

**NOTES ON THE SIDE EVENT:
“FROM DEATH PENALTY TO AN OFFICIAL MORATORIUM”
Tuesday 23 October 2018**

The side event was:

- *Hosted by the Permanent Representations of Belgium, Benin, Ivory Coast and France, the Office of the United Nations High Commissioner for Human Rights and ECPM*
- *Moderated by Andrew Gilmour, Assistant Secretary-General for Human Rights*

PANEL DISCUSSION:

MR. RAPHAËL CHENUIL-HAZAN, GENERAL DIRECTOR OF THE “ENSEMBLE CONTRE LA PEINE DE LA MORT”

- Stressed the importance of taking joint efforts against the use of the death penalty
- Underscored that the current situation in Africa shows the importance of talking about trends, as Africa will be free from death penalty in the next 10 years. Underlined that this is the result of an irreversible trend
- Pointed that figures over time show that the abolition of the death penalty is a universal human right. Provided an example of this saying that China was the first abolitionist country in the 7th century during the Tang dynasty, followed by Japan. This is important to remember as it shows that this is a universal issue
- Emphasized that the opposition to the moratorium resolution has been decreasing over time. Stated that this is important because it shows to societies, countries, leaders, the public that the death penalty is no longer acceptable that the moratorium can be seen as a first step towards the abolition of the death penalty
- Underscored that countries should follow common objectives which should be the abolition of the death penalty and which is also the objective of the resolution. The resolution is so that countries implement a moratorium, showing that a moratorium can be a first step towards the abolition of death penalty. Underlined that most countries already follow this moratorium
- Highlighted that votes show that there is no consistency between supporting the resolution and countries that have a moratorium in place: votes show that some countries that have a moratorium in place are not in support of this resolution
- In order to reduce the death penalty, he called for countries to vote in favor of this resolution and to become co-sponsor of this resolution as this would represent the symbol of being all united for protecting human rights and united for the right to life
- One of the best practices in terms of abolition is for countries to apply the appropriate steps for its own country. Suggested that one step could be reforming the penal code, as Burkina Faso did in 2016. Emphasized that this would be the best way to introduce the abolition through the parliamentary activities. “We support parliamentary actions and parliamentary networks”

- Suggested that another good practice would be reforming the Constitution like Benin did. Countries who have Constitutionalized the death penalty allows countries to reduce the possibility to relaunch execution to re-install the death penalty
- He said that countries could ratify the Optional Protocol to the International Covenant on Civil and Political Rights. For example, Gambia just ratified the Protocol and many other countries are going to follow Gambia's example. Stressed that this would be the best way to make the abolition irreversible
- Lastly, he pointed that countries could also declare an official moratorium to show that countries want to move step-by-step. For example, Russia has an official moratorium with an official commitment signed by the President of Russia every 10 years
- Stressed that the moratorium resolution is part of the international trend for the abolition of death penalty
- Called for diplomats who vote as representative of countries and of the UN, to push and inform their capitals to support this resolution and invited all member of the UN to attend the 7th world congress on the death penalty to be organized in Brussels in February-March in 2019

MS. CHIARA SANGIORGIO, DEATH PENALTY EXPERT, AMNESTY INTERNATIONAL

- Presented how the work on this resolution will further Amnesty International's work on death penalty
- Emphasized that this event and resolution gave them platform. Recalled that in 2007, civil societies had very little opportunities to engage member states, governments and civil society at large to discuss about abolition of death penalty and the moratorium. Stressed that this resolution is giving them a momentum which they can build upon in order to ensure that countries are all engaged in this dialogue
- Believed that in order to win public opinion, a lot of emphasis has to be put on educating the public and informing about the realities of death penalty and this is what this resolution is doing, raising awareness on the human rights dimension
- Pointed that this resolution is giving Amnesty and civil society, legitimacy. For a long time, the issue on the death penalty and the moratorium were only a civil society matter
- Underscored that even though the UN GA resolutions are non-binding tools, the political and moral authority that this resolution carries, has given them the strength to stand up by this cause in a very difficult context and face the public opinion, especially about the human rights dimension
- Explained how to use this resolution: the focus of the attention will be drawn on how to establish a moratorium against executions and stressed that this resolution should be understood as a comprehensive journey from where to start a dialogue about the

abolition of the death penalty. Pointed that making public the information about the use of death penalty, has been fundamentally important for Amnesty International

- Explained that Amnesty produces a yearly report that assesses trends about executions and death sentences carried out in the countries but that if countries do not support this cause, there is little that the organization can do
- Continued by saying that since the implementation of this resolution, Amnesty has received an increase in the number of countries responding when requested to provide information about their usage of death penalty and their response had made it possible for Amnesty to publish a yearly report about this theme, which represents an important step to engage in a dialogue on the issue of death penalty
- Highlighted that themes like respecting the international law and international standards must be addressed in the international dialogue about death penalty
- Pointed that one of the most frequent issues is the issue of fair trials and making sure that death sentences are not imposed when a person is taken to the police station without the support of a lawyer, made a confession or a statement coercively, and when confessions are based on leveraged statements
- Stressed that this happens very frequently, whether in individual or mass trials where circumstances of the individual offenders are not even considered
- Emphasized that it is up to the work of the international community to set the standard high for the work on death penalty
- Concluded by stating that, even though different countries are in different stages on the work of abolishing the death penalty, she is thankful to the UN GA because without it, the impact of Amnesty International would be much more limited

