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GHANA

Briefing on the death penalty

July 2000

SUMMARY

AI INDEX: AFR 28/01/00

DISTR: SC/CO/GR

Amnesty International is renewing its calls for steps towards abolishing the death penalty in Ghana, after seven years without any executions. As presidential elections in December 2000 approach, the organization is urging both government and opposition parties to make a commitment towards instituting a moratorium (suspension) on the use of the death penalty.

The death penalty has continued to be handed down, mostly in murder cases but also following treason convictions for alleged coup-plotting, and as many as 180 prisoners may remain under sentence of death. Four men were sentenced to death in February 1999 following a long-running treason trial before a special High Court in Accra, the capital. Two other defendants whose trials are pending, one in a related treason case and the other in another long-running treason case, could also face death sentences if convicted.

No executions are known to have been carried out in Ghana since 1993, but the government has not indicated any support for abolition of the death penalty. In 1996, when the governmental Commission for Human Rights and Administrative Justice (CHRAJ) and non-governmental human rights groups pressed for its abolition, government officials defended its use as a deterrent. In May 2000 the Deputy Attorney General and Minister of Justice, Martin Amidu, was quoted in the news media as telling a conference of journalists that he favoured its re-introduction as punishment for corruption by public officials.

While the return to constitutional rule in Ghana in 1993 has substantially increased freedom of expression and association, allowing the development of independent news media and political opposition groupings, the continued imposition of the death penalty in political cases -- as well as imprisonments of journalists and the failure to investigate the most serious human rights violations of the past -- has served to remind government critics that their freedom is conditional. In the context of the political executions which took place

in the 1980s, the death penalty has remained a potential threat against opponents of the government.

With the prospect of presidential elections in December 2000, there has been growing debate about the succession to President J.J. Rawlings, Head of State and Government since 1981, who is currently serving his last term in office. Ghana is at a crossroads and Amnesty International is joining with a number of non-governmental organizations (NGOs) in Ghana which oppose the death penalty to call on both the government and opposition parties in Ghana to make commitments to take steps towards securing a future in which the threat of the death penalty -- including against political opponents -- is finally and completely removed.

The document describes the use of the death penalty in Ghana and contains Amnesty International's recommendations.

**KEYWORDS: DEATH PENALTY1 / DEATH SENTENCE / IMPUNITY /
LEGISLATION / HUMAN RIGHTS INSTRUMENTS / TREASON**

This report summarizes a 13-page document (5446 words), GHANA: Briefing on the death penalty (AI Index: AFR 28/01/00) issued by Amnesty International in July 2000. Anyone wishing further details or to take action on this issue should consult the full document. An extensive range of our materials on this and other subjects is available at <http://www.amnesty.org> and Amnesty International news releases can be received by email: <http://www.amnesty.org/news/emailnws.htm>
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GHANA

Briefing on the death penalty

Amnesty International is renewing its calls for steps towards abolishing the death penalty in Ghana, after seven years without any executions. As presidential elections in December 2000 approach, the organization is urging both government and opposition parties to make a commitment towards instituting a moratorium (suspension) on the use of the death penalty.

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With the prospect of presidential elections in December 2000, there has been growing debate about the succession to President J.J. Rawlings, Head of State and Government since 1981, who is currently serving his last term in office. Ghana is at a crossroads and Amnesty International is joining with a number of non-governmental organizations (NGOs) in Ghana which oppose the death penalty to call on both the government and opposition parties in Ghana to make commitments to take steps towards

securing a future in which the threat of the death penalty -- including against political opponents -- is finally and completely removed.

The death penalty as a violation of human rights

Amnesty International opposes the death penalty unconditionally, in all circumstances and wherever it occurs throughout the world. The organization considers that it is the ultimate cruel, inhuman and degrading punishment which violates the most fundamental human right -- the right to life. Executions by the state reinforce the culture of violence which the taking of life is supposed to prevent. The fallibility of all judicial systems, even those with extensive legal safeguards, make the irrevocable nature of the death penalty particularly unjust -- in all jurisdictions there have been cases where innocent people have been executed.

