

Fighting against the Death Penalty in the Arab World

[**Protagonists, Arguments and Prospects**]



By
Mona Chamass

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Map League of Arab States



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Preface

This report considers the member states of the Arab League: Algeria, Bahrain, the Union of the Comoros, Djibouti, Egypt, the United Arab Emirates, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, the Palestinian Territories, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia and Yemen. Of these 22 countries only Djibouti has abolished the death penalty. Algeria was the only one to vote in favour of the UN General Assembly resolution calling for a moratorium on the death penalty adopted on 18 December 2007 in New York. In 2006 executions were still being performed in Egypt, Kuwait, Yemen, Iraq, Saudi Arabia and Jordan. Lebanon and Bahrain reintroduced executions in 2004 and 2006 respectively, after a suspension lasting more than ten years.

However, some progress has been made. Five Arab nations (Algeria, Morocco, Tunisia, Mauritania and the Comoros) have informally respected a moratorium on executions for more than a dozen years. Increasingly, politicians are coming out against the death penalty. Most Arab states have initiated penal reform projects which, in the long-term will if not abolish capital punishment at least reduce its scope¹. Several countries in the region have signed agreements with the European Union which include action plans to support human rights and ratify international agreements.

The abolitionist activists stand out by their number and dynamism. They increasingly favour concerted action. However, although these countries share a number of cultural and religious values, the protagonists must take into consideration a variety of economic and socio-political situations. Consequently, their focus varies from abolition or a moratorium to reducing the scope of capital punishment. This last strategy is typical in many of the countries in the region.

This report has three broad sections. The first sets out the state of play of this issue in the 22 countries concerned. As well as the latest political developments, it examines the various national, regional and international protagonists. Particular attention has been paid to seven countries: Algeria, Jordan, Lebanon, Morocco and Tunisia in view of their legal progress towards abolition; and Egypt and Yemen for the energy of their abolitionist players. The second section identifies and analyses the relevant arguments against use of the death penalty, including the religious argument. Finally, the last section discusses the outlook for the future and suggests action and recommendations to strengthen the abolitionist movement. The report's main aim is to encourage regional and sub-regional currents.

State of play and protagonists

[Introduction

Not all the countries examined in this report have tackled the anti-death penalty cause in the same way. Jordan and Palestine have pledged to introduce legal reforms, abolitionists in Egypt and Yemen are working to support a reduction in the scope of capital punishment, Tunisia and Algeria have a moratorium in practice, and there are real opportunities for abolition in Morocco and Lebanon.

Generally speaking, there are two distinct strategies: total abolition of the death penalty and the introduction of moratoria. The first is permanent when translated into law. However, it is important to recall that the political decision to abolish the death penalty does not necessarily mean the end of the struggle. It also requires constitutional review and ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR). Indeed, this is the only way to ensure that abolition of the death penalty is irreversible. If the context is favourable, abolition should be attained as quickly as possible to stop the debate losing momentum.

The moratorium strategy is provisional and applies to a variety of situations: a moratorium on passing capital sentences, a moratorium on executions or a moratorium on a particular method of execution. A moratorium does not necessarily lead to abolition but it is often a useful step for preparing political and popular attitudes and helping them evolve. Support from the authorities is also more forthcoming as they know that they are not definitively bound by a moratorium.

However, over and beyond the classic strategies there is a third way preferred by most Arab nations: reducing the scope of capital punishment. In some countries (Yemen, Egypt, Jordan and Bahrain) the socio-cultural and religious context does not favour an abolitionist strategy. Such an approach could even prove to be counter-productive. Those involved in the fight against the death penalty are therefore concentrating on reducing the conditions for applying capital punishment and promoting the safeguards surrounding a fair trial to try to obtain legal reforms in this direction.

This third strategy is also closely connected to the omnipresence of the religious issue. Islam is not the only religion practiced in these countries but it is the majority faith, although, with the exception of Sudan, Saudi Arabia² and Yemen, positive law is mainly inspired by Western codes. Depending on the source,

confession and interpretation, capital punishment forms a more or less crucial part of Muslim penal sentences³. Further, the authorities regularly exploit the religious argument for political ends to justify a conservative attitude.

[Historical considerations

Between 1979 and 1994 human rights declarations multiplied in the Arab world⁴ but no parallel anti-death penalty events were organised, except the 1995 regional meeting in Tunis under the aegis of the Arab Institute for Human Rights.

Among the declarations were:

- the three declarations by the Organisation of the Islamic Conference (OIC) in 1979, 1981 and 1990;
- the Final Declaration from the conference on human rights in Islam organised by the International Commission of Jurists in Kuwait in 1980;
- the 1981 Universal Islamic Declaration of Human Rights initiated by the Islamic Council of Europe;
- the 1985 Tunisian Declaration of Human Rights;
- the 1986 Arab Jurists Human Rights Charter;
- the 1988 Libyan Declaration of Human Rights;
- the 1990 Moroccan Declaration of Human Rights;
- the 1994 Arab Charter on Human Rights (reviewed in 2003, adopted in 2004 and in force from January 2008).

Apart from the Moroccan and Libyan declarations which looked to abolish the death penalty, all these texts (including some which uphold the right to life) conserve capital punishment by referring back to *Sharia* and merely suggest limiting its scope.

Hence, the 1981 Universal Islamic Declaration of Human Rights announced by the Islamic Council of Europe, a non-governmental organisation (NGO) based in London and run by Muslim lawyers and representatives from various movements and currents of Islamic thought, clearly authorises use of the death penalty. Its first article on the right to life states that "Human life is sacred and inviolable and every effort shall be made to protect it. In particular no one shall be exposed to injury or death, except under the authority of the Law."⁵

State of play and protagonists

Adopted in May 2004 and in force since January 2008, the (new version) of the Arab Charter on Human Rights is the most recent instrument and the only to be restrictive in nature. However, Article 6 of the Charter conserves capital punishment for the most serious crimes, and Article 7 sets out the possibility for internal national legislation to apply capital punishment to those under 18⁶.

In the new millennium, the anti-death penalty fight has gained visibility and expanded regionally and internationally. Several Arab countries participated in the 2nd World Congress Against the Death Penalty which was held in Montreal in 2004. The participation of Morocco, Lebanon and Jordan was reported by the national media. In February 2007 the 3rd World Congress specifically raised the issue of the death penalty in North Africa and the Middle East, and devoted a large plenary debate and a round table to the issue, allowing abolitionist players from the region to make their voices heard.

In July 2007 Penal Reform International (PRI) and the Amman Centre for Human Rights Studies (ACHRS) organised a regional conference on abolition of the death penalty. This conference, held in Amman, Jordan, brought together eight countries from the region: Algeria, Jordan, Lebanon, Morocco, Palestine, Tunisia and Yemen. Activists, journalists, judges, religious figures and representatives from the various national coalitions against the death penalty all participated. This initiative was part of PRI's regional programme on the death penalty which plans to establish national coalitions and a regional coalition against the death penalty. It therefore gave rise to the creation of the Arab Coalition Against the Death Penalty and defined the strategies for action at both local and regional levels⁷.

Finally, voices have been raised in religious circles in the last few years, calling for a more humane penal practice of Islam and a reduction in the scope of the death penalty.

State of play and protagonists

Algeria

[Algeria

- Death penalty applicable
- Moratorium on executions in practice since 1993
- Voted FOR the resolution for a moratorium on the death penalty adopted by the UN General Assembly on 18 December 2007
- No national coalition against the death penalty

Moratorium on executions in practice since 1993

The first execution in independent Algeria was in 1964 and concerned the case of Colonel Chaabani. In June 1992 the *Observatoire national des droits de l'Homme* and the *Ligue des droits de l'Homme* requested that the High State Committee (which took on management of the country after the assassination of President Mohamed Boudiaf) no longer apply capital punishment. However, in September 2002, following the cancellation of the elections won by the *Front islamique du salut*, the scope of capital punishment was expanded when a state of emergency was established and anti-terrorism decrees adopted. These were incorporated into the 1995 Act and are still in force. Crimes connected to terrorism have therefore been added to the other crimes which were already subject to capital punishment such as treason, espionage, attempts to overturn the regime and acts of instigation, destroying land, sabotage of public services or the economy, massacres, belonging to armed groups and insurrectional movements, homicide, acts of torture and cruelty, rape of children and aggravated theft.

However, no executions have been performed in the country since the execution of seven prisoners in 1993 who were sentenced to death for their involvement in the terrorist attack of 26 August 1992 at Algiers airport.

Abolition on the table since 2004

Within the framework of the reconciliation policy launched by Abdelaziz Bouteflika, who became President on 15 April 1999, his Justice Minister, Tayeb Belaïd, announced on 26 June 2004 that the death penalty would be removed from Algerian legislation. However, he also specified that this decision, justified by a desire to adapt the Algerian Code to international developments, would not include terrorism, endanger-

ing national security, treason and crimes of infanticide and parricide⁸. However, this somewhat contradictory announcement did raise the hopes of abolitionists and supported the entry into force in September 2005 of a partnership agreement between Algeria and the European Union which had made abolition of the death penalty and the practice of torture a prerequisite on several occasions. The European Union also refused to deport Algerian citizens detained for terrorism.

