

Dismissing The Hangman

A Newsletter of the Nigerian anti-Death Penalty Group (NDEPELG) Volume 7

TRAINING SESSION TOWARDS ADVOCACY FOR ABOLISHMENT OF THE DEATH PENALTY



Cross section of participants at the training held in Tanzania

The World Coalition Against the death penalty organized a training session towards advocacy for the abolishment of the death penalty in Sub-Sahara Africa in Tanzania on the 17th and 18th of April 2016. The training brought together lawyers, human rights activists and representatives of civil society organizations from countries in Sub-Saharan Africa that still maintain the death penalty. Some of the organizations represented include Nigerien Coalition Against the Death Penalty from Niger, Kisarawe Paralegals Organization (KPO) from Tanzania, Penal Reform

International from Uganda, ACAT-Liberia, from Liberia, to mention a few.

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FREE AT LAST: THE STORY OF JACOB AYUBA



Mr. Jacob Ayuba after His Release at LEDAP's Office, Lagos

On 11 May 2016, Jacob Ayuba regained his freedom after being incarcerated for almost 4 years. On 18 December 2012, Jacob, an "Okada rider", dropped off a passenger and was rounded up in a police raid.

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The Nigerian anti-Death Penalty Group (NDEPELG) comprises Non-Governmental Organizations (NGOs) and individuals working towards the abolition or full moratorium of the use of the death penalty in Nigeria.

The NDEPELG is committed to the:

- Moratorium on executions in Nigeria
- Abolition of the death penalty for all crimes
- Commutation of all sentences to life imprisonment
- Ratification and domestication of treaties providing for abolition of the death penalty including the Second Optional Protocol to the International Convention on Civil and Political Rights, aiming at the abolition of the death penalty.

To join the group, support or make your voice known about the campaign, contact the NDEPELG:

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Alice Mogwe from Ditshwanelo, Botswana made a presentation on the topic of status of the draft Protocol to the African Charter on Human and People's Rights on abolition of the death penalty in Africa. She is an expert on the working group of the African Commission on Human and People's Rights on the death penalty that drafted the protocol. She gave very interesting insights as to the present status of the protocol.

- She gave a brief history of the journey to the protocol; the African human rights architecture, the ACHPR resolutions and the work of the working group so far.
- She mentioned that the draft Protocol made references to the respect for life, to the ICCPR, and also stated that after ratification, states must observe a moratorium before abolishment.
- She made participants understand that the AU had not rejected the protocol yet, but simply didn't discuss it because it has not been owned by member states.
- She also mentioned that some African states feel the protocol is driven by NGO's with a western agenda. Potential ways forward she mentioned are identifying champion states, how to persuade the swing states, how to prevent the retentionist states from blocking the protocol and sensitization of member states.

Nestor Toko Monkam from Cameroon also made his contribution. He is a lawyer and

president of Droits et Paix. He said that similar problems in Nigeria exist in Cameroon.

- He explained that the criminal justice system is very inefficient. He also explained to participants that this has made effective human rights campaign difficult because the citizens cannot count on getting a fair trial at the courts.
- He asked participants if it were possible to then engage the ACHPR in seeking justice since it was not forthcoming from their local courts. Yusuf Abdulkareem, the legal officer who represented LEDAP at the training answered in the affirmative and explained to participants that he had recently participated in making submissions to the commission.

Yusuf Abdulkareem made the following suggestions.

- He said that while it is easy to focus advocacy efforts on the illiterate section of the society, same efforts should also be directed at the educated population because many are just as ignorant about the death penalty.
- He suggested massive online presence. The internet has virtually become the most effective way of passing information and advocacy efforts should also be very prevalent online.

Suzanne Yaya Mangomba from Democratic Republic of Congo also made a presentation. She is the executive secretary of Culture pour la paix et la justice.

- She started off by saying one of the main challenges in her country is that public opinion and the government favours the retention of the death penalty.
- She said moratorium in her country has lasted 13 months. She said the primary aim of her organization has been to target parliamentarians since they make the law.
- In addition, she mentioned that in 2010, a bill for abolishment was met with hostility and didn't succeed. The parliamentarians for abolishment were few and isolated. During the course of her presentation, best practices for advocating to parliamentarians were put forward.
- It was suggested that instead of trying to advocate to every one of them, it was better to identify parliamentarians with the greatest influence, who can in turn convince their peers to join the campaign.
- It was also suggested that advocacy efforts shouldn't be directed exclusively at the opposition or the government in power.

Lucy Nantume from the Foundation for Human Rights Initiative in Uganda enlightened the participants about the situation in Uganda.