The death penalty has never been shown to be an effective deterrent against violent crime. Scientific studies have consistently failed to find convincing evidence that the death penalty deters crime -- least of all politically-motivated crime -- more effectively than other punishments. The most recent survey of research findings on the relation between the death penalty and homicide rates, conducted for the United Nations in 1988 and updated in 1996, concluded: "Research has failed to provide scientific proof that executions have a greater deterrent effect than life imprisonment and such proof is unlikely to be forthcoming."¹

In the year 2000 Amnesty International is joining other organizations around the world in renewing calls for all states which retain the death penalty to establish a moratorium on executions with a view to abolishing the death penalty completely. In countries where a *de facto* moratorium exists and where executions have not been carried out for a period of years, Amnesty International is calling for the moratorium to be formalized in law.

Over half the world's countries -- a total of 108 countries -- have now abolished the death penalty in law or practice. While 87 countries retain and use the death penalty, the number of those which actually execute prisoners in any one year is much smaller. More than three countries a year on average have abolished the death penalty for all crimes in the past decade, including in Africa Angola, Djibouti, Mauritius, Mozambique and South Africa.

¹ Roger Hood, *The Death Penalty: A World-wide Perspective*, revised edition 1996, p. 187, paragraph 253

Reduction in the use of the death penalty

Since Ghana's return to civilian rule under a new constitution in January 1993, there has been a reduction in the use of the death penalty. The last executions in Ghana, of 12 prisoners convicted of armed robbery or murder, were carried out on 17 July 1993. While the government has commuted death sentences in many cases where prisoners have been awaiting execution for more than 10 years, the death sentence remains mandatory for treason and murder. Since 1993 the High Court has passed four death sentences for treason and at least 10 death sentences for murder.

The reduced number of death sentences and executions in the 1990s contrasts sharply with the high rate in the previous decade, most of which were passed by special courts outside the normal judicial system. In many cases they were imposed in political and criminal trials which were not independent of government control and which failed to meet international standards for fair trial or to accord internationally-recognized rights of defence.

After a coup in June 1979 which brought Flight-Lieutenant J.J. Rawlings and the Armed Forces Revolutionary Council (AFRC) to power, three former military heads of state -- **Generals Ignatius Acheampong, Akwasi Afrifa and Frederick Akuffo** -- and five other senior armed forces officers were executed without a fair trial or right of appeal, in contravention of all international standards for fair trial, reportedly for alleged misappropriation and misuse of state funds although full details were not disclosed. Others were said to have been sentenced to death *in absentia* by AFRC Special Courts, mostly also for alleged economic crimes. There followed a brief return to civilian government under President Hilla Limann, from September 1979 to December 1981, when two death sentences for murder were passed by the High Court; they were commuted to life imprisonment in a presidential act of clemency in 1994.

Another coup led by Flight-Lieutenant Rawlings put the Provisional National Defence Council (PNDC) in power in December 1981, with a renewed use of the death penalty in political cases. In July 1982 a system of special courts called Public Tribunals were established by decree which were not independent of the executive and whose procedures did not guarantee a fair trial. They had wide powers to impose the death penalty for unspecified offences and without right of appeal. In 1984 a National Public Tribunal was established as the highest court in the system, with an appeals panel which could hear appeals against decisions of the National Public Tribunal; it had the same lack of independence from government control. In August 1982 a Special Military Tribunal was created by decree which could try civilians as well as armed forces officers for certain criminal offences. In April 1984 it was given powers to try treason cases in secret and to

pass death sentences, and in the same month sentenced to death nine former armed forces officers in their absence for an alleged coup attempt. Both Public Tribunals and Special Military Tribunals carried out trials which failed to meet international standards for fair trial or for imposition of the death penalty.

