbabwe 1+
Sri Lanka 106	Lebanon 8	Botswana 1
USA 78	Mauritania 8	Liberia 1
Nigeria 72	Indonesia 6+	Saint Lucia 1
Algeria 51+	Palestinian Authority 5+ (4 in Gaza; 1 in West Bank)	South Korea 1
Bangladesh 49+	Singapore 5+	Swaziland 1
Zambia 48	Bahrain 5	Afghanistan +
Thailand 40	Morocco/Western Sahara 5	Cameroon +
Somalia 37+ (32+ by the Transitional Federal Government; 4 in Puntland; 1 in Galmudug)	Papua New Guinea 5	Chad +
Myanmar 33+	Uganda 5	Democratic Republic of Congo +
United Arab Emirates 31+	Ghana 4	Madagascar +
Yemen 29+	Guyana 3+	Mongolia +
Viet Nam 23+	Qatar 3+	North Korea +
Kuwait 17+	Burkina Faso 3	Syria +
Guinea 16	Congo (Republic of) 3	Tanzania +

# ANNEX II: ABOLITIONIST AND RETENTIONIST COUNTRIES AS OF 31 DECEMBER 2011

More than two-thirds of the countries in the world have now abolished the death penalty in law or practice. As of 31 December 2011 the numbers were as follows:

Abolitionist for all crimes: 96

Abolitionist for ordinary crimes only: 9

Abolitionist in practice: 35

Total abolitionist in law or practice: 140

Retentionist: 58

Following are lists of countries in the four categories: abolitionist for all crimes, abolitionist for ordinary crimes only, abolitionist in practice and retentionist.

## 1. ABOLITIONIST FOR ALL CRIMES

Countries whose laws do not provide for the death penalty for any crime:

Albania, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Belgium, Bhutan, Bosnia and Herzegovina, Bulgaria, Burundi, Cambodia, Canada, Cape Verde, Colombia, Cook Islands, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Djibouti, Dominican Republic, Ecuador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Guinea-Bissau, Haiti, Holy See, Honduras, Hungary, Iceland, Ireland, Italy, Kiribati, Kyrgyzstan, Liechtenstein, Lithuania, Luxembourg, Macedonia, Malta, Marshall Islands, Mauritius, Mexico, Micronesia, Moldova, Monaco, Montenegro, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niue, Norway, Palau, Panama, Paraguay, Philippines, Poland, Portugal, Romania, Rwanda, Samoa, San Marino, Sao Tome and Principe, Senegal, Serbia (including Kosovo), Seychelles, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Sweden, Switzerland, Timor-Leste, Togo, Turkey, Turkmenistan, Tuvalu, Ukraine, United Kingdom, Uruguay, Uzbekistan, Vanuatu, Venezuela

## **2. ABOLITIONIST FOR ORDINARY CRIMES ONLY**

Countries whose laws provide for the death penalty only for exceptional crimes such as crimes under military law or crimes committed in exceptional circumstances:

Bolivia, Brazil, Chile, El Salvador, Fiji, Israel, Kazakhstan, Latvia, Peru

## **3. ABOLITIONIST IN PRACTICE**

Countries which retain the death penalty for ordinary crimes such as murder but can be considered abolitionist in practice in that they have not executed anyone during the past 10 years and are believed to have a policy or established practice of not carrying out executions:

Algeria, Benin, Brunei, Burkina Faso, Cameroon, Central African Republic, Congo (Republic of), Eritrea, Gambia, Ghana, Grenada, Kenya, Laos, Liberia, Madagascar, Malawi, Maldives, Mali, Mauritania, Morocco, Myanmar, Nauru, Niger, Papua New Guinea, Russian Federation<sup>77</sup>, Sierra Leone, South Korea, Sri Lanka, Suriname, Swaziland, Tajikistan, Tanzania, Tonga, Tunisia, Zambia.

