

## LEELA RAMDEEN'S PAPER – SUMMARY - PRESENTED AT 5TH WORLD

### CONGRESS AGAINST THE DEATH PENALTY: MADRID - 12-15 JUNE, 2013

**Theme:** *Challenges for the establishment of a Strong Caribbean Abolitionist Movement and practices and implementation of the death penalty in Trinidad and Tobago.*

**A. Introduction:** Ladies and Gentlemen, it is indeed a pleasure to be here with you at this important Conference and to share my thoughts on this topic. I represent the *Greater Caribbean for Life* (GCL). This working group emerged from the First International Conference on the Death Penalty in the Greater Caribbean which took place in Madrid from October 17-19, 2011. It was organized by the Community of Sant'Egidio. The group, some of whom are at this Conference, comprises 7 persons – from Belize, Guatemala, Jamaica, Puerto Rico, St Vincent & the Grenadines and Trinidad and Tobago. Our Facebook page outlines our aims and objectives: <https://www.facebook.com/GCFLife>.

GCL believes that society has the right to protect itself from those who murder others and destroy the lives of so many of our people. However, we believe that all societies must develop methods other than the death penalty – non-lethal means - to provide for the safety and wellbeing of the public. We oppose the death penalty and continue to work tirelessly for its abolition. The Greater Caribbean is a diverse region with diverse legal and philosophical traditions (refer to Map of the region). It is the product of the region's colonial past. The Death Penalty came to our region as a colonial imposition.

The Greater Caribbean is sometimes included or presumed to be part of the American Continent. Even though it is physically located in the Americas, the Caribbean as a region has its particularities that make it different from continental America. The region is the great “absentee” in the international public debate about the death penalty.

Yet it influences the international debate on the death penalty, given that the United Nations General Assembly's Resolutions on the establishment of a Moratorium on the use and application of the death penalty are opposed en bloc by most of the English speaking Caribbean – accounting for 25% of the opposing vote. Note that one or two are abolitionists in practice e.g. Grenada. The last execution took place there on the 17th of October 1978.

According to Amnesty International's report on the use of the death penalty, **13 (12 English speaking and 1 Spanish speaking - Cuba)** of the countries that retain the death penalty belong to the Caribbean. 58 countries that retain the death penalty are retentionist countries only. There are 35 additional countries that retain the death penalty in their legislation but are abolitionist in practice. Many persons continue to languish on death row in our region e.g. there are about 44 persons on Death Row in Trinidad and Tobago.

GCL joined representatives of a number of civil society groups in issuing a media release on Human Rights Day 2012 calling on governments in the region to take steps towards ending the death penalty. Inter alia, the release stated: “Executions in the Caribbean are rare, but death sentences continue to be handed down by many Caribbean courts often in violation of international human rights law and standards. Many of the criminal justice systems in English-speaking Caribbean countries are struggling with caseloads that far exceed their capacity.

“Inadequate legal representation, lack of witness protection programmes and poor forensic services are also common. These deficiencies, allied to the police’s lack of adequate training, resources and poor investigative capacity as well as corruption often result in violations of due process or the death penalty being imposed on prisoners suffering from mental disabilities. “Barbados and Trinidad and Tobago still retain the **mandatory death penalty** for murder, even if international and regional human rights bodies have found the automatic and mandatory imposition of the death penalty to be an arbitrary deprivation of life as it does not allow the possibility of taking into account the defendant's personal circumstances or the circumstances of the particular crime...a number of governments in the region have recently attempted to pass legislation aimed at facilitating a return to hanging in response to high levels of violent crime...While deeply sympathizing with the victims of violent crime, the undersigned organizations hold that the death penalty does not make societies safer...”

Generally, most of the Spanish speaking Caribbean have abolished the death penalty, sometimes ahead of the times e.g. Venezuela in 1863. The English speaking Caribbean still retains the death penalty. (*Trinidad & Tobago, Antigua & Barbuda, Bahamas, Barbados, Belize, Dominica, St. Kitts & Nevis, Grenada, Guyana, Jamaica, Saint Lucia, Saint Vincent & The Grenadines*). In Guatemala the death penalty is still included in the penal code but the death penalty cannot be applied unless Guatemala modifies its law as it was when the country became a signatory of the Inter American Convention on Human Rights. Even though some politicians have argued in favour of the resumption of the death penalty, Guatemala has consistently voted in favour of the Moratorium Resolutions in the United Nations.

Suriname, a former colony of the Netherlands, still retains the death penalty. We could expect favourable changes in Suriname and Barbados in the next few years. In 2011, the government of Suriname made a formal commitment during its Universal Periodic Review to abolish the death penalty. Barbados has made a commitment to abolish the mandatory death penalty since 2009, given the Inter American Court decisions.

The Judicial Committee of the Privy Council (JCPC) remains the highest court of appeal for 27 countries, including former Caribbean colonies like T&T. Only 3 countries have replaced the JCPC with the Caribbean Court of Justice (CCJ), which is based in T&T, as their final Court of Appeal: *Barbados, Belize, and Guyana*. The CCJ was meant to be an alternative to the JCPC. There is no evidence, to date, that the CCJ will be a “hanging Court.”