In October 2005 Algeria's Prime Minister, Ahmed Ouyahia, declared that he would support abolition of the death penalty. In March 2006 the President pardoned two hundred prisoners sentenced to death and a draft abolition law was put before Parliament⁹. However, on 17 October 2006 the Algerian Parliament voted against this text. Capital punishment is therefore still part of the Algerian Penal Code, although it has not been applied since 1993.

Nonetheless, on 18 December 2007 Algeria was the only Arab country to support the UN resolution calling for a universal moratorium on the death penalty¹⁰.

Many obstacles remain

Since the announcement of imminent abolition in 2004, a decision has still not been taken. This delay can be partly explained by the nervousness of certain politicians and particularly those from the Islamist wing who want to apply *Sharia*¹¹. Priorities connected to rebuilding the country after years of a punishing civil war have also relegated abolition of the death penalty to the background. Indeed, the difficult national reconciliation process must firstly tackle the issue of the millions of people who disappeared and the many other victims of massacres and terrorism.

However, there are a number of arguments which could alter the official position. President Bouteflika, in a desire to preserve the image of a state of law, could be tempted to abolish the death penalty before his mandate expires in April 2008. Competition with Morocco as regards democracy also has a role to play – Algeria may decide to abolish the death penalty before its neighbour does. The death penalty is also preventing the extradition of important financial criminals¹². Finally, abolitionist players can invoke the past and particularly the war for national liberation when France sentenced a number of Algerian combatants to death. Since then, the death penalty has been compared to the injustices of colonialism.

State of play and protagonists Algeria

Although no executions have been recorded since 1993, death sentences continue to be passed. Precise data on the number of prisoners sentenced to death are difficult to obtain. On average, since 2000 between 100 and 150 death sentences have allegedly been passed per year¹³.

The protagonists

Mobilisation against the death penalty is less marked in Algeria than neighbouring countries. In particular, there is no national coalition. Among those involved (institutional and others) are some human rights organisations such as the *Ligue algérienne des droits de l'Homme* (LADH) and the *Ligue algérienne de défense des droits de l'Homme* (LADDH). The *Commission nationale de protection et de promotion des droits de l'Homme* is also worthy of mention. Established by a presidential decree in 2001 and presided over by Farouk Ksentini, it has been working on this issue since its creation and on several occasions has come out in favour of abolition of the death penalty in Algeria. Although the Commission only provides advice on the human rights situation in the country, its role could still be important given that abolition depends firstly on a presidential decision. In its 2006 annual report given to the

President of the Republic, the Commission particularly requested that the issue of abolition of the death penalty be examined¹⁴. Other figures have distinguished themselves in the struggle. The lawyer Miloud Brahim¹⁵, former president of LADH, links the issue to national reconciliation, a subject close to the President's heart: "If those who have massacred, killed and raped have not been sentenced to capital punishment, who will be?"¹⁶ This lawyer has also pleaded for the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights which aims to abolish the death penalty.¹⁷

Finally, the media is spreading the abolitionist call¹⁸. The daily newspaper *El Khabar* and the newspaper *El Moudjahid* in particular organised a debate on international law where Brahim spoke. The independent newspaper *El Watan* published the call of the *Ligue algérienne des droits de l'Homme* in support of abolition¹⁹. In 2006 Brahim solemnly called on the President of the Republic via the radio station III to initiate abolition of the death penalty²⁰. Finally, Algeria's participation in a future regional coalition against the death penalty, announced by PRI and the ACHRS at the regional conference against the death penalty in Jordan in July 2007, could revive the debate in the country.²¹

State of play and protagonists

Egypt

[Egypt

- Death penalty applied
- Voted AGAINST the resolution for a moratorium on the death penalty adopted by the UN General Assembly on 18 December 2007
- A national coalition against the death penalty in place since June 2007

Executions part of severe legislation

Among the crimes subject to the death penalty in Egypt are: endangering national security internally and externally, terrorism, premeditated murder, arson causing death, air hijacking, espionage, trafficking, planting, producing, detaining and transporting drugs, detaining weapons to endanger public order or national security, and perjury leading to a death sentence. Offences endangering national security internally and externally, and those committed by armed gangs can be subject to the death penalty, even if no lives have been harmed²².

According to the International Federation for Human Rights (FIDH), 25 executions were performed in the country in 1999, 30 in 2000, 28 in 2001 and 49 in 2002. Amnesty International estimates that 108 sentences were passed in 1999, including 12 against women. Between 1996 and 2001 at least 382 individuals were sentenced to capital punishment in Egypt, an annual average of 76 death sentences²³. In June 2006 two brothers were executed and at the end of the same year three men were sentenced to death, all for their alleged participation in the Taba terrorist attacks in 2004. According to Amnesty International, further executions were allegedly performed in 2007 but the organisation has not been able to find more information on the exact number²⁴.

Egyptian legislation requires unanimity by the four members of the Criminal Court to pass the death penalty. The Republic's Mufti is also obliged to give a purely consultative view on death sentences passed. The Criminal Court rules in all cases in the first and last resort. According to a report by FIDH, this constitutes a violation of the safeguards on the proper administration of justice. The only option for individuals sentenced to death by the penal courts is to lodge an appeal.

However, the justifications for an appeal are strictly limited and can only concern points of law. The Appeal Court is not authorised to rule on elements of fact²⁵.

In October 2002 the UN Human Rights Committee, noting that the list of offences subject to the death penalty was growing and that some of these offences did not conform with the provisions of paragraph 2, Article 6 of the International Covenant on Civil and Political Rights²⁶, repeated the recommendation it had made to Egypt in July 1993. It invited the country to bring its legislation into line with the provisions of Article 6 of the Covenant it had ratified and to take steps to abolish the death penalty²⁷. Egypt has also signed, but not ratified, the Rome Statute for the International Criminal Court, and has ratified the African Charter on Human and Peoples' Rights. In November 1999 the African Commission for Human and Peoples' Rights adopted a resolution calling on states party to the African Charter to "limit the imposition of capital punishment to the most serious crimes; envisage the implementation of a moratorium on executions; and consider the possibility of abolishing capital punishment".

State of emergency and religious factor: two significant obstacles

Two factors immediately constitute considerable obstacles to abolitionist efforts. On the one hand, the 1980 Egyptian Constitution considers *Sharia* as the main source of legislation. For the religious authorities, the law of God requires the death of those who have intentionally killed²⁸. No position supporting abolition can be observed among religious figures in the country. In his response to the idea of a moratorium launched by Tariq Ramadan²⁹, Dr Ali Juma'a, Egypt's Mufti, did confirm that it was difficult to gather all the conditions required by *Sharia* to pass a death sentence. However, he has not come out in favour of abolition and continues to systematically give a favourable view of the death sentences cases put to him. Sheikh Tantawi, the senior Imam from Al Azhar University and former Mufti of Egypt, has always upheld his absolute refusal to abolish the death penalty³⁰.

On the other hand, since 1981 and the assassination of President Anouar el Sadate, the country has been living under a state of emergency and the exceptional courts which were established at the time. This situation has led to an increase in references to attacks on

State of play and protagonists Egypt

national security subject to the death penalty. Further, the President of the Republic has the right to bring any individual before these courts, even those accused of common law crimes or offences. The State's Security Courts and the High State Security Court rule with no possibility of appeal. The only option is to register an individual complaint with these same bodies.

The perspective of a new anti-terrorist law, which should replace the state of emergency applied since 1981, has smothered any abolitionist hope³¹. This law will allow those suspected of terrorism to be brought before military courts and exceptional courts, and will permanently include in law the powers established by the state of emergency³². Although a new law from April 2007 recently established a degree of appeal to review the decisions of the military courts, this secondary court is still composed uniquely of soldiers³³.

A debate which remains limited despite the creation of a national coalition

The high number of sentences passed by the exceptional courts and conservation of the state of emergency since 1981 have not provoked a debate on the death penalty. The debate is still limited, even amongst human rights organisations, a large number of which seem to consider that the issue is not a priority in terms of the country's socio-political situation. Public opinion seems to share the same attitude³⁴, when it is not itself calling for application of capital punishment. As Hossam Bahgat from the Egyptian Initiative for Personal Rights underlined at the World Congress Against the Death Penalty held in Paris in February 2007, "death sentences do not provoke negative reaction in Egypt". Organisations promoting the rights of women have already demanded capital punishment for rapists.³⁵

However, an essential step was taken with the creation of the national coalition against the death penalty at the joint conference organised in Cairo on 29 June 2007 by PRI, ACHRS and the MAAT Centre for Legal and Constitutional Research. This coalition brings together five founding organisations: the MAAT Centre, the One World for Development and Civil Society Foundation, the Association for Human Development in Mansourah, the Centre for Rural Research and the Kalima Centre for Human Rights. The Egyptian Coalition today includes 99 members, including 22 NGOs, journalists, lawyers and a few political parties. It plans to publish a report called "The death penalty is

not necessary for society"³⁶ and at the same time would like to work with the National Human Rights Council (presided over by Boutros Boutros Ghali) on reviewing the provisions for using the Appeal Court to make it more efficient and competent so as to review capital punishment sentences on the basis of content and not only procedure.