## **4. RETENTIONIST**

Countries that retain the death penalty for ordinary crimes:

Afghanistan, Antigua and Barbuda, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Botswana, Chad, China, Comoros, Democratic Republic of the Congo, Cuba, Dominica, Egypt, Equatorial Guinea, Ethiopia, Guatemala, Guinea, Guyana, India, Indonesia, Iran, Iraq, Jamaica, Japan, Jordan, Kuwait, Lebanon, Lesotho, Libya, Malaysia, Mongolia, Nigeria, North Korea, Oman, Pakistan, Palestinian Authority, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Somalia, South Sudan, Sudan, Syria, Taiwan, Thailand, Trinidad And Tobago, Uganda, United Arab Emirates, USA, Viet Nam, Yemen, Zimbabwe.



# ANNEX III: RATIFICATION OF INTERNATIONAL TREATIES AS OF 31 DECEMBER 2011

The community of nations has adopted four international treaties providing for the abolition of the death penalty. One is of worldwide scope; the other three are regional.

Following are short descriptions of the four treaties and lists of states parties and countries which have signed but not ratified the treaties, as of 31 December 2011. (States may become parties to international treaties either by acceding to them or by ratifying them. Signature indicates an intention to become a party at a later date through ratification. States are bound under international law to respect the provisions of treaties to which they are parties, and to do nothing to defeat the object and purpose of treaties which they have signed.)

## **SECOND OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS**

The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, adopted by the UN General Assembly in 1989, is of worldwide scope. It provides for the total abolition of the death penalty but allows states parties to retain the death penalty in time of war if they make a reservation to that effect at the time of ratifying or acceding to the Protocol. Any state which is a party to the International Covenant on Civil and Political Rights can become a party to the Protocol.

States parties: Albania, Andorra, Argentina, Australia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Canada, Cape Verde, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Djibouti, Ecuador, Estonia, Finland, France, Georgia, Germany, Greece, Honduras, Hungary, Iceland, Ireland, Italy, Kyrgyzstan, Liberia, Liechtenstein, Lithuania, Luxembourg, Macedonia, Malta, Mexico, Moldova, Monaco, Montenegro, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Philippines, Portugal, Romania, Rwanda, San Marino, Serbia, Seychelles, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Timor-Leste, Turkey, Turkmenistan, Ukraine, United Kingdom, Uruguay, Uzbekistan, Venezuela (total: 73)

Signed but not ratified: Guinea-Bissau, Poland, Sao Tomé and Príncipe (total: 3)

## **PROTOCOL TO THE AMERICAN CONVENTION ON HUMAN RIGHTS ON THE ABOLITION OF THE DEATH PENALTY**

The Protocol to the American Convention on Human Rights to Abolish the Death Penalty,

adopted by the General Assembly of the Organization of American States in 1990, provides for the total abolition of the death penalty but allows states parties to retain the death penalty in wartime if they make a reservation to that effect at the time of ratifying or acceding to the Protocol. Any state party to the American Convention on Human Rights can become a party to the Protocol.

States parties: Argentina, Brazil, Chile, Costa Rica, Ecuador, Honduras, Mexico, Nicaragua, Panama, Paraguay, Uruguay, Venezuela (total: 12)

#### **PROTOCOL NO. 6 TO THE EUROPEAN CONVENTION ON HUMAN RIGHTS**

Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms ["European Convention on Human Rights"] concerning the abolition of the death penalty, adopted by the Council of Europe in 1982, provides for the abolition of the death penalty in peacetime; states parties may retain the death penalty for crimes "in time of war or of imminent threat of war". Any state party to the European Convention on Human Rights can become a party to the Protocol.

States parties: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Macedonia, Malta, Moldova, Monaco, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom (total: 46)

Signed but not ratified: Russian Federation (total: 1)

#### **PROTOCOL NO. 13 TO THE EUROPEAN CONVENTION ON HUMAN RIGHTS**

Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms [European Convention on Human Rights] concerning the abolition of the death penalty in all circumstances, adopted by the Council of Europe in 2002, provides for the abolition of the death penalty in all circumstances, including time of war or of imminent threat of war. Any state party to the European Convention on Human Rights can become a party to the Protocol.