From 1982 to 1992, as many as 400 death sentences were passed (118 of which were *in absentia*) and at least 77 executions were carried out. At least 20 prisoners were executed for political offences or after politically-motivated trials by Public Tribunals. A further 24 were sentenced to death after political trials in their absence by Public Tribunals and a Special Military Tribunal. Most other death sentences passed by Public Tribunals were for murder and armed robbery; at least three were passed in the early 1980s for economic crimes such as smuggling, which were commuted in the early 1990s. At least six death sentences for murder were passed by the High Courts during this period but are not known to have been carried out. These figures are based on incomplete and sometimes contradictory information from unofficial sources since official information on the use of the death penalty has not been made publicly available.

Those executed included seven armed forces officers shot dead by firing squad in August 1983 and March 1984 after conviction by a Public Tribunal, without right of appeal, on charges of involvement in a jailbreak and alleged coup attempt in June 1983; three of them had been tried *in absentia*. Six armed forces officers were executed in April 1985 after a trial by Public Tribunal *in camera* for an alleged coup plot in December 1984. Two armed forces officers and five civilians were executed in June 1986 for involvement in an alleged coup plot in 1985; the Public Tribunal concluded that, despite clear evidence of torture and coercion of defendants and potential state witnesses, statements made by them and later retracted in court had not been made under duress and were admissible as evidence against them.

In July 1993, after the return to constitutional rule under the civilian government of elected President Rawlings, the National Public Tribunal was effectively abolished under the 1993 Courts Act. The Act allowed appeals from lower Public Tribunals to the higher courts in the ordinary court system, required Chairpersons of Regional Tribunals to have the same qualifications as High Court judges and gave the judiciary the main responsibility for their appointment.

Also in 1993 the government created a permanent Commission on Human Rights and Administrative Justice (CHRAJ) to investigate and remedy human rights abuses. In 1996 the CHRAJ reported that 292 prisoners remained under sentence of death and called for abolition of the death penalty. In 1997 CHRAJ reported on the harsh conditions in the "condemned cells" in which 222 prisoners under sentence of death were held at Nsawam Medium Security Prison, near Accra. They were reported to be overcrowded and

insanitary, with prisoners forced to sleep on the floor and suffering ill-health as a result of malnutrition and lack of medical care and exercise.

The number of prisoners awaiting execution has declined since 1996, and could be around 170. In February 1997, seven prisoners under sentence of death were released from prison on health grounds and 15 had their sentences commuted to terms of imprisonment, under a clemency measure announced in August 1996 which commuted to life imprisonment death sentences on prisoners who had served 10 years' imprisonment and which granted release to sick and elderly prisoners. However, in May 1997 the *Ghanaian Chronicle* newspaper reported that the 15 who benefited from commutations were former armed forces, police or other security officers, eight of whom had not served 10 years' imprisonment, and that 33 prisoners who qualified to have their sentences commuted or to have been released under the amnesty were still being held in the condemned cells. Another clemency measure in April 2000 was reported to have included the commutation of sentences on 100 prisoners.

Full details of those who benefited from such clemency measures were not made available by the authorities, but among the former armed forces officers whose sentences were commuted in February 1997 were two political prisoners: former Captain Adjei Edward Ampofo, who had been convicted *in absentia* of involvement in an attempted coup in 1983 after being arrested in 1986, and former Sergeant Oduro Frimpong, who was sentenced to death in 1985 after a trial *in camera* for involvement in an alleged coup plot in 1984. Under the April 2000 amnesty, they were granted their release.

Impunity issues

Despite the establishment in 1993 of the CHRAJ, there have been no moves towards investigation of executions carried out after unfair and political trials and other serious human rights abuses, and victims of unfair trials and death sentences or their relatives have been unable to seek justice or compensation through the courts. Attempts to end this impunity for serious violations of basic human rights have been prevented by provisions inserted in the 1992 Constitution by the outgoing military government which granted its members and its predecessors in previous military governments immunity from prosecution for actions taken while in power. The courts are reported to have ruled that they do not have jurisdiction to hear appeals against death sentences imposed by Public Tribunals.