The protagonists

Despite the existence of the new coalition, few human rights organisations have included the anti-death penalty cause in their mandate or led a specific campaign on the issue. Rather, they intervene in individual cases of death sentences either alone or within the framework of joint action. There is a strong religious undercurrent to this state of affairs: pursuing abolition can be interpreted as being contrary to the ethics of Egyptian society. However, organisations are multiplying conferences, reports and other similar activities to raise the issue in public arenas. For example, the conference organised by the Human Rights Association for the Assistance of Prisoners (HRAAP) on 11 September 2004 gave the floor to a number of lawyers, Islamic thinkers and representatives from NGOs. Although a consensus was not reached, they were able to agree on the idea of a moratorium on executions for two years³⁷. In a report in response to that of the Egyptian State for the UN Human Rights Committee charged with overseeing application of the International Covenant on Civil and Political Rights, HRAAP highlighted the existence of unlawful death sentences passed under the cover of the state of emergency and not on the basis of the objective existence of a serious danger³⁸.

In 2004 Ayman Ayad from the Association of Human Rights and Legal Aid raised the question of the use of the death penalty and its compatibility with the fundamental principle of the right to life³⁹. The Egypt Organisation for Human Rights (EOHR) has studied the subject from the religious angle⁴⁰. HRAAP and EOHR also alerted FIDH to the worrying increase in death sentences in Egypt and encouraged an investigation on the ground in 2004⁴¹. In 2006 in an open letter to the Prime Minister, Ahmed Nezif, FIDH, HRAAP and EOHR expressly requested that the Egyptian authorities end the state of emergency and examine conservation of the death penalty⁴².

As regards the media, few journalists and editors take a position. Only three so-called opposition journalists

briefly highlighted the creation of the Egyptian coalition⁴³, even though several journalists had attended the conference on 20 June 2007 which had created this coalition and were on the list of its members. Recently, a website put online a press review on the death penalty (<http://www.id3m.com>). The last sentences in June and July 2007 are reported, as well as an article published by the Nahda Misr newspaper on prisoners sentenced to death⁴⁴.

Furthermore, the growing interest of researchers in the issue is evidence of the beginnings of mobilisation within the Egyptian intelligentsia. The El Hilal magazine devoted its April 2007 issue to the death penalty⁴⁵. In 2006 Daa Rashwan, a researcher at the el Ahram Center for Political and Strategic Studies and a specialist in terrorist movements, supported the argument that *dissuasive* punishment of terrorists in Egypt is increasingly less pertinent "because for them death is a passage to something better..."⁴⁶.

On the other hand, judges are silent on the issue⁴⁷. Some of them use their freedom of judgement to lighten the punishments required. But they are under intense political pressure. In 1995, during one of the first debates at regional level on the death penalty, the Egyptian judge Mohammed Said Ashmaqy spoke of

the death penalty in Islam. Without coming out in favour of abolition, he insisted on the spirit of justice which exists in *Sharia* and that it is impossible to apply the conditions required for this punishment⁴⁸.

No serious initiatives by parliamentarians and political parties have been observed. Three politicians even put forward a draft law providing for the death penalty for honour crimes⁴⁹. However, the presence of one member of the el Tajamo political party in the national coalition should be noted, Mahmoud Hamid, Secretary of the Defence of Freedoms within the party, and the Muslim Brotherhood initiative and other opposition parties which criticise the appearance of civilians before military courts⁵⁰. Exasperated by the number of their activists sentenced to death by military courts, the Muslim Brotherhood could come out in favour of abolition if these radical judgements were to increase.

Finally, internationally speaking the European Union should be cited. Within the framework of its neighbourhood policy with the Mediterranean countries, it has concluded an action plan with Egypt at the end of which the country must engage in dialogue on the death penalty. However, this plan, which was adopted on 9 March 2007, is very vague on the issue and does not suggest a moratorium⁵¹.

State of play and protagonists Jordan

[Jordan

- **Death penalty applied**
- **Voted AGAINST the resolution for a moratorium on the death penalty adopted by the UN General Assembly on 18 December 2007**
- **A national coalition against the death penalty in place since March 2007**

The death penalty is passed and performed

Jordan's Penal Code initially provided for sentencing prisoners to death for 55 different crimes, including murder, rape, terrorism, drug trafficking, treason, espionage and the use of weapons and explosives⁵². In October 2001 the Penal Code was modified for the first time to include Law 54 which, promulgated by a provisional royal decree in the absence of Parliament, extended the list of terrorist acts subject to the death penalty⁵³. It was changed again in 2006 to reduce the number of crimes subject to capital punishment.

Serious crimes are judged by the State Security Court which, according to Amnesty International and Human Rights Watch, does not fulfil the minimum conditions guaranteeing a fair trial. In the last few years most sentences have been passed for terrorist crimes. Officially, 41 people were executed between 2000 and 2006, and at least 11 death sentences have been passed since 2007⁵⁴. In March 2006 Amnesty International reported a certain number of death sentences for political prisoners based on confessions, although Jordanian law stipulates that if confessions are the only elements of proof the judge must specifically ensure that the accused had not been tortured or forced to confess⁵⁵.

However, death sentences can be avoided through the *Diyya* or blood money system which is part of Islamic and tribal tradition⁵⁶. But this system does not benefit women, the poor or immigrant workers. It does not apply either to terrorist crimes which are at the root of most death sentences in the country.

First steps towards an abolitionist outlook

In September 2005 a legal error raised passions in the country. Zuheir Khatib was executed by hanging in Sawqa prison for murder. Five years earlier Bilal

Moussa had already been sentenced to death for the same murder after confessing under torture. The debate took on such scale that on 16 November 2006 King Abdallah of Jordan told the daily Italian newspaper *Corriere della Serra* (not reported in the national media) that "Jordan could soon become the first abolitionist country in the Middle East"⁵⁷.

In August 2006 an important law was adopted which reduced the number of crimes subject to capital punishment. The possession, manufacture, sale and transportation of illegal explosives, the obstruction of law enforcement operations and certain crimes connected to drugs were no longer subject to the death penalty. Ratification by Jordan of the Rome Statute of the International Criminal Court (ICC), which does not include capital punishment in its range of sentences, also constituted an important indicator in the abolitionist struggle.

No new penal reforms have been implemented since the 2006 law. The geopolitical context is unsurprising. Located at the heart of a Middle East which is at boiling point, the country lives in fear of attacks and wants to remain inflexible in its handling of cases of presumed terrorists. The Terrorism Prevention Act (TPA), which came into force on 1 November 2006, gives an extensive definition of 'terrorist activities' to include criticism (even non-violent) of the government and other peaceful forms of expression of the right to freedom of expression. According to Amnesty International, some unclear passages in the text do not exclude the possibility of those judged guilty of offences this law considers "linked to terrorism" facing the death penalty⁵⁸.

The protagonists

In March 2007 a national coalition against the death penalty was created. It brought together 55 members, including NGO activists, religious figures, intellectuals and researchers. This coalition participated in the regional conference which was held in the country in July 2007, initiated by PRI and ACHRS.

Human rights organisations are still the most active of those mobilised in favour of abolition of the death penalty in Jordan, in constant cooperation with international organisations. One such example is ACHRS which has been very active and which was also recently confirmed as a major player in considering the death penalty at regional level, particularly within the framework of the regional programme implemented in partnership with

PRI and financed by the European Commission⁵⁹. In July 2006 ACHRS also initiated an 8-day visit by a delegation from FIDH in Jordan⁶⁰ and joint publication of a regional report. This report concerned twenty countries in the region, the state of their legislation, reforms, the latest statistics and the state of ratifications of international agreements⁶¹. In July 2006 ACHRS also organised a national seminar in Amman on the death penalty which brought together representatives from FIDH, researchers and academics⁶².

The Mizan Law Group for Human Rights works assiduously to defend prisoners sentenced to death. Further, the organisation works on raising awareness among the public and the less conservative politicians. In 2003, during the World Day Against the Death Penalty, Mizan initiated a round table on the state of Jordanian legislation on the issue, following which legislative reform in favour of reducing the application of capital punishment was recommended. It is unfortunate that this organisation is not part of the national coalition, even though it was invited to join.

Finally, the independent National Center for Human Rights always devotes part of its annual report to the death penalty in the country. However, it is not calling for abolition of the death penalty but rather reduced application.

Outside this circle, abolitionist players in Jordan are still few and far between, apart from individual figures. The politician Mohamed Arslan voted in August 2006 for amendments to the Penal Code to reduce the number of crimes subject to the death penalty. He also attend-

ed the 3rd World Congress Against the Death Penalty in Paris in February 2007. In his view, abolition of the death penalty in Jordan must be gradual because public opinion is "sensitive" on this issue. Arslan has created a blog and is trying to rally colleagues at the Assembly⁶³. Dr Mohamed Taraweneh, a judge at the Amman Appeal Court, cancelled four death sentences in 2006 and participates in conferences organised on the subject. In particular, he presided over the aforementioned seminar organised by ACHRS in July 2006. He also participated in the regional conference held in July 2007⁶⁴.

Among religious figures, the regular participation of Sheikh Hamdi Mrad at various events against the death penalty should be highlighted. He emphasises the message of justice and mercy in the Muslim religion. The President of the Centre for Islamic Studies at the University of Jordan, Dr Ahmed Awayshe, is also open to a debate on abolition of the death penalty.

And yet their impact is still limited. Some in Jordanian society, such as the Jordan Bar, are still fiercely opposed to abolition. Saleh Armoutui, President of the Bar, considered the August 2006 reform to be completely unacceptable. A lawyer and former prosecutor, Adnan el Momani, has declared that abolition could revive a desire for revenge and increase the number of crimes committed by the Jordanian people⁶⁵. Apart from the figures mentioned above, the religious authorities are still notably silent on an issue where they hold undeniable sway, concerning as it does a punishment which stems from religion⁶⁶.