States parties: Albania, Andorra, Austria, Belgium, Bosnia-Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Liechtenstein, Lithuania, Luxembourg, Macedonia, Malta, Moldova, Monaco, Montenegro, Netherlands, Norway, Portugal, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom (total: 42)

Signed but not ratified: Armenia, Latvia, Poland (total: 3)

# ENDNOTES

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- <sup>1</sup> “Maroc: la voie à l'abolition de la peine de mort est ouverte”, *Le Figaro*, 30 June 2011, <http://www.lefigaro.fr/international/2011/06/29/01003-20110629ARTFIG00730-maroc-la-voie-a-l-abolition-de-la-peine-de-mortest-ouverte.php> (accessed 28 February 2012).
- <sup>2</sup> “Public Opinion Will Be Taken Into Account Before Abolishing Death Penalty - Nazri”, *Malaysia News* 13 October 2011, <http://www.mymalaysianews.com/malaysia/1549-public-opinion-will-be-taken-into-account-before-abolishing-death-penalty-nazri> (accessed 28 February 2012).
- <sup>3</sup> “Number of executions in Iran can be reduced, says official”, *United Nations Radio*, 16 November 2011, <http://www.unmultimedia.org/radio/english/2011/11/number-of-executions-in-iran-can-be-reduced-says-official/> (accessed 28 February 2012).
- <sup>4</sup> Zhang Qianfan, “Death Penalty Numbers Are Not ‘State Secrets’”, *Southern Metropolis Daily*, 9 September 2011.
- <sup>5</sup> “Japan bar federation to establish panel for abolishing death penalty”, *Japan Times*, 18 December 2011, <http://www.japantimes.co.jp/text/nn20111218x3.html> (accessed 26 February 2012).
- <sup>6</sup> Keiji Hirano, “Lawyer federation urges debate to end death penalty”, Japan Innocence & Death Penalty Research Center, <http://www.jiadep.org/Nichibenren.html> (accessed 26 February 2012).
- <sup>7</sup> *The Independent*, 9 July 2011, <http://www.independent.co.uk/news/world/americas/i-never-hated-mark-my-religion-teaches-that-forgiveness-is-always-better-than-vengeance-2309526.html> (accessed on 1 March 2012).
- <sup>8</sup> “Death penalty should not have room in new charter”, *Newsday*, 19 October 2011.
- <sup>9</sup> The G8 is made up of heads of government from Canada, France, Germany, Italy, Japan, the Russian Federation, the United Kingdom and the United States. The European Union is also represented at Summits by both the Presidents of the European Commission and of the European Council.
- <sup>10</sup> The State Great Khural, the Mongolian Parliament, voted to ratify the Second Optional Protocol to the ICCPR on 5 January 2012.
- <sup>11</sup> On 25 February 2011, China announced it would reduce the crimes punishable by death by 13, from 68 to 55. However, the amendment to the criminal code also stipulated that criminals convicted of “forced organ removal, forced organ donation or organ removal from juveniles” could face punishment for homicide, which can carry a sentence of death.
- <sup>12</sup> Exoneration is the process where, after sentencing and the conclusion of the appeals process, the convicted is later freed from blame or acquitted of the criminal charge, and therefore is regarded as innocent in the eyes of the law.
- <sup>13</sup> In January 2011 the President of Taiwan granted a posthumous pardon to Chiang Kuo-ching, who was executed in 1997.
- <sup>14</sup> By the Hamas *de facto* administration.
- <sup>15</sup> Governments should apply a full range of appropriate criteria in cases where age is in dispute. Good practice in assessing age includes drawing on knowledge of physical, psychological and social

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development. Each of these criteria should be applied in a way that gives the benefit of doubt in disputed cases so that the individual is treated as a juvenile offender, and accordingly should ensure that the death penalty is not applied. Such an approach is consistent with the principle that the best interests of the child shall be a primary consideration in all actions concerning children, as required by Article 3(1) the Convention on the Rights of the Child.