There has, however, been some gradual acknowledgement of past human rights violations. The CHRAJ has restored some unlawfully seized assets to their rightful owners, and President Rawlings has expressed regret on a number of occasions in recent months for injustices which occurred after the coups of 1979 and 1981. However, in November 1999

he opposed the idea of a commission of inquiry like the Truth and Reconciliation Commission in South Africa on the grounds that it would re-open healed wounds.

There has been no official response to public demands for investigations into past human rights abuses in recent years. In 1999 and early 2000 Kwabena Agyepong, son of Mr Justice Kwadwo Agyei Agyepong, one of three High Court judges and a former senior army officer abducted and murdered in 1982, made repeated calls for renewed investigation into their deaths. In 1983 Joachim Amartei Kwei, a former member of the military government, and three other armed forces officers were tried by Public Tribunal, sentenced to death for the murders and hastily executed. They did not have legal representation or any right of appeal. The government has remained sensitive to accusations of government involvement at the highest level in these murders, imprisoning from 1983 to 1992 the senior police officer who led investigations which implicated the government, and in 1989 briefly detaining senior lawyers who organized commemorations of the judges' deaths.

Other calls for investigations into human rights violations in the past have been made by human rights defenders and journalists, who have pressed for investigation of dozens of alleged extrajudicial executions committed in the early 1980s and for examination of death sentences passed by Public Tribunals. In October and November 1999 four other journalists were briefly detained and were subsequently charged -- together with opposition Member of Parliament Nana Akufo-Addo -- with publishing "false reports injuring the reputation of the State" after publishing allegations of the involvement of a presidential security guard in the 1985 murder of a Catholic priest, the Reverend Father Kukah, and the 1992 bombing of a hotel belonging to the Akufo-Addo family.

Under international human rights law, governments have an obligation to investigate allegations of human rights violations and to bring suspected perpetrators to justice. Amnesty International considers that accountability is best served when human rights violations, their victims and those suspected of being responsible for them, have been identified by thorough and impartial investigations. It calls on governments to bring suspected perpetrators to justice in trials which meet international standards of fairness and which do not impose the death penalty as punishment, and opposes any general immunity or amnesty which prevents legal action against alleged perpetrators.

Recent death penalty cases

Since the return to constitutional rule in 1993, at least 10 death sentences have been imposed following murder convictions in the High Court. In 1995 Nana Kwame Nkoah, a traditional ruler, and three others were sentenced to death for murder. In 1996 there were at least two death sentences passed for murder in separate cases. In one case, Nana Kwasi Agyemang, a popular musician known as "Gemann", was sentenced to death by the High

Court in Accra; the Court of Appeal rejected his appeal in 1998 and he is awaiting an appeal hearing before the Supreme Court. Three death sentences for murder were handed down in separate cases in 1997, and another in 1999 in a further murder case.

Death sentences have also been passed following convictions for treason or are faced by defendants on trial for treason, in cases described below. In two treason trials which have taken place, concern has been expressed at the failure of the courts to investigate thoroughly allegations by defendants and witnesses of torture or ill-treatment and that confession statements were obtained by improper means. Human rights activists and lawyers in Ghana have expressed concerns that the judiciary has on occasion been influenced by the government's attitude towards such cases.

In February 1999 four men were sentenced to death following a long-running treason trial before a special High Court in Accra. Sylvester Addai-Dwomoh, Alexander Kwame Ofei, Kwame Ofori-Appiah and John Kwadwo Owusu-Boakye had been charged with plotting to overthrow the government in 1994. A fifth accused person, Emmanuel Osei Kofi, was acquitted. All five had been in custody since their arrest in September 1994. The prosecution alleged that the first four accused, all recently returned to Ghana from the United Kingdom, had approached soldiers on guard at the state radio station in Accra and tried to involve them in a plot to overthrow the government. Sylvester Addai-Dwomoh, Kwame Alexander Ofei, Kwame Ofori-Appiah and Emmanuel Osei Kofi were arrested with a group of soldiers in a bar early on 2 September 1994. John Kwadwo Owusu-Boakye was arrested a few hours later at the house where they were lodging.