State of play and protagonists Lebanon

[Lebanon

- Death penalty applied
- Executions reintroduced in 2004 despite a moratorium in practice since 1998 and a draft abolitionist law aborted in 2006
- Abstained from the vote for a moratorium on the death penalty adopted by the UN General Assembly on 18 December 2007
- No national coalition against the death penalty as such but a very active national movement since 1983

The death penalty in Lebanese law

The Lebanese Constitution upholds the right to life and Lebanon ratified the International Covenant on Civil and Political Rights in 1972. However, a death sentence is compulsory in the Penal Code for premeditated homicide, murder with aggravating circumstances of theft or evasion, attempted homicide, collaboration with an enemy state, terrorism and acts of insurrection and civil war (or religious conflict).

Those accused of crimes which are considered to harm national cohesion (insurrection, etc.) are brought before the Court of Justice, after a decision taken by the Council of Ministers. This Court rules in the first and last resort, without any possibility for appeal. In reality, it is particularly used by the executive as a political instrument.

Death sentences can also be passed by military courts which the UN Human Rights Committee has been criticising since 2001⁶⁷. The Committee's concerns relate to the fact that the competence of these military courts is extended to civilians, without monitoring or possible intervention by ordinary courts. The military courts consist of five judges, including four who are soldiers and not necessarily legally trained, and their decisions cannot be appealed. Since June 2000 Lebanese military courts have allegedly passed capital punishment sentences against approximately 70 former members of the South Lebanon Army⁶⁸.

Lebanon: birthplace of the abolitionist movement

Lebanon has one considerable asset in the abolitionist struggle: the age and reach of Lebanon's abolitionist

movement are unique in the region and have prepared public opinion. The oldest abolitionist movement in the Middle East, *Non violence et droits humains*, created in 1983 by Dr Walid Slaybi and Ogarit Younan, began in Lebanon. This movement was rechristened *Mouvement pour les droits humains* in 1998. Although 35 executions were recorded between 1943 (date of independence) and 1983, they were suspended following the creation of this movement until 1994.

However, on 10 March 1994, four years after the end of the war⁶⁹, the Lebanese Parliament adopted Law 302/94, known as He Who Kills Will Be Killed. Supposed to arrest criminality, it established the death penalty for politically motivated murders and made it compulsory for premeditated murder in affairs of common law. Above all, it created controversy. Since then, the death penalty has regularly been at the heart of debates between officials and activists. After a moratorium in practice lasting more than ten years, executions were reintroduced in 1994. From 1994 to 1998 fourteen people were allegedly executed. In 1998 two thieves, including one guilty of a double murder, were hanged publicly in the village square where they had worked.

However, the abolitionist movement has never surrendered. In 1997 a new national campaign was launched by Slaybi and Younan's *Mouvement pour les droits humains*. This campaign brought together eight other NGOs, including the *Association de défense des droits et des libertés* (ADDL), the *Association libanaise des droits de l'Homme* (ALDHOM), the *Association justice et miséricorde* (AJEM), SOLIDA (*Soutien aux Libanais détenus arbitrairement*) and a political party, the *Parti du progrès social* represented by Walid Joumblatt.

In 2000 an anti-death penalty event was organised before the Council of Ministers, joined by the President of the Parliamentary Human Rights Commission, the parents of death-sentenced prisoners and activists from civil society and human rights organisations, including Amnesty International.

In 2001 58 civil bodies, dozens of young volunteers and public figures worked with the *Mouvement pour les droits humains* to organise several national events: sit-ins, marches, plays, anti-death penalty conferences, advertising campaigns, political opinion polls, petitions, etc.

In 2002 a round table on abolition of the death penalty was organised at the Centre for European Union Research at St Joseph University in Beirut in collabora-

tion with Amnesty International, the Swedish International Development Cooperation Agency (SIDA) and the Human Rights Institute of the Beirut Bar⁷⁰. The main contributors, Hassan Kawas (former President of the Appeal Court), Elias Khoury (writer and editor-in-chief of *Mulhaq al Nahar*), Ahmad Karaoud (Director of the regional office of Amnesty International) and Professor Chibli Mallat (Lebanon presidency candidate), discussed possible abolition in Lebanon. Following these campaigns, Law 302/94 was finally repealed by Parliament in July 2001. But despite this repeal, capital punishment sentences have continued to be passed and 302 prisoners sentenced to death are still on death row, awaiting presidential pardon.

Moratorium on executions established in 1998 and suspended in 2004

In 1998 a moratorium on executions was established. Although the strong involvement of Lebanese abolitionist organisations probably played an important role in this development, this moratorium essentially stemmed from a decision by the prime minister at the time, Selim Hoss. Firmly opposed to capital punishment⁷¹, he always refused to sign execution decrees until he resigned in 2000⁷².

President Emile Lahoud pledged to respect a moratorium on executions throughout his mandate (1998-2007)⁷³. However, under his presidency three people sentenced to death for homicide were executed on 19 January 2004 at the end of an unfair trial⁷⁴.

Draft abolitionist laws struggling to make headway

Following the executions in 2004, large-scale national and international mobilisation brought together organisations, religious figures, politicians and parliamentarians. In July a draft abolitionist law was prepared by some MPs⁷⁵. It is today irrelevant because of a disagreement over alternative punishments⁷⁶.

On 24 February 2006 the death penalty issue was again debated in Lebanon within the framework of consideration of alternatives to capital punishment, inspired by French and Canadian experiences. A new draft law was prepared by the Parliamentary Human Rights Commission but the war between Israel and Hezbollah during the summer of 2006 prevented this draft from making headway. On 6 June 2007 the MP Ghassan Moukheiber, Rapporteur of the Parliamentary Human Rights Commission, presented a new draft

law. To avoid the debate losing momentum this draft included a single article which abolished the death penalty from all texts and replaced it with life imprisonment. Due to the country's political instability, Parliament is no longer sitting and this draft has not yet been examined.

The context remains favourable but is subject to political hazards

Although Lebanon is ready for abolition theoretically, the issue is still essentially dependent on political events. The precariousness of the politico-military context generally eclipses this debate. However, the assassination of the former Prime Minister, Rafic Hariri, in February 2005 and the project to create an ad hoc International Criminal Court (ICC) to judge those responsible are reviving abolitionist hopes⁷⁷. In effect, the ICC statute is based on international penal justice norms which exclude use of the death penalty⁷⁸. In a statement to the Egyptian newspaper *Al Ahram* published on 22 June 2006, the Lebanese Prime Minister, Fouad Seniora, also announced that Lebanon was preparing to abolish the death penalty to bring it into line with the international court.

However, the political context is still fragile. The future ICC suffers from a lack of legitimacy in the eyes of the opposition. The intense fighting which occurred in the Palestinian camp of Nahr el Bared in 2007 (and about which the Hezbollah dominated opposition demanded an international inquiry) and the continual series of lethal attacks which have been rocking the country for three years have blocked abolitionist initiatives⁷⁹. On 30 May 2007 twenty fighters from Fath el Islam were brought before a military court and could face capital punishment⁸⁰.

The protagonists

Human rights organisations are the breeding ground for the abolitionist movement in Lebanon. The national campaign against the death penalty launched in 1997 brought together a number of organisations.

The 2001 movement brought together no fewer than 58 civil bodies and dozens of young volunteers, judges, lawyers, journalists, intellectuals and religious figures.

Some organisations have proved to be particularly active: the *Association de soutien aux Libanais détenus arbitrairement* (SOLIDA), for example, published a

State of play and protagonists Lebanon

report on the death penalty following an investigation from 21 to 26 February which formulates a number of recommendations⁸¹; the *Association pour la défense des droits et des libertés* (ADDL) produced a comprehensive analysis of Law 302/94 which it sent to the press and MPs; the *Fondation des droits de l'Homme et du droit humain* (FDHDH) has multiplied anti-death penalty events and press conferences since 2004, and action against President Lahoud's refusal at the time to pardon the three prisoners sentenced to death who were eventually executed. All these organisations participated in the regional conference against the death penalty organised in Amman in July 2007. These same groups, supported by international NGOs such as ACAT, Amnesty International and Penal Reform International, had already participated in the conference on "Human Dignity in Penal Law" in May 2003 in Beirut where part of the programme was devoted to the death penalty⁸². The *Association libanaise des droits de l'Homme* (ALDHOM) is continuing mobilisation to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights which aims to abolish the death penalty, as well as concentrating on raising awareness among the public.

The Parliamentary Human Rights Commission should also be mentioned. Through the MP Salah Honein in particular it actively participated in the proposed law of 2004 to abolish the death penalty. Its President, Michel Moussa, took part in the seminar on 24 February 2006 and its Rapporteur, Ghassan Moukheiber, continues to actively fight in favour of abolition.

As regards political parties, the *Parti pour le progrès social* led by Walid Joumblatt made abolition of the death penalty part of its programme⁸³. The same is true of *Courant patriotique libre* after its leader, General Aoun, returned to Lebanon after several years in exile⁸⁴.

Despite their caution at the start of the national campaign, judges and lawyers have supported the movement. As early as 1983 the judge Ghassan Rabah questioned the effectiveness of the death penalty in his book, "The death penalty: solution or problem?" Judges then forcefully opposed application of Law 302-94 which was finally repealed in 2001⁸⁵.