<sup>16</sup> The “two basic principles” that apply to the question whether the death penalty should be imposed were set out by the Judicial Committee of the Privy Council in *Trimingham v. The Queen* (22 June 2009).

<sup>17</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination: Cuba, 78th session, 8 April 2011, UN document CERD/C/CUB/CO/14-18, para.12.

<sup>18</sup> Human Rights Council, Report of the Working Group on the Universal Periodic Review: Saint Kitts and Nevis, 17th session, 15 March 2011, UN document A/HRC/17/12.

<sup>19</sup> Human Rights Council, Report of the Working Group on the Universal Periodic Review: Saint Lucia, 17th session, 11 March 2011, UN document A/HRC/17/6, para.38.

<sup>20</sup> Human Rights Council, Addendum to Report of the Working Group on the Universal Periodic Review: Saint Lucia, 17th session, 1 June 2011, UN document A/HRC/17/6/Add.1.

<sup>21</sup> Human Rights Council, Report of the Working Group on the Universal Periodic Review: Saint Vincent and the Grenadines, 18th session, 11 July 2011, UN document A/HRC/18/15.

<sup>22</sup> Human Rights Council, Report of the Working Group on the Universal Periodic Review: Suriname, 18th session, 11 July 2011, UN document A/HRC/18/12.

<sup>23</sup> Communication No. 1110/2002, *Pagdayawon Rolando v. Philippines*, Views of the Human Rights Committee..., 8 December 2004, UN document CCPR/C/82/D/1110/2002, para. 5.2.

<sup>24</sup> Human Rights Council, Report of the Working Group on the Universal Periodic Review: Trinidad and Tobago, 19th session, 14 December 2011, UN document A/HRC/19/7..

<sup>25</sup> While Article 6 of the ICCPR allows for the use of the death penalty under certain circumstances, its paragraph 6 states that “Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.”

<sup>26</sup> Human Rights Council, Report of the Working Group on the Universal Periodic Review: United States of America, 16th session, 8 March 2011, UN Doc: A/HRC/16/11/Add.1.

<sup>27</sup> The Department of Defense pursued charges against Pakistani nationals Khalid Sheikh Mohammed and ‘Ali ‘Abd al-‘Aziz, Yemeni nationals Walid bin Attash and Ramzi bin al-Shibh and Saudi Arabian national Mustafa al Hawsawi, alleging their leading involvement in the September 2001 terrorist attacks in the USA. The prosecutors have recommended that the death penalty be an option at the trial. Prior to this, on 20 April 2011 it had announced that Saudi Arabian national ‘Abd al Rahim al Nashiri had been charged under the Military Commissions Act of 2009 with, among other things, “murder in violation of the law of war”, and “terrorism”. The Convening Authority for military commissions subsequently authorized the government to seek the death penalty against ‘Abd al Nashiri at his forthcoming trial. Such authorization was not made in the other five cases during 2011.

<sup>28</sup> In 2007, the UN Special Rapporteur on counter-terrorism and human rights called on the USA to disestablish the military commissions (UN Doc A/HRC/6/17/Add.3). In 2009, the UN Special Rapporteur

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on extrajudicial, summary or arbitrary executions urged the USA not to conduct any capital prosecutions before military commissions (UN Doc A/HRC/11/2/Add.5).

<sup>29</sup> "A Rare Glimpse Into The Horrors Of Life On Chinese Death Row", *Worldcrunch*, 30 November 2011, <http://www.worldcrunch.com/rare-glimpse-horrors-life-chinese-death-row/4190> (accessed 26 February 2012), translated from Economic Observer, 29 November 2011, <http://www.eeo.com.cn/2011/1129/216680.shtml>, citing Heilongjiang Daily.