- She mentioned the landmark case of Susan Kigali and how the participants can all learn from it about strategic litigation.
- She said the Constitutional Court of Uganda in that case declared that; mandatory death sentences are unconstitutional, 3 years was the maximum period for keeping inmates on death row and allowed for mitigation where death sentences were reviewed. About 300 death sentences were reviewed and substituted with terms of imprisonment.
- She told participants that 28 offences carry the death penalty in Uganda. She further said that there is presently a bill in parliament to amend the laws and remove the mandatory death sentence and also to reduce the number of offences that carry the death penalty.

Over the course of the training the following strategies were suggested:

- Campaigning to youths
- Strategic litigation (select your case carefully, use experts, etc)
- Capacity building
- Research
- Not neglecting the victims
- Understand the dynamics of your area
- Train journalists and educate them
- Involve people who have been affected by the death penalty

- Training on using regional and international frameworks
- Strengthening networks and coalitions

It was indeed a great opportunity to train, and foster cooperation among organizations and individuals campaigning tirelessly for the abolition of the death penalty in Africa.

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Jacob Ayuba, from Chibok, Borno State, was charged with Armed Robbery. He fled from Borno because of the insecurity in the region caused by the activities of Boko Haram. He came to Lagos looking for greener pastures but instead found his life disrupted by being locked up for years. Due to the diligence and selfless dedication of LEDAP, Jacob Ayuba regained his freedom when a Lagos State high court dismissed the case for lack of diligent prosecution. If he had been found guilty, he would have been facing a sentence of death.

It is hoped that improvements will be made in our criminal justice system so that more helpless citizens won't fall victims of unlawful incarceration.

CAPITAL PUNISHMENT FOR KIDNAPPERS: THE SENATE SHOULD RECONSIDER

Last month, the Senate adopted a report by the Joint Committee on Police Affairs, National Security and Intelligence recommending that kidnapping should be made a capital offence. If a bill is eventually passed making kidnapping a capital offence, a sentence of death will be passed on offenders who are tried and convicted.

While there have been no further steps taken by the Senate towards adopting a bill to that effect, it appears it may already have the requisite support to allow it sail through and become law. It is admitted that the heinous act of kidnapping hapless victims and demanding ransoms has reached unprecedented levels in Nigeria. However, making the offence a capital crime is far from the appropriate response.

This is a knee-jerk and hasty reaction by the Senate to the problem. The Senate should instead look into identifying and addressing the real reasons why kidnapping has been on a steep increase instead of making yet another offence a capital crime. The simple truth is that the Senate is taking the easy option to appear like they are doing something to address the problem. The task of actually addressing the fundamental reasons for the increase in the rate of kidnapping is a far more daunting task than simply making it a capital crime.

We are at a time when most countries of the world are abolishing the death penalty or talking about abolishing it. Making yet another crime a capital offence is a step back for Nigeria.

It is hoped that the Senate will reconsider and instead direct its efforts towards finding solutions to the socio-economic problems that drive citizens to the despicable crime of kidnapping instead of making it a capital crime. In conclusion, addressing the shortcomings of the criminal justice system is the most effective way of deterring crimes. If prospective offenders know that the probability of being caught and punished is very high, regardless of the severity of the punishment, they are less likely to commit the crime.

**DEATH PENALTY IS FAST BECOMING THE
PREFERABLE PUNISHMENT FOR
KIDNAPPING ACROSS STATES.**

The alarming rate at which state governments are starting to embrace the death penalty for kidnapping across the country is source for concern. It all started with 6 states making kidnapping a capital offence in 2009. Abia, Akwa Ibom, Anambra, Ebonyi, Enugu and Imo all passed laws prescribing the death penalty for kidnappers in 2009. In 2013, Delta and Edo states followed. In 2015, the governor of Cross River state, Ben Ayade, signed a bill into law that makes kidnapping a capital offence. In the same

year, the Kogi state house of assembly also passed a bill into law which prescribes the death penalty for convicted kidnappers. That is a total of 10 states already with the capital punishment for kidnapping. It is very likely some other states may decide to follow suit. This is a very disturbing trend.

In May of 2016, 3 kidnappers were sentenced to death in Delta state after they were tried and convicted for kidnapping. Also, in Abakaliki, Ebonyi, 2 people, Onyemachi Oge and Okechukwu Oma were also sentenced to death after they were found guilty and convicted for kidnapping a doctor.

While it is conceded that kidnapping has become one of the biggest threats to the internal peace and security of Nigeria, making it a capital offence will do absolutely nothing to curb this menace. These state governments should address the issues that have led to such widespread practice of kidnapping, instead of making it a capital offence. If these issues are not addressed, kidnapping will continue to be a thorn in the flesh of our country. The death penalty will do nothing to change it. Studies have consistently shown that there is no basis to infer that the death penalty is an effective deterrent to crimes.