At the same time, the *Institut des droits de l'Homme* and the Beirut Bar took part in various conferences on the death penalty. In its observations on the human rights situation in Lebanon in 2003 the Bar clearly recommended abolition of capital punishment⁸⁶.

In terms of religion, some representatives publicly opposed the death penalty while political leaders representing the country's main religions approved of it⁸⁷.

Finally, a few universities have come out against the death penalty through the organisation of a study day and participation in events and research on the issue⁸⁸. Researchers have produced a number of essays. Dr Walid Slaybi is one of the authors of "The death penalty kills" (1997) while Dr Orgarit Younan has been carrying out statistical research on the death penalty since the country became independent in 1943. More recently, in 2007 Dr Paul Morqas contributed to preparing provisions on the death penalty for a human rights action plan implemented with the European Union within the framework of a partnership agreement with the European Union (see below).

Most media outlets covered the national campaign. Mention should also be made of the initiative organised by the el Manar channel (close to Hezbollah) which, on 25 February 1998, invited ALDHOM and the MPs August Bakhous and Issam Neeman to participate in a round table on the issue, and that of Télé Lumière, an ecumenical Christian television channel which has publicly supported the abolitionist movement for several months.⁸⁹ In the press the An Nahar and El Liwaa newspapers have also distinguished themselves by organising conferences on the subject with legal experts.⁹⁰ Within the framework of the national campaign against the death penalty, the cultural supplement of the daily newspaper Nahar, Moulhaq en Nahar⁹¹ devoted a special issue to a round table on the death penalty and its abolition, organised for the 2003 World Day Against the Death Penalty at the Centre for European Union Research at Saint Joseph University. These newspapers have given a platform to MPs and activists opposed to the death penalty. Further, the newspaper an Nahar has twice shown interest in the consequences of the death penalty on the children of prisoners sentenced to death (in 1981 and 1998)⁹².

Finally, within the framework of its European Neighbourhood Policy (ENP), the European Union could become a considerable player in the abolitionist struggle in Lebanon. Lebanon signed the 1995 Barcelona Declaration on the Euro-Mediterranean partnership and a partnership agreement with the European Union. The action plan adopted by the two parties on the basis of this Partnership Agreement includes the obligation for Lebanon to engage in dia-

logue on certain issues concerning the death penalty, including its support for the Second Optional Protocol of the International Covenant on Civil and Political Rights⁹³. Further, within the framework of this action plan a draft abolition law was put before the Parliamentary Human Rights Commission on 6 June 2007 (see above).

State of play and protagonists

Morocco

[Morocco

- **Death penalty applicable but moratorium in practice since 1993**
- **Abstained from the vote for a moratorium on the death penalty adopted by the UN General Assembly on 18 December 2007**
- **A national coalition against the death penalty in place since October 2003**

One of the oldest abolitionist movements in North Africa

The Moroccan debate on the death penalty is one of the most advanced in the North Africa/Middle East region and goes beyond the restricted sphere of human rights organisations. As early as 1989 the *Association marocaine des droits de l'Homme* (AMDH) demanded the abolition of capital punishment from Moroccan legislation at its second congress. The *Organisation marocaine des droits humains* (OMDH) did the same on 16 June 1990 and has always maintained this position. On 19 December 1990 the National Human Rights Charter was unveiled in Rabat which demanded the abolition of capital punishment and which brought together five signatories: AMDH, OMDH, the *Associations des barreaux du Maroc*/Moroccan lawyers, the *Ligue marocaine de défense des droits de l'Homme* and, later, the *Observatoire marocain des prisons*, founded in 1999. Morocco's Penal Code provides for the death penalty by firing squad for, in particular: aggravated homicide, perjury leading to the death sentence, torture, armed theft, arson, endangering national security, espionage and endangering the life of the king. The Military Code provides for the same punishment for offences such as treason, desertion, violence and passing information to the enemy. An anti-terrorism law from May 2003, adopted following the attacks in Casablanca which killed 45 people, considerably increased the number of crimes subject to the death penalty to the point where lawyers no longer agree about the exact number. Application of capital punishment therefore extends beyond murder⁹⁴.

The authorities demonstrate restraint in applying this sentence

The last execution in Morocco dates back to 1993. Since he came to power in July 1999, King Mohamed VI has not signed any execution decrees. In 2003, when the law against terrorism adopted the same year increased the number of crimes subject to capital punishment and this punishment was required for a fundamentalist group involved in the Casablanca suicide bombings, the former Justice Minister, Mohamed, Bouzoubaa, declared that he supported a repeal of the death penalty⁹⁵. However, on 15 March 2005 he claimed before Parliament that he supported abolition in stages, suggesting that Moroccan society was not yet ready to take this step.

In 2004 the Justice Minister organised a conference around the theme "Penal justice in Morocco: reality and perspectives" following which several recommendations were made including limiting use of the death penalty and its scope, and submitting the decision to pass such a sentence to a collegiate decision by judges. To use the words of Abdelmounim Oqba, a representative from the Justice Ministry, this recommendation moves towards progressive abolition⁹⁶. In January 2007 the Justice Minister upheld that his department was preparing to reform the Penal Code and the Military Justice Code for a progressive reduction of the scope of the death penalty, particularly by imposing unanimity among the judges responsible for this kind of case⁹⁷.

Generally speaking, these judges have demonstrated restraint - they apply Article 146 of the Penal Code which grants them the power to lighten the punishment if they judge it to be too severe. However, for the last few years a resumption of death sentences has been observed, particularly after the terrorist attacks which rocked the country.

Morocco is ready but...

Although Morocco has long been characterised by a moratorium in practice, the wave of attacks connected to terrorism remains the authorities' main argument to justify passing further death sentences. In August 2005 more than 900 people were imprisoned for crimes connected to terrorism and 17 of them were sentenced to death.

However, the ground has been prepared to support abolition. The religious argument, often advanced by

other countries in the region to oppose abolition of the death penalty, seems less relevant in Morocco because Moroccan positive law does not include any religious references – despite the fact that the *Parti de la justice et du développement* (PJD), the biggest Islamic party in the country which has long been silent on the issue, recently opposed the proposal to include the prohibition of capital punishment in the Constitution⁹⁸.

It is still the King, commander of the faithful and whose authority is superior to that of the High Council of the Ulemas, who has the power to rule in the last resort. On 18 November 2005 the King had already pardoned ten thousand people: five thousand had been released, while the others had benefited from a reduction in their sentences, including 25 death sentences which had been reduced to life in prison. On 28 February 2007, just after the birth of the King's daughter, the former Justice Minister, Mohamed Bouzouba, announced on national television the most significant amnesty of prisoners ever granted in the kingdom. Among the nine thousand detainees concerned were 14 sentenced to death. In Morocco this gesture was immediately perceived as support for formal abolition of the death penalty, which could be imminent⁹⁹. However, at the same time four death sentences were confirmed¹⁰⁰ and in January 2008 the new Justice Minister, Abdelwahed Radi, explained that "controversy is alive and well between those who support abolition of the death penalty and those who want to keep it. We will refrain from voting on abolition of this sentence because we have not yet resolved the problem"¹⁰¹. He was trying to explain why Morocco had not voted in favour of the UN resolution calling for a universal moratorium in December 2007.

An obvious desire to promote Morocco on the international stage and break with the past

The main engine in favour of abolition is perhaps Morocco's desire to break with the Hassan II era and strengthen its image as a country which cares about human rights. The creation on 7 January 2004 of the *Instance équité et réconciliation* charged with clarifying, unresolved past cases, and the *Conseil consultative pour les droits de l'Homme* in 1999, demonstrated Morocco's desire to open the door to change. In the recommendations of its final report the *Instance équité et réconciliation* invited Morocco to support interna-

tional agreements on human rights, including the Second Optional Protocol to the ICCPR which aims to abolish the death penalty¹⁰². On 6 January 2004 the Government cancelled the *Court special de justice* (CSJ) which was governed by exceptional procedures. The European Union's neighbourhood policy is also encouraging Morocco to continue its legislative reforms to implement international provisions in terms of human rights, including the fundamental UN agreements and their protocols.

In January 2007 the former Justice Minister announced a reform of the Moroccan Penal Code, favouring a limitation of application of capital punishment to just terrorist acts and endangering national security, an objective which is still insufficient in the eyes of the abolitionists¹⁰³.

The protagonists

One of the first organisations involved in abolition of the death penalty in Morocco was the *Conseil consultatif des droits de l'Homme* (CCDH), a consultative national institution mandated by the King to propose and drive the human rights debate forward, particularly during the presidency of the late Driss Benzekri who was one of the most enthusiastic activists against the death penalty. Today, the abolitionist movement is carried by the Moroccan Coalition Against the Death Penalty, created on 10 October 2003 and composed today of seven NGOs: The *Observatoire marocain des prisons* (OMP), the *Association marocaine des droits humains* (AMDH), the *Forum marocain pour la vérité et la justice* (FMVJ), the *Organisation marocaine des droits humains* (OMDH), the *Centre pour les droits des gens* (CDG), the *association des barreaux d'avocats au Maroc* and Amnesty International's Moroccan section. Individually, the coalition's members demonstrate great vitality. For example, the *Observatoire marocain des prisons* (OMP) has fought for and assisted prisoners sentenced to death since it was created in 1999. It has already organised visits to death row in the Central Prison of Kénitra. In parallel, it publishes press releases each time a death sentence is passed by the Moroccan courts and a special chapter is devoted to the death penalty in its annual reports and other publications.