MR. HAMID BENHADDU, NATIONAL HUMAN RIGHTS COUNCIL OF MOROCCO

- Highlighted that Morocco has integrated the right to life in the 2011 Constitution and it has maintained a moratorium on execution for 25 which makes the country de facto an abolitionist country
- Pointed that Morocco continues to have capital punishment as a legal penalty. Explained that 92 cases of death penalty usage were reported in Morocco
- Highlighted that jurists in the country are allowing a more in-depth review of the death penalty
- As regards to the forum of the penal reform, he emphasized that national institutions examined the harmonization of criminal law to international standards in order for Morocco to reduce number of violations which may be against the death penalty
- Stressed that national institutions studied the geo-conditions of people sentenced with death penalty, in October 2016

- Emphasized that in spite of the persistence of death sentences by the Moroccan jurisdiction, the Council is happy to announce that there are some positive indicators which would allow the country to implement an official moratorium on execution
- Noted that these indicators are consistent with dynamic networks in the societies which indicate movements in favor of the abolition of death penalty. Stressed that lawyers and parliamentarian officials are working against the death penalty
- Reported that the legislation has reduced the violations of the criminal code from 31 violations to 11
- Said that an amendment of the criminal code which will limit the application of the death penalty is making it necessary to have a unanimous decision by judges
- Reported that the Council has been carrying out cultural human rights interviews: interviews to Moroccan households show that over half of the households interviewed are in favor of the abolition of the death penalty
- Stated that the national Human Rights Commission is adopting measures to make the moratorium official by voting in favor of it and that the country is working towards joining the Optional Protocol to the International Covenant on Civil and Political Rights
- Further emphasized that the Council is reviewing and revising the criminal code in order to abolish the death penalty in accordance with the Constitution and that it is working in order to take the necessary measures to improve the conditions of convicted people in order for them to fully be able to access their rights. Furthermore, he concluded by saying that the Council is carrying out an in-depth review of Moroccan legislation with respect to human rights

MR. ANDREW KHOO, MALAYSIAN BAR COUNCIL

- Emphasized that the year 2018 has been a very eventful year for Malaysia. In May 2018, there was the first change of government of the country after 61 years of independence. The interesting thing about the new government was that its manifesto for the elections pledged to at the very least to abolish the death penalty in the country
- He continued by reporting that in September 2018, the new prime minister addressed the United Nations General Assembly and announced that the country will seek to adhere to the 6-remaining international human rights treaties which the country is still not part of. One of these is the international covenant on civil and political rights which addresses the issue of death penalty and also the convention against torture which also indirectly addresses the issue of death penalty
- In October 2018, the Minister in charge of law announced that the country will abolish the death penalty which came as a surprise for most people and civil societies

- Once this announcement came out, the push back from those who wanted to retain the death penalty for one reason or another was huge, from the press, to newspaper, social media who were expressing their support to the government not to proceed with the abolition of the death penalty and to retain it
- Civil societies took note of this and they have been responding and will continue to respond to these push backs and the government has reaffirmed its decision that it will go ahead with the abolition of the death penalty
- Until the law is passed and the legislation is signed, he stressed that civil societies will continue to respond and to lobby the houses of parliament and the senate
- Explained that the government controls the lower house of Parliament but not the majority in the Senate and so civil societies' main focus will be to lobby each and every senator
- The opponents of the total abolition come from a wide spectrum of opinions. Some talk about the right of "revenge" to be enjoyed by victims of murder etc., those who come from a religious perspective arguing that some major religions endorse death penalty, therefore abolishing the death penalty would mean contradicting the teaching religions or going against those religions. In this sense the death penalty becomes an emotive issue and it becomes challenging to put aside human emotions on issues concerning life and death and to talk about the principles of the right to life and the desire to abolish the death penalty
- Earlier in 2018, a death sentence was imposed by one of the Malaysian courts on a man who was convicted of using medical marijuana to treat sick individuals. The court could not distinguish this type of drug trafficking with other types of drug trafficking and so they had no choice but to impose the death penalty. Parliamentarians, capital ministers and seniors took up this cause to argue that perhaps this was a case where death penalty should not apply. Underscored that this has contributed to the debate and the resulting decision by the Malaysian Cabinet
- In Malaysia there are 1,278 people already on death row and one of the issues about discussing total abolition of death penalty concerns whether death penalty should still apply to them. The government has decided to abolish the death penalty and hence that it should not be applied to these 1,278 people. This raises the issue of a moratorium on execution
- The government has been speaking about a moratorium but neither consistently nor clearly. Explained that there have been enough announcements by the Cabinet that a moratorium is in place and that there will be no further executions
- Stressed that if this holds, then it would make sense for the Malaysian government to support a worldwide moratorium against the use of death penalty