The JCPC ruling in the 1993 case of *Pratt and Morgan v AG of Jamaica* has had the effect of making death sentences extremely difficult to carry out in the region. The JCPC ruled that in any case where the execution of a person is to take place more than five years after sentencing, there would be strong grounds for believing that the delay is such as to constitute "inhumane or degrading punishment or other treatment". In such cases the death penalty should be commuted to life imprisonment. Barbados and Jamaica have amended their Constitutions to nullify the effects of this case and Trinidad and Tobago is seeking to do the same.

Dr Lloyd Barnet of GCL will elaborate on the impact of this case. There have been other cases in which the JCPC has ruled in favour of the Appellants who have been on death row for less than 5 years and in the 2009 case of Daniel Dick Trimmingham –v- The State (St Vincent & The Grenadines) [2009] UKPC 25, the JCPC set-down the criteria that must be satisfied before a court can impose a death sentence.

### **B. Some Challenges for those who struggle for the abolition of the Death Penalty in the Greater Caribbean region:**

1. The **diversity of languages** in the Greater Caribbean constitutes a **challenge** in the creation of a regional movement because it imposes the minimum requirement of English and Spanish.
2. **The absence of territorial connection**, meaning that there is no direct land connection within the countries that compose the region and the Caribbean Sea could be seen as a barrier or opportunity which would impose the need to use recent technologies for communication e.g. Skype and email, some of which are not available in all countries. Division in small communities is also an issue.
3. **Securing support** for such a movement in the region, particularly at a time when the crime rate is high and the nature of some crimes lead many citizens, including politicians, to call for the resumption of the death penalty. (See the 2011 study by Roger Hood, professor emeritus of criminology at Oxford University, and Dr Florence Seemungal, entitled: *Public Opinion on the Mandatory Death Penalty in Trinidad* (**PUBLIC OPINION ON THE MANDATORY DEATH PENALTY IN ...**[www.deathpenaltyproject.org](http://www.deathpenaltyproject.org)).

The challenge for abolitionists is to work with partners to *devise new arguments and strategies* to:

- (i) **influence/change the hearts and minds** of leaders and citizens in the region to accept a

Restorative Justice approach to crime and violence as opposed to a retributive approach which is not working;

(ii) present the death penalty as a **human rights issue**;

(iii) **enhance the education systems in the region** to include programmes aimed at promoting human rights protection, character education and good citizenship;

(iv) **improve the criminal justice system/administration of justice** - including overhauling Policing (e.g. detection rate of homicides in T&T is only about 14%), forensic services, penal systems, the capability of existing court structures to deal with e.g. large backlog of cases, rehabilitation programmes, and the use of technology;

(v) **address the rights of victims**, including secondary victims. It is essential to create an environment where victims' voices against the death penalty can be more audible;

(vi) change the debate on tackling crime – **from punishment to effective prevention measures. Retribution is not justice**;

(vii) **influence the media** to adopt an advocacy role - raising awareness/changing public opinion about the need to abolish the death penalty;

(viii) **identify resources** e.g. human, financial etc. to focus specifically on Death Penalty campaigning. It is also important to channel international voices against the Death Penalty in the right direction – to avoid unnecessary backlash;

(ix) encourage all countries in the Greater Caribbean region to respond positively to the UN call for a **moratorium on executions** with a view to abolishing the death penalty and to seek to increase the number of State ratifications of the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) and to promote its implementation in national law.

The inability of Governments in the region to devise effective strategies to deal with crime must be addressed if we are to achieve our goals. Governments must re-think the strategies they use to tackle crime and violence, including drug trafficking, gang warfare and the easy availability of small arms in many Caribbean countries. Inter alia, this will involve addressing more effectively certain risk factors that contribute to crime and violence and implementing effective preventative programming and improved public security.

Progress will be achieved if our Governments in the region implement some/all of the recommendations of key reports e.g. the United Nations Development Programme's (UNDP) Caribbean Human Development Report 2012 entitled: ***Human Development and the Shift to Better Citizen Security***(<http://www.undp.org>) which was launched in TT on 8 February 2012. The report reviews the current state of crime as well as national and regional policies and programmes to address the problem in seven English- and Dutch-speaking Caribbean countries: *Antigua and Barbuda, Barbados, Guyana, Jamaica, Saint Lucia, Suriname, and Trinidad and Tobago*.

**Conclusion:** Abolition of the death penalty in T&T and the rest of the Greater Caribbean requires a multi-faceted approach; one that will address all the issues raised above and others

Unless we address these, the high and diverse costs of crime will continue to stand as obstacles in the way of progress of our people and of the region as a whole. And while support from those involved in the global campaign to abolish the death penalty is forthcoming, it is essential that more individuals from within the countries of the Greater Caribbean come on board to join the struggle. We are in this for the long haul and we must celebrate small steps. I thank you.