The *Organisation marocaine des droits de l'Homme* (OMDH) has also come out against death sentences in Morocco on several occasions. The *Association marocaine des droits humains* (AMDH) actively participates

State of play and protagonists Morocco

in the fight for abolition through its 75 sections established in most Moroccan towns. It makes its voice heard in support of abolition in its meetings with political leaders, the memorandums it sends to the Prime Minister every year, its press releases and its continual discussions with the Justice Minister and the Director of Prison Establishment Management to plead the case of prisoners sentenced to death. AMDH also devotes part of its annual report to prisons and prisoners sentenced to death.

In parallel, on 10 February 2007 the *Centre Marocain des Droits de l'Homme* organised a study day on the theme "The death penalty: between legal regulations and calls for abolition", attended by representatives from the Moroccan Coalition, the Justice Minister and the Consultative Human Rights Council.

Finally, the national coalition itself is particularly active. Once created it participated in the 2nd World Congress Against the Death Penalty held in Montreal in October 2004.

Again in 2004, it organised meetings with the Justice Minister, students, political parties, lawyers, politicians, parliamentarians and unions, and organised the signature of petitions. For the 2005 national campaign the Coalition organised a sit-in before Parliament in the presence of former prisoners sentenced to death and figures representing all political colours. The same month it drew up a report on the conditions of people on death row at Kenitra Prison. On 10 October 2007 the Moroccan Coalition organised a joint press conference with the World Coalition to announce the World Day Against the Death Penalty. The Moroccan Coalition also worked hard to persuade Morocco to support the resolution on the universal moratorium voted by the UN General Assembly and revision of the Moroccan Human Rights Charter, in line with international agreements.

It also published a press release where the member organisations invited the Moroccan Government to ratify the Second Optional Protocol to the ICCPR and to prepare a draft law abolishing the death penalty definitively and irreversibly in Moroccan legislation, with a general pardon and the replacement of the death penalty by extended prison sentences. The Moroccan coalition recently indicated its concern in the face of the increase in death sentences¹⁰⁴.

However, the cohesion of the abolitionist movement appears to be uncertain. Action is often organised outside the structure of the national coalition.

Further, the fight for abolition is not the prerogative of the human rights organisations. The media widely reports the debate on the death penalty, although its priorities often lie elsewhere (legislative elections in September 2007, change of government, the Western Sahara conflict, etc.). The *Matin du Sahara et du Maghreb*, the *Economist*, *Maroc Hebdo International*, *Libération* and *Aujourd'hui le Maroc* are just some of the media outlets which have reported the initiatives stemming from the organisations and abolitionist MPs, mostly giving abolition a favourable slant. The 2M TV channel has also played an essential role in this issue. During the debate for the Live With You programme, it gave the floor to an adviser for the Justice Minister, a religious figure from the country and a former prisoner sentenced to death. The same channel broadcast a 60-minute documentary on the prisoners on death row with the participation of players from civil society and the families of the detainees and the victims (which was a new idea). Yann Barte, a journalist in Casablanca, designed a web site uniquely devoted to the issue of the death penalty in Morocco (peinedemortaumaroc.over-blog.com). Most Moroccan journalists apparently think that the fight against the death penalty is a prerequisite for democracy¹⁰⁵.

Parliamentarians and political parties have also expressed their views on this subject. On 11 May 2005 Nouzha Skalli MP questioned the Justice Minister on the issue of capital punishment by demanding total abolition of the death penalty from Moroccan legislation. A number of political figures (particularly Mohamed El Yazghi, Secretary General of the *Union socialiste des forces populaires* (USFP), Moulay Smail Alaoui, Secretary General of the *Parti du progrès et du socialisme* (PPS), and Thami El Khiary, Secretary General of the *Front des forces démocratiques* (FFD)) participated in a press conference organised on 24 January 2007 at the headquarters of the Consultative Human Rights Council to announce the 3rd World Congress Against the Death Penalty. Other political parties, including *Istiqlal* and the PJD, have indicated a desire to take the time to discuss the issue within their parties. Hence, Mustafa al Ramid, a lawyer and member of the general secretariat of the PJD, recently told Maghrebians that "We favour neither complete abolition of the death penalty nor preserving the status quo [...] Instead, we favour a new examination of crimes subject to capital punishment [...] and limiting it to serious crimes only".

According to FIDH's 2007 investigation report¹⁰⁶, apart from the PJD all parties have an official position on the death penalty and some representatives from parties personally express an opinion against capital punishment.

Even the artistic world is interested in the lot of prisoners sentenced to death. On 14 February 2006 the short film by Hicham El Jabbari, *Dead at Dawn*, which retraces the last hours of a prisoner sentenced to death, was presented at the National Mohammed V Theatre in Rabat and former detainees came to talk about the detention conditions in Kenitra Prison.

Finally, the European Union has become a player in the debate within the framework of the Euro-Mediterranean Partnership. It particularly welcomed the preservation of a moratorium on the death penalty and encouraged Morocco to quickly take the decision to officially abolish capital punishment. In 2005, within the framework of the Partnership Agreement between

the European Union and Morocco, an action plan was prepared with a view to reforming legislation to include and apply the international human rights provisions on this issue, including the Second Optional Protocol to the ICCPR.¹⁰⁷ However, as the EU-Morocco action plan does not explicitly refer to the need for abolition, it is difficult for abolitionists to use it to plead their case¹⁰⁸.

Given the number and level of involvement of abolitionist players, it seems that all the parameters are in place for imminent abolition of the death penalty in Morocco. However, this has been the case for four years and there is a very real risk of losing momentum. The challenge is to find a balance between precipitation and patience. For example, few abolitionists saw the legislative elections in September 2007 as an opportunity to be seized to move the debate forward. On the contrary the issue could have made parliamentarians dig their heels in.

State of play and protagonists Tunisia

[Tunisia

- Death penalty applicable
- Moratorium on executions since 1992
- Abstained from the vote on a moratorium on the death penalty adopted by the UN General Assembly on 18 December 2007
- A national coalition created in June 2007

An authoritarian and repressive regime

In a country where freedom of expression and association is severely restricted, the struggle for human rights persists nonetheless. The regime wants to demonstrate the advantages of its political stability in the eyes of its potential partners, including Europeans, and does not tolerate human rights activists who, in its view, tarnish its image of a state of law.

Tunisia really cares about its image. It has ratified the International Covenant on Civil and Political Rights, the Convention of the Rights of the Child and the Convention Against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment.

The death penalty is provided for in Article 5 of the 1913 Penal Code, modified by the Law of 1989, but its application to pregnant women and juveniles is limited by Article 9, which sets out that “women sentenced to death who are recognised to be pregnant will only be subject to this punishment after birth of the child”, and Article 43, which sets out that when the death penalty is incurred by juveniles aged 13 to 18 it must be replaced by ten years’ imprisonment.

The last two executions date back to 1991 and 1992, therefore breaking the moratorium established by the President in January 1989, but death sentences continue to be passed on a regular basis. In December 2007 two such sentences were passed at the end of a parody of a trial criticised by human rights organisations¹⁰⁹.

Currently, 21 crimes are subject to capital punishment, including homicide, rape with aggression, endangering national security internally and externally, and attacking a civil servant. In 2005, for the 49th anniversary of the country’s independence, President Ben Ali pardoned some detainees, including three prisoners who had

been sentenced to death who saw their sentences commuted to life imprisonment.¹¹⁰ However, the revision of the Penal Code which took place the same year increased the list of crimes subject to capital punishment to include putting a flight in danger or threatening air security and death resulting from organ donation.

On 28 March 2007 Bechir Tekkari, Justice and Human Rights Minister, declared during a debate with members of parliament that it was not yet time to abolish the death penalty¹¹¹.

The road is long for the national coalition

In June 2007 a national coalition against the death penalty was created, bringing together seven organisations: the local Amnesty International section, the *Association des journalistes tunisiens*, the *Ligue tunisienne pour la défense des droits de l’Homme*, the *Association démocratique des femmes*, the *Institut arabe des droits de l’Homme* (IADH), the *Association tunisienne des femmes pour la recherche et le développement*, and the *Fédération des cinémathèques*. This coalition also includes about one hundred Tunisian public figures known for their commitment to human rights (film directors, media figures and a former minister).

At the moment this Coalition faces two particular challenges: mobilising public opinion which easily succumbs to emotion when a murder occurs and gaining the recognition of the authorities. The abolitionists face obstacles and increased repression by the authorities to discourage human rights activists. The day after the Coalition was launched the police brought in Mohamed Habib Marsit, President of the Tunisian section of Amnesty, and tried to make him sign a text in which he renounced all activities within this coalition. The authorities claim that the Tunisian coalition infringes the law and the operational rules of Amnesty International as regards its neutrality with regard to the country where the organisation is working, and that it has no legal status. However, according to Mokhtar Trifi, President of the *Ligue tunisienne pour la défense des droits de l’Homme*, all the founding organisations are legally recognised in Tunisia and their alliance cannot therefore constitute an illicit organisation. The problem is mainly a political one.