<sup>30</sup> "179 Indonesians Face Death Penalty in Malaysia: Task Force", *Jakarta Globe*, 7 July 2011, <http://www.thejakartaglobe.com/home/179-indonesians-face-death-penalty-in-malaysia-task-force/451376> (accessed 27 February 2012).

<sup>31</sup> Committee on the Rights of the Child, General Comment No.10 (2007), 44th session, 25 April, 2007, UN document CRC/C/GC/10.

<sup>32</sup> Committee on the Rights of the Child, Concluding Observations: Lao People's Democratic Republic, 8 April 2011, UN document CRC/C/LAO/CO/2, paras.71 and 72.

<sup>33</sup> "Time to abolish death sentence", *Malaysia Today*, 3 April 2011, <http://www.freemalaysiatoday.com/2011/04/03/time-to-abolish-death-sentence/> (accessed 29 February 2012).

<sup>34</sup> The Parliament of Mongolia voted and approved the Law on Ratification of the Second Optional Protocol to the ICCPR on 5 January 2012.

<sup>35</sup> Human Rights Committee, Fifth periodic report of States parties: Mongolia, 16 September 2009, UN document CCPR/C/MNG/5 and Corrigendum, UN document CCPR/C/MNG/Q/5/Corr.1.

<sup>36</sup> Concluding observations of the Human Rights Committee: Mongolia, 101st session, 2 May 2011, UN document CCPR/C/MNG/CO/5. In May 2011 the Mongolian Parliament passed a resolution to implement the recommendations of the UN Human Rights Council including a commitment to "take measures to remove capital punishment from legislation" between 2011-2012.

<sup>37</sup> President's Office Order No. 1/2012 issued on 2 January 2012 commuted all 33 death sentences to life imprisonment.

<sup>38</sup> Human Rights Council, Report of the Working Group on the Universal Periodic Review: Myanmar, 17th session, 24 March 2011, UN document A/HRC/17/9.

<sup>39</sup> Human Rights Council, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review: Myanmar, 17th session, 27 May 2011, UN document A/HRC/17/9/Add.1.

<sup>40</sup> Human Rights Council, Report of the Working Group on the Universal Periodic Review: Nauru, 17th session, 8 March 2011, UN document A/HRC/17/3.

<sup>41</sup> Human Rights Council, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review: Nauru, 17th session, 30 May 2011, UN document A/HRC/17/3/Add.1.

<sup>42</sup> Human Rights Council, Report of the Working Group on the Universal Periodic Review: Papua New Guinea, 18th session, 11 July 2011, UN document A/HRC/18/18.

<sup>43</sup> Human Rights Council, Views on conclusions and/or recommendations, voluntary commitments and

replies presented by the State under review: Papua New Guinea, 18th session, 30 September 2011, UN document A/HRC/18/18/Add.1.

<sup>44</sup> Human Rights Council, Report of the Working Group on the Universal Periodic Review: Singapore, 18th session, 11 July 2011, UN document A/HRC/18/11.

<sup>45</sup> Human Rights Council, Report of the Working Group on the Universal Periodic Review: Thailand, 19th session, 8 December 2011, UN Document A/HRC/19/8.

<sup>46</sup>“Vietnam prepares for switch to lethal injection”, *Talk Vietnam*, 3 October 2011, <http://talkvietnam.com/2011/10/vietnam-prepares-switch-lethal-injection/> (accessed 27 February 2012).

<sup>47</sup> Amnesty International, *Execution by lethal injection: a quarter century of state poisoning*, ACT 50/007/2007.