It is hoped that our state governments will come to realize soon that making kidnapping a capital crime will not solve the problem and that a moratorium will be in the best interest of justice so that the deficiencies in the criminal justice system and society at large can be properly examined.

Yusuf Abdulkareem,

Legal officer, LEDAP

GLOBAL REVIEW OF THE DEATH PENALTY

NIGERIAN EXECUTED IN SAUDI ARABIA

In May 2016, a Nigerian was executed in Saudi Arabia. He was convicted for murdering a policeman. It was the 95th execution of 2016 in Saudi Arabia. Amnesty international has warned that at the current rate Saudi Arabia could see more than 100 executions in the first half of 2016 alone.

Culled from The Guardian, theguardian.com.

SUPREME COURT TO HEAR TEXAS DEATH PENALTY CASES DEALING WITH RACIAL BIAS, INTELLECTUAL DISABILITY

On June 6, the U.S. Supreme Court granted writs of certiorari in two Texas death penalty cases, and will review the constitutionality of those death sentences during its next term. The two cases are *Buck v. Stephens*, in which Duane Buck was sentenced to death after a psychologist testified at his penalty trial that the fact that Buck is African-American increases the likelihood that he presents a future danger to society; and *Moore v. Texas*, a challenge to Texas' unscientific test for determining whether a defendant is intellectually disabled and therefore exempt from execution. Texas, through its then-Attorney General John Cornyn, had conceded that seven death row prisoners, including Buck, had been unfairly sentenced to death after juries in their cases had been exposed to expert mental health testimony improperly linking race and future dangerousness.

The Court granted review on one of two issues presented in Bobby James Moore's petition for certiorari, whether a state may reject current medical standards in determining intellectual disability. It initially appeared to have granted review of a second issue as well, whether Moore's "extraordinarily long" confinement on death row violates the Eighth Amendment ban on cruel and unusual punishment. However, in an updated order, the Court clarified that it was limiting its review to only the intellectual disability question. Moore was sentenced to death more than 35 years ago, and has been diagnosed as intellectually disabled by medical professionals. The Texas Court of Criminal Appeals rejected his intellectual disability claim in 2015 because he failed to meet Texas' "Briseño factors," a set of unscientific criteria based on the

fictional character of Lennie Smalls from the novel "Of Mice and Men."

Culled from The Death Penalty Information centre, deathpenaltyinfo.org

PHILLIPINES: PRESIDENT-ELECT VOWS TO BRING BACK THE DEATH PENALTY.

Rodrigo Duterte, Philippines' president-elect, has pledged to introduce executions by hanging and to order military snipers to kill suspected criminals as part of a law-and-order crackdown.

In his first press conference since winning the May 9 elections, the mayor of southern Davao city said late on Sunday that security forces would be given "shoot-to-kill" orders and that citizens would learn to fear the law.

"I expect you to obey the laws so there will be no chaos. I will hit hard on drugs and I promise them [criminals] hell," Duterte said as he outlined his vision for the nation.

Duterte, 71, who will be sworn in on June 30, also promised to roll out Davao law-and-order measures on a nationwide basis, including a 2am curfew on drinking in public places and a ban on children walking on the streets alone late at night.

Duterte said that he wanted capital punishment reintroduced for a wide range of crimes, particularly drugs, but also rape, murder and robbery.

He said he preferred death by hanging to a firing squad because he did not want to waste bullets, and because he believed snapping the spine with a noose was more humane.

Culled from AlJazeera, aljazeera.com

MAN EXECUTED IN BOTSWANA.

According to a statement made by the Botswana Police Services, One Mr Gabaakanye was executed on 25 May 2016, at Gaborone Central Prison. Mr Gabaakanye had been convicted for murder imposed by the High Court of Botswana on March 13, 2014 and confirmed by the Court of Appeal on 30 July 2015. He was executed before the clemency process had been fully completed.

Following the 30 July 2015 Court of Appeal ruling, the matter was again placed before the court in 2016. The lack of transparency of the clemency process in relation to those on death row was brought before the Court of Appeal in 2016, by local Lawyer Mr Martin Dingake, with the help of DITSHWANELO – The Botswana Centre for Human Rights. On 21 April 2016, the Court of Appeal handed down a Judgment relating to the clemency (prerogative of mercy) process in Botswana. It held that less than six weeks preparation time for *pro deo* counsel to prepare a clemency petition (and to be in possession of the same documents as the Committee) would not allow the accused persons to meaningfully exercise their constitutional right to clemency. This was the first execution in Botswana since 2013.

Culled from ditshwanelo.org.bw



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