Further, there is palpable tension between the various human rights organisations themselves because of mutual accusations of supposed links with the Government.

The only silver lining thus far is possibly the interview President Ben Ali gave to Figaro Magazine in November 2007. He undertook never to sign off the execution of a prisoner sentenced to death¹¹². Further, the sub-regional competition between Tunisia, Morocco and Algeria must not be underestimated. Abolition by one could favourably influence the others.

The protagonists

The national coalition brings together the seven aforementioned organisations as well as journalists, lawyers, representatives from political parties and human rights organisations which have declared that they are unanimously in favour of abolition.¹¹³ The most active organisations within the coalition, IADH and the Tunisian section of Amnesty International, participated in the 2nd and 3rd World Congresses Against the Death Penalty.

Opposition political parties have also made their position against the death penalty known and are enthusiastic players. In a press release published on 13 February 2007 the *Parti social liberal* officially adopted an abolitionist position¹¹⁴. The same is true of the *el Tajdid* party which launched an appeal in favour of abolition for the attention of Parliament and the Government¹¹⁵.

Finally, mention should be made of Amor Boubakri, a Professor of law at the University of Sousse, who participated in the regional conference organised by PRI in Amman in July 2007 to talk about the situation in Tunisia.

These organisations (and the Coalition) are still therefore in the foreground of the abolitionist combat but their margin for manoeuvre is extremely limited given the closed nature of the regime. Rather than raise a religious debate, the Coalition prefers to refer in its charter to the Universal Declaration of Human Rights. Its main aim is to obtain an official moratorium and improve the conditions of detention of prisoners sentenced to death, even if its main challenge is still to obtain legitimacy in the eyes of the authorities.

The European Union, again within the framework of its neighbourhood policy, has been highlighting the human rights situation in Tunisia for two years. Tunisia was the first country to sign a partnership agreement with the EU in 2005¹¹⁶. However, the action plan is still very vague¹¹⁷. No mention is made of the death penalty or the political reforms reduction of this sentence would require.

However, action perhaps has the most chance of success because of the image the country wants to present on the international stage. The competition between Morocco, Algeria and Tunisia to give the appearance of being democratic is a favourable factor. The statement by President Ben Ali in November 2007, undertaking not to sign any execution requests, falls within this context.

State of play and protagonists Yemen

[Yemen

- **Death penalty applicable, passed and executed**
- **Voted AGAINST the resolution for a moratorium on the death penalty adopted by the UN General Assembly on 18 December 2007**
- **A national coalition created in June 2007**

Numerous sentences and executions, including juveniles

Yemen is criticised internationally not only for its systematic use of capital punishment following unsatisfactory trials but also because of the age of the prisoners who sometimes are not over 18.

In the 1990s Yemen was one of few countries to execute juveniles (including a boy of 13 in 1993). In 1992 Yemen did sign the International Convention on the Rights of the Child. The new 1994 Penal Code raised the minimum age for incurring a death sentence to 18¹¹⁸, but such progress remains theoretical and even today a number of juveniles have been sentenced to death because of a lack official birth certificates. For example, one judge publicly supported the age limit being changed to 15 and under and that, beyond that age, they should be considered and judged as adults¹¹⁹. This position totally contradicts Article 31 of the abovementioned Penal Code which raised the minimum aged required to be sentenced to death to 18.

There are frequent examples of a lack of respect for the safeguards of a fair trial: Hafez Ibrahim and his lawyer only learnt that the death sentence for the former had been confirmed by the Supreme Court when the execution was imminent¹²⁰. Ismael Lutef Huraish, a deaf man who had not received the assistance of a sign language interpreter since his arrest in 1998, and his cousin, Ali Mussaraa, both sentenced to death for murder, risk execution at any time¹²¹.

Explicit figures

In Yemen the death sentence is mentioned in 43 Articles which concern 315 different crimes connected to murder, terrorism, rape, sexual crimes, and acts against Islam and the country's independence¹²². Adultery by married people is punished by stoning. All

execution orders must be ratified by the President and the execution takes place in public.

On 3 August 1998 a presidential decree extended the death penalty to members of groups who steal, as well as pillaging of public and private property. The death penalty can also be applied to kidnappers.

Between 2004 and 2005 265 executions took place, according to the statistics of the Office of the Yemeni General Prosecutor¹²³. In 2006, according to Amnesty International's annual report at least thirty people were allegedly executed and several hundreds of prisoners are apparently still awaiting death¹²⁴. In January 2007 an official report cited by the newspaper News Yemen revealed that nine juveniles sentenced to death were allegedly imprisoned in Yemeni prisons¹²⁵.

Creation of a national coalition in difficult conditions

On 17 June 2007 65 representatives from civil society organisations, activists, religious figures, judges, journalists, academics and parliamentarians came together at a conference on reducing the death penalty outside the provisions set out in *Sharia*. The Yemeni Organization for the Defence of Human Rights (YODHR) played a particularly important role. Eminent figures participated in this conference such as the academics Dr Yassin Nooman (also Secretary General of the Socialist Party) and Dr Abdel Malak Moutaoukil, parliamentarians Ahmad Seif Hachid, Dahaba and Shawki Kadi, as well as religious figures Mohammed Moftah, Mohammed el Afif and Hassan Zeid (Secretary General of the *el Haqq* party). This event was important because it was the first of its kind ever held in the country. At the end of the conference the Yemeni National Coalition was created, initiated by Judge Amin Hajjar.

This work does not entirely call into question the death penalty. Above all, it opposes its application for certain offences and certain categories of person. This conference actually started from the observation that application of capital punishment in Yemen is not always in agreement with Islamic law. According to the participants, some judges create their own laws and sentence to death people who have never killed, simply to make an example of them.

There is still a long way to go before a vote on political reform can be performed with a view to reducing the number of crimes subject to the death penalty.

The tribal and political challenges are also significant. Fouad Ali Mohsen al Shahari was executed on 29 November 2006 after an expeditious and unfair trial which, according to Amnesty International, was politically motivated. Yahyia al Dailami was sentenced to death under the pretext that he was an agent of Iran and was supporting Hussain Badr al Din al Huthi, a Zaidi who opposes the government¹²⁶. Finally, it is still difficult to fight this issue openly and it does not raise much interest among the public. For example, the Yemeni Organization for the Defence of Human Rights (YODHR), which was particularly involved in establishing the national coalition, was subjected to a media attack after it participated in the regional conference in Amman, despite the efforts made to show this participation in a constructive manner¹²⁷.

The other protagonists

The media widely reported the regional conference which presided over the creation of the national coal-

tion, including the daily English language newspaper the Yemen Observer and the internet Arabic daily newspaper Yemen Hurr¹²⁸. These newspapers might follow the developments of the abolitionist movement which is only just beginning. The Democratic School and "Mountada el Shakayek" (the Forum for nuns) contributed to the establishment of a Children's Parliament which clearly opposes sentencing juveniles to death. The Human Rights Information and Training Center is also showing interest in the issue of the death penalty and its abolition.

In Yemen the debate is still inhibited, the political authorities are not open to the issue and abolitionist mobilisation, which is not without risk for the safety of those involved, is only just beginning. However, the movement seems to be gaining permanence since Yemeni activists participated in the regional conference on the death penalty organised in Amman on 2 and 3 July 2007, and the workshop organised by the World Coalition on 3 October 2007 in Rabat in Morocco.

The other countries in the Arab League¹²⁹

[Djibouti

- Only abolitionist country
- Abstained from the vote on the resolution by the UN General Assembly on a moratorium on the death penalty

Reform of Djibouti's Penal Code led to the total abolition of capital punishment. The new code came into force in January 1995. Since 1977, when the last execution was performed, only one death sentence had been passed for terrorism but it was commuted to life imprisonment in 1993.

[Saudi Arabia

- Death penalty conserved
- Date of the last execution: 2008
- Voted against the resolution by the UN General Assembly on a moratorium on the death penalty

Saudi Arabia practices a rigid interpretation of Islamic law and prescribes the death penalty by decapitation for homicide, rape, armed robbery and drugs trafficking, as well as witchcraft, adultery, sodomy, homosexuality, theft on the motorway, sabotage and apostasy. It has one of the highest execution rates in the world. Between 1980 and 2002 approximately 1,500 people were executed with a record 82 executions in 2001 and 191 executions in 1995. In 2007 the number of executions may have reached 143 according to Amnesty International¹³⁰.

Many of the people executed were accused of drugs trafficking. However, since 2005 Saudi Arabia has modified the law on drugs trafficking and has allowed judges to use their discretionary power to decide to pass a prison sentence instead of capital punishment. Nearly two thirds of those executed are overseas workers towards whom the Saudi Arabian justice system is particularly intransigent. In many cases these people do not even know when the trial is finished and that they have been sentenced to death. Hence, in April 2005 six Somalians were executed when they thought they were serving a prison sentence.

In 2007 at least 126 prisoners were detained on death row for crimes committed when they were juveniles¹³¹ and the last report on the death penalty by Amnesty International confirms that Saudi Arabia allegedly continues to execute juveniles¹³². However, in 1996 the

country ratified the UN's Convention on the Rights of the Child which prohibits sentencing those under 18 at the time of the crime to death or life imprisonment without possibility of parole. The Children's Rights Committee, charged with overseeing respect for this Convention, examined the situation in Saudi Arabia in 2007 and criticised it for serious violations of the fundamental rights protected by the Convention. It said that it was seriously concerned about the discretionary power whereby judges consider juveniles to be adults if the crime is subject to capital punishment, and requested that Saudi Arabia cease executions of prisoners who were juveniles at the time the crime was committed.