<sup>48</sup> “Dead man walking: judgement day”, *Tuoi Tre News*, 21 March 2011, <http://www.tuoiitrenews.vn/cmmlink/tuoiitrenews/features/dead-men-walking-p1-judgment-day-1.25093>; “Dead man walking:daybreak on death row”, *Tuoi Tre News*, 25 March 2011, <http://tuoiitrenews.vn/cmmlink/tuoiitrenews/features/dead-men-walking-p2-daybreak-on-death-row-1.25625>; “Dead man walking:back on the brink”, *Tuoi Tre News*, 4 April 2011, <http://www.tuoiitrenews.vn/cmmlink/tuoiitrenews/features/dead-men-walking-p3-back-from-the-brink-1.26514>; “The end of firing squads in Vietnam”, *Tuoi Tre News*, 15 December 2011, <http://www.tuoiitrenews.vn/cmmlink/tuoiitrenews/features/the-end-of-firing-squads-in-vietnam-1.54637>; “Firing range caretaker in Hanoi”, *Tuoi Tre News*, 16 December 2011, [www.tuoiitrenews.vn/cmmlink/tuoiitrenews/features/firing-range-caretaker-in-hanoi-1.54782](http://www.tuoiitrenews.vn/cmmlink/tuoiitrenews/features/firing-range-caretaker-in-hanoi-1.54782); and “The last moments of death row criminals”, *Tuoi Tre News*, 19 December 2011, <http://www.tuoiitrenews.vn/cmmlink/tuoiitrenews/features/the-last-moments-of-death-row-criminals-1.55068> (all accessed 27 February 2012).

<sup>49</sup> <http://adpan.net>.

<sup>50</sup> Concluding observations: Belarus, Committee against Torture, Forty-seventh session, 31 October–25 November 2011, para. 27.

<sup>51</sup> Concluding observation: Kazakhstan, Human Rights Committee, 102nd session, 11–29 July 2011, UN Doc. CCPR/C/KAZ/CO/1, 19 August 2011, para. 12.

<sup>52</sup> Communication No. 1470/2006, *Toktakunov v. Kyrgyzstan*, Views adopted on 28 March 2011, UN Doc. CCPR/C/101/D/1470/2006.

<sup>53</sup> Communication No. 1503/2006, *Akhadov v. Kyrgyzstan*, Views adopted on 25 March 2011, UN Doc. CCPR/C/102/D/1478/2006 of 29 April 2011.

<sup>54</sup> Communication No. 1304/2004, *Khoroshenko v. Russian Federation*, Views adopted on 29 March 2011, UN Doc. CCPR/C/101/D/1304/2004 of 29 April 2011.

<sup>55</sup> *Rrapo v. Albania* (application no. 58555/10, 11 October 2010); *Al Nashiri v. Poland* (application no. \_\_\_\_\_, 6 May 2011).

<sup>56</sup> The Court of Cassation overturned the death sentences on 9 January 2012.

<sup>57</sup> The prosecution requested the death penalty during court sessions in early 2012.

<sup>58</sup> Concluding observations: Egypt, Committee on the Rights of the Child, 57th session, 30 May–17 June

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2011, UN Doc. CRC/C/EGY/CO/3-4, paras. 38-39.

<sup>59</sup> In some instances, officials from the judiciary gave figures for executions and death sentences in the Iranian year which began in March 2010 or March 2011. As it was not always possible to attribute these executions accurately to a particular January-December period, these numbers have been omitted from these figures.

<sup>60</sup> Amnesty International recorded an additional six public executions from unofficial sources, which would bring the total to 56.

<sup>61</sup> Interim report of the Secretary-General to the Human Rights Council on the situation of human rights in Iran, 14 March 2011, UN doc. A/HRC/16/75 of 14 March 2011, para. 15.

<sup>62</sup> Amnesty International, "Addicted to death: Executions for drugs offences in Iran", MDE 13/090/2011, December 2011.

<sup>63</sup> Interim report of the Secretary-General to the Human Rights Council on the situation of human rights in Iran, 14 March 2011, UN doc. A/HRC/16/75, Report of the Secretary-General to the General Assembly, The situation of human rights in the Islamic Republic of Iran, 15 September 2011, UN doc. A/66/361, para. 13.