They were detained without charge until 23 September 1994 when they were brought before a circuit court in Accra and charged with treason. They were reportedly detained by the military before being transferred to the custody of the Bureau of National Investigations (BNI), the security police. Following a complaint by the lawyer of one of the detainees, that he was being denied private access to his client, the court ordered their transfer to prison custody. At least two of the defendants alleged that they had been severely beaten and ill-treated by police officers following their arrest, in an attempt to coerce them into making incriminating statements. John Kwadwo Owusu-Boakye was reported to have made his first appearance in court in blood-stained clothes and with his face swollen. Alexander Kwame Ofei was reportedly stabbed in the knee and hand, beaten about the face and had a fingernail torn off. The special High Court trying the case ruled their statements admissible despite evidence, from prosecution witnesses as well as from some defendants, that both soldiers who later testified for the state and defendants had been beaten following their arrest. The question of whether statements might have been obtained under duress or improper inducement does not appear to have been seriously considered by the court. The defendants lodged an appeal against their conviction and sentence with the

Supreme Court, which has appellate jurisdiction in treason cases. If the death sentences are upheld, the defendants may petition the Head of State for clemency.

Another prisoner connected with the same case faces a possible treason conviction and death penalty. Former army captain **James William Owu** was alleged to be one of three former armed forces officers who were the main organizers of the plot but who escaped arrest. He was subsequently brought before the High Court in Accra in March 1999 and charged with treason. In early 1982 he had been arrested and detained without charge or trial, reportedly as a suspect in an alleged coup plot shortly after the December 1981 coup which brought Flight-Lieutenant Rawlings to power, but had escaped from detention in a mass jail breakout in June 1983 and left the country. He was registered as a refugee by the United Nations High Commissioner for Refugees (UNHCR). In early 1999 he was detained while visiting Sierra Leone by the peace-keeping forces of the Economic Community of West African States (ECOWAS) Cease-fire Monitoring Group, known as ECOMOG, and in February 1999 flown to Ghana by the Ghanaian armed forces where he was imprisoned. No formal extradition proceedings took place. He has contested the legality of his arrest on the grounds that he was under the protection of the UNHCR at the time of his abduction by the Ghanaian armed forces.

Another prisoner who faces the death penalty is due to be re-tried for treason after more than six years in prison. **Karim Salifu Adam**, a former army sergeant and member of the opposition New Patriotic Party, was arrested in May 1994 and detained incommunicado for nearly two months before being brought before a court and charged with treason. The prosecution alleged that he had recruited young men for military training in the neighbouring state of Burkina Faso with the aim of overthrowing the government. He denied the charges and told the court that he had recruited labourers to carry out a building contract in Ghana. He said that the evidence against him had been fabricated by the security police and that he was only charged with treason after he refused to implicate leading opposition politicians and neighbouring governments in a fictitious coup plot. His allegations that security police officers had severely beaten him and held him in harsh conditions and illegally in military custody were not thoroughly and impartially investigated by the court. All the evidence had been heard by November 1996 and judgment was due to be given in January 1997, but was postponed repeatedly because of the ill health and subsequent death of one of the judges. In July 1997 he was brought before the High Court, without his lawyers being informed, and the court ordered a full re-trial on the grounds that no judgment had been reached. In February 1998 the Supreme Court rejected a defence application against a retrial. The retrial has not yet proceeded.

The death penalty in Ghanaian law

Under the Criminal Code of 1960 (as amended), treason, murder, attempted murder in certain circumstances and genocide are punishable by death. Under the Armed Forces Act

of 1962, the death penalty may be imposed for treason and mutiny by military personnel in time of war.

Under the 1960 Criminal Code, robbery is punishable by a term of imprisonment up to life imprisonment. However, under the Suppression of Robbery Decree, No. 11 of 1972, promulgated by the National Redemption Council, the military government in power from 1972 to 1978, the death penalty may be imposed for robbery and is mandatory if the robbery results in loss of life. The last known death sentences for armed robbery were passed in March 1993 and the last executions of prisoners convicted of armed robbery took place in July 1993.

Under the 1960 Criminal Procedure Code 1960, the death sentence may not be passed on a juvenile offender, which in Ghana means someone who was under the age of 17 years when they committed the offence. Defendants have a right to appeal to the Court of Appeal and the Supreme Court, except in treason cases which are tried by a specially-appointed High Court and in which appeal is allowed only to the Supreme Court. The head of state, who authorizes every execution, is advised by a Committee on the Prerogative of Mercy on petitions for clemency and may commute death sentences. Defendants who cannot afford a lawyer are appointed legal counsel by the court; however, lawyers are paid very little for such cases and are therefore often newly-qualified and inexperienced. In 1998 the CHRAJ was reported to have provided lawyers for six murder suspects who had been awaiting trial in a prison in Cape Coast for between seven and 14 years. Appeals may also be delayed for years because of lack of funds, for example for prisoners to purchase the forms on which to file for appeal.

Under the 1960 Criminal Procedure Code, execution may be by hanging or by firing squad. The Ministry of the Interior in 1996 said that the last hanging in Ghana took place in 1968. Executions since that time have been carried out by firing squad.

Concerns remain about the influence of the government, the fairness of trials and the imposition of the death penalty in political cases. Although military decrees providing powers of arbitrary detention were revoked at the return to constitutional rule, in the treason cases since 1993 there has in practice been little effective recourse against illegal and incommunicado detention by the military or security police, leaving defendants and potential witnesses vulnerable to ill-treatment or other improper coercion or inducement.

Members of the legal profession and human rights groups have expressed concern that the government remains too closely involved in the appointment and promotion of judges, and that as a result judges have shown a lack of independence in some political cases, for example in the current treason cases and also in the imprisonment of journalists

for alleged defamation of government members or associates. In treason cases, a special High Court consisting of three judges is appointed and a right of appeal is allowed only to the Supreme Court and not also to the Court of Appeal as in other capital cases. There has been criticism from lawyers that some of the judges appointed to this special High Court have not been selected from the most senior and experienced members of the judiciary.

Reporting and commenting on trials by the news media, especially on political trials or those involving the government, has been constrained by fears of being accused of contempt of court. Freedom of expression, which has increased substantially since the 1980s when the opposition press was almost completely silenced, is still inhibited by the detention and prosecution of critics in the privately-owned news media. Senior government officials and their associates have used the criminal and civil libel laws repeatedly to have journalists imprisoned for criticizing them, and the courts have imprisoned a lawyer and journalists for contempt of court for summarizing court proceedings incorrectly or for criticizing judges' rulings. In 1997 the Supreme Court ruled that legislation providing for up to 10 years' imprisonment for false reporting likely to injure the reputation of the government was not inconsistent with the constitutional provisions for freedom of speech and expression.

The death penalty in international law

The death penalty has not yet been banned under international law. However, the International Covenant on Civil and Political Rights, which entered into force in 1976, asserts the right to life and the right not to be arbitrarily deprived of life. It obliges states which have not abolished the death penalty to impose it only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and pursuant to a final judgment rendered by a competent court, and not to impose it on any person below 18 years of age or a pregnant woman. An International Covenant on Civil and Political Rights Bill, proposed by the Ghanaian government, is currently awaiting parliamentary approval.

In 1984 the UN Economic and Social Council (ECOSOC) adopted safeguards guaranteeing protection of the rights of those facing the death penalty for countries which have not abolished the death penalty. These include imposing the death penalty only: when the guilt of the person charged is based upon clear and convincing evidence which leaves no room for an alternative explanation of the facts; pursuant to a final judgment rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial, including the right to adequate legal assistance at all stages of the proceedings; where a right to appeal to a court of higher jurisdiction is provided; and where carried out with the minimum possible suffering. The ECOSOC safeguards also recommend that steps should be taken to ensure that appeals are mandatory in death penalty cases.

The United Nations (UN) General Assembly has called on all states progressively to restrict use of the death penalty with a view to its eventual abolition. The 1989 adoption by the General Assembly of the Second Optional Protocol to the International Covenant on Civil and Political Rights, which aims at the abolition of the death penalty and which entered into force in 1991, was a clear recognition by the international community of the need to eliminate the use of capital punishment, totally and globally. The Protocol has already been ratified by 43 countries and the trend towards abolition continues, with 73 countries -- more than half the countries in the world -- having abolished the death penalty for all crimes.

The UN Convention on the Rights of the Child, ratified by Ghana in 1990, obliges states which are party to the convention not to impose capital punishment for offences committed by people below 18 years of age.

In 1997, 1998 and 1999, a growing number of governments supported resolutions adopted by the UN Commission on Human Rights which called for steps to be taken towards abolition of the death penalty. The Commission's resolution 1999/61 called upon all States that still maintain the death penalty:

- progressively to restrict the number of offences for which the death penalty may be imposed;
- to establish a moratorium on executions, with a view to completely abolishing the death penalty;
- to make available to the public information with regard to the imposition of the death penalty.

Among other appeals, it also called on such states to comply fully with their obligations under the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child, not to impose the death penalty for any but the most serious crimes and to ensure that the notion of "most serious crimes" does not go beyond intentional crimes with lethal or extremely grave consequences. It also called on such states to ensure the right to a fair trial and the right to seek pardon or commutation of sentence, and that the death penalty is not imposed for non-violent financial crimes.

Under the Statute of the International Criminal Court adopted in 1998, which Ghana ratified in 1999, the death penalty is excluded from the punishments which this court will be authorized to impose, even though it has jurisdiction over extremely grave crimes such as crimes against humanity, including genocide, and violations of the laws of armed

conflict. Similarly, in establishing the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda in 1993 and 1994 respectively, the UN Security Council excluded the death penalty for these crimes.

Amnesty International's recommendations

Amnesty International welcomes the fact that no executions have been carried out in Ghana since 1993. It acknowledges the positive trend that the number of offences which carry the death penalty have been reduced and that death sentences have been commuted on several previous occasions, including some death sentences which were imposed after political trials.

Amnesty International now calls on the Ghanaian government to make further commitments on human rights with regards to the death penalty:

- to take advantage of the opportunity provided by a period without executions to legalize the *de facto* moratorium which has operated since 1993;
- not to execute any of the prisoners currently under sentence of death, to commute their sentences and in future to commute all death sentences which come before the Head of State for consideration of clemency petitions;
- to publish statistics about the death penalty and details of death sentences passed and executions carried out, amnesties and commutations;
- to strengthen legal safeguards including those contained in the International Covenant on Civil and Political Rights and the UN Economic and Social Council (ECOSOC) safeguards guaranteeing protection of the rights of those facing the death penalty, and take steps to ensure that appeals are mandatory in death penalty cases;
- to institute a thorough and broad-ranging examination of the use of the death penalty in Ghana and its effect on crime and society. The study should be carried out by an independent commission of inquiry which should have a mandate to:
 - examine laws and practice;
 - assess the effectiveness of the death penalty in deterring crime;
 - consider the differences in its imposition by special courts and the ordinary courts in Ghana;

- examine facilities available for the medical and social investigation of the cases of offenders liable to capital punishment;
- examine the legal procedures and the safeguards for the accused in capital cases;
- make recommendations on steps towards its abolition in Ghana.