[Bahrain

- Death penalty conserved
- Date of the last execution: 2006
- Voted against the resolution by the UN General Assembly for a moratorium on the death penalty

Bahrain's legal system, based on Common Law and Islamic law, provides for the death penalty for premeditated murder, plotting to overturn the regime, collaboration with an enemy nation, threatening the life of the emir and refusing to obey military orders in times of war or when martial law is in force.

The last execution dates back to 11 December 2006 after ten years of a moratorium in practice. It concerned three immigrant workers, two Bangladeshis and a Pakistani, sentenced for murdering Bahraini citizens¹³³. In Bahrain too immigrant workers are subject to significant discrimination. Since this last execution, some human rights organisations fear that death sentences against this group are on the increase. In January 2007 a Bangladeshi worker was sentenced to death for murder, while two of his countrymen were sentenced to life in prison.

Two death sentences were recorded in 2007 by Amnesty International¹³⁴.

[The Union of the Comoros

- Death penalty conserved
- Date of the last execution: 1997
- Voted against the resolution of the UN General Assembly on a moratorium on the death penalty

Capital punishment is passed for aggravated homicide, high treason and espionage. The last execution dates back to 1997 and the last death sentence was passed in 1999.

[The United Arab Emirates

- Death penalty conserved
- Date of the last execution: 2008
- Abstained from the vote on the resolution of the UN General Assembly for a moratorium on the death penalty

In the United Arab Emirates the following are capital crimes: homicide, rape, high treason, aggravated theft, apostasy and the sale and, since 1995, trafficking of drugs. Two death sentences were reported in 2007 by Amnesty International. The last execution dates back to 24 February 2008¹³⁵.

[Iraq

- Death penalty conserved
- Date of the last execution: 2007
- Voted against the resolution of the UN General Assembly for a moratorium on the death penalty.

In the report presented to the UN Human Rights Commission on 1 April 2002, Saddam Hussein's Government announced that it had executed approximately 4,000 people between 1998 and 2001. On the basis of articles published in the Iraqi press and reported by opposition sources, at least 214 executions have been performed in Iraq since 2002 and at least 113 were recorded in 2003 until 9 April, the day when the regime fell. Application of the death penalty was suspended by the Coalition Provisional Authority until August 2004 but the Iraqi Interim Government, led by Iyad Allawi, reintroduced the death penalty for homicide, kidnapping and drugs trafficking. Between August 2004 and June 2006 260 people were sentenced to death.

On 1 September 2005 executions recommenced, the first since the fall of Saddam Hussein's regime. Although the Iraqi President Jalal Talabani, known for his opposition to capital punishment, refuses to sign sentences, his two vice-presidents are happy to do so. According to the daily Arabic newspaper Al-Sharq Al-Awsat, 235 death sentences were allegedly passed in 2006 alone. The number of those executed is not known¹³⁶ but it appears that there has been a worrying increase since 2004.

Executions are often collective. On 6 September 2006 in Baghdad 27 people were executed for terrorism, a crime which was not punished by the death penalty in the 1969 Iraqi Penal Code. 2006 ended with the execution of the former dictator Saddam Hussein and 2007 began with the execution of Taha Yacine Ramadan, the former Iraqi Vice-President. Amnesty International's report on application of the death penalty in 2007 registered 33 executions and 199 death sentences during that year¹³⁷.

In the autonomous region of Kurdistan in northern Iraq the death penalty, which had been withdrawn in law in 2003, was reintroduced on 11 September 2006 by the Kurdish Parliament.

[Kuwait

- Death penalty conserved
- Date of the last execution: 2007
- Voted against the resolution of the UN General Assembly for a moratorium on the death penalty

In Kuwait the death penalty is passed on the basis of *Sharia*. Rape and offences against national security are also subject to the death penalty. Since 1995 the death penalty has been compulsory for certain offences related to drugs. The first executions of prisoners sentenced to death in this respect took place in 1998 with the hanging of two Iranians judged to be guilty of drugs trafficking. Since then, there were five in 2002, nine in 2004 and four Pakistanis in 2005 whose bodies were left hanging from scaffolding so the public could come and see them. In May 2006 five men were hanged on the same day. This was the largest number of executions applied in the same day in the Emirates for 16 years. According to a dispatch from the Agence France Presse in November 2006, Kuwait has executed 70 people since the introduction of the death penalty in the country, including three women¹³⁸.

The other countries in the Arab League

Amnesty International's report on application of the death penalty in 2007 registered one execution and two death sentences in 2007 in the country¹³⁹.

[Libya

- **Death penalty conserved**
- **Date of the last execution: 2007**
- **Voted against the resolution of the UN General Assembly for a moratorium on the death penalty**

The 1988 Green Book, which outlined the main political themes of Khadafi's regime, stipulated that "the aim of Libyan society is to abolish the death penalty". Despite that, nothing has been done in this direction and the scope of the death penalty has even been extended. Since 1996 the death penalty has been applicable for speculating on foreign currency, food, clothes and rent in times of war, and crimes connected to drugs and alcohol. The death penalty remains compulsory for belonging to groups opposing the principles of the 1969 revolution, high treason and violent subversion against the State. Premeditated homicide and offences against the State are also capital crimes. A number of offences are actually subject to the death penalty, including non-violent activities such as activities related to freedom of expression and association, and other political and economic 'crimes'.

There are no official figures on the death penalty in this country but, according to the Libyan Human Rights League, an organisation in exile, and other organisations, it would appear that four Egyptians were executed in Libya in July 2005. The last previous execution dates back to 1997 when eight individuals were executed for espionage. In July 2007, according to the website of the Italian organisation Hands Off Cain, ten Egyptians sentenced to capital punishment escaped death after paying *Djyya* (blood money) to the victims' families. According to the same source, four Nigerians were executed in 2007 and six others are still on death row¹⁴⁰.

Amnesty International's report on the death penalty registered nine executions in Libya in 2007¹⁴¹.

The case of the Bulgarian nurses and Palestinian doctor sentenced to death for voluntarily infecting children with the AIDS virus was long at the heart of concerns. They were finally released in July 2007 following lengthy negotiations led by the European Union.

[Mauritania

- **Abolitionist in practice**
- **Date of the last execution: 1987**
- **Voted against the resolution of the UN General Assembly for a moratorium on the death penalty**

Mauritania's legal system is based on both British Common Law and Islamic law, introduced in 1980, and on certain tribal norms. The offences of high treason, premeditated homicide and torture are punished by the death penalty. Since 1980 apostasy, homosexuality and rape have been added.

Mauritania is considered to be abolitionist in practice. The last execution was performed in 1987 against three officers sentenced for an attempted coup d'état. The last death sentence was passed on 13 December 2002. In 2005 capital punishment was required against 17 people accused of participating in a series of putsches in 2003 and 2004 but they were finally sentenced to life imprisonment.

[Oman

- **Death penalty conserved**
- **Date of the last execution: 2001**
- **Voted against the resolution of the UN General Assembly for a resolution on the death penalty**

Capital crimes are provided for by *Sharia*. On 6 March 1999 a royal decree also punished crimes connected to drugs trafficking by death. The country is indeed a hub for international drugs trafficking. The death sentence is automatic for repeat offenders. In 2001 at least 14 people were shot. There have been no executions since then.

[Palestinian territories

- **Death penalty conserved**
- **Date of the last execution: 2005**

In Palestine two kinds of legislation are applied:

- The West Bank is governed by Jordanian law which provides for the death penalty in cases of high treason and homicide.
- The Gaza Strip is subject to Egyptian law which provides for capital punishment for endangering national order.

Between 1995 and 2003 the Palestinian Authority set up State Security Courts which passed expeditious sentences. They allegedly sentenced approximately thirty Palestinians to capital punishment¹⁴². These courts were withdrawn in July 2003 and their authority was transferred to the normal courts. From 1994 to 2005 the Palestinian courts passed 73 death sentences¹⁴³. After three executions in 2002 no others were reported between that date and June 2005. On that date four Palestinians were executed in Gaza Central Prison and a fourth just afterwards, all sentenced for murder. The President of the Palestinian Authority had rejected their request for pardon. However, ten days after execution they cancelled the death sentences of a dozen Palestinians, including some who were accused of collaborating with Israel. He also requested that people who had been sentenced by the State Security Courts be retried.

In April 2007 two Palestinians risked the death penalty for selling their property in Hebron to Israelis. At the end of 2007 the Palestinian Legislative Council was to have voted on legislation to punish all concessions made to Israel. Capital punishment could be included as the maximum sentence¹⁴⁴.

[Qatar

- **Death penalty conserved**
- **Date of the last execution: 2003**
- **Voted against the resolution of the UN General Assembly for a moratorium on the death penalty.**

In Qatar crimes against the State and drugs trafficking are subject to the death penalty. Three hangings were reported in 2003 while the last execution dated back to 2001. Prior to that date none had been performed for more than ten years. In 2007 five Sri Lankans and a Qatari were sentenced to death and a Yemeni saw his death sentence confirmed¹⁴⁵.

In February 2004 Qatar adopted its first anti-terrorist law which provided for the death penalty for murder within the framework of a terrorist act¹⁴