<sup>64</sup> Special Rapporteur on the situation of human rights in the Islamic Republic of Iran: The situation of human rights in the Islamic Republic of Iran, UN Doc. A/66/374 of 23 September 2011, paras. 69-72.

<sup>65</sup> Concluding observations: Iran, Human Rights Committee, 103<sup>rd</sup> session, 17 October–4 November 2011, para. 10, 12-13, 23.

<sup>66</sup> Concluding observations: Kuwait, Human Rights Committee, 103<sup>rd</sup> session, 17 October–4 November 2011, para. 6 and 14.

<sup>67</sup> "Arab spring at the heart of World Coalition debates", <http://www.worldcoalition.org/Arab-spring-at-the-heart-of-World-Coalition-debates.html> (accessed 29 February 2012).

<sup>68</sup> Amnesty International, "Saudi Arabia: Repression in the name of security", December 2011, MDE 23/016/2011.

<sup>69</sup> In January 2012 Fuad Ahmed Ali Abdulla was executed. Muhammed Taher Thabet Samoum and at least two others were at imminent risk of execution.

<sup>70</sup> Concluding observation: Ethiopia, Human Rights Committee, 102<sup>nd</sup> session, 11–29 July 2011, UN Doc. CCPR/C/ETH/CO/1 of 19 August 2011, para. 19.

<sup>71</sup> Court of Appeal of Kenya, case of *Godfrey Mutiso*, decision of 30 July 2010.

<sup>72</sup> Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions to the Human Rights Council, Addendum, Follow-up country recommendations – Kenya, UN Doc. A/HRC/17/28/Add.4 of 26 April 2011.

<sup>73</sup> Information received from the Minister of Justice in March 2012 indicated that 10 death sentences were actually handed down in 2011.

<sup>74</sup> However, the Ministry of Interior confirmed in March 2012 that in fact 982 prisoners were on death row in the country at the end of 2011.

<sup>75</sup> These figures do not include reports of public unlawful killings by Somali armed opposition groups

such as al-Shabab, of persons they accuse of spying or not conforming to their own interpretation of Islamic law, or those reportedly carried out by TFG-allied militia in southern and central Somalia.

<sup>76</sup> The death penalty was still contained in the bill when it was re-introduced in parliament on 7 February 2012; the bill's author publicly stated that it would be removed during the legislative process.

<sup>77</sup> The Russian Federation introduced a moratorium on executions in August 1996. However, executions were carried out between 1996 and 1999 in the Chechen Republic.





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## DEATH SENTENCES AND EXECUTIONS 2011

Developments on the use of the death penalty in 2011 confirmed the global trend towards abolition. The number of countries that were known to have carried out death sentences decreased compared to the previous year, and overall, progress was recorded in all regions of the world. While the USA was the only country in the G8 to carry out executions, Illinois became its 16th abolitionist state, and in November the Governor of Oregon announced a moratorium on executions.

The isolation of countries that continue to carry out executions became even clearer and while many of these reduced their use of the death penalty, a small number of countries, including, Iran, Iraq and Saudi Arabia, increased executions.

In the Asia-Pacific region, no executions were recorded in Japan, for the first time in 19 years. In Africa, Nigeria confirmed and Sierra Leone announced official moratoriums on executions. While the Middle East and North Africa region was affected by large-scale political upheaval, Bahrain did not execute anybody, and the new government in Tunisia took a number of steps to reduce the use of the death penalty. Belarus continued to be the only country in Europe and the former Soviet Union to carry out executions.

In this report, Amnesty International analyses some of the key developments in the worldwide application of the death penalty, citing figures it has gathered on the number of death sentences handed down and executions carried out during the year.

Amnesty International opposes the death penalty in all cases without exception regardless of the nature of the crime, the characteristics of the offender, or the method used by the state to carry out the execution.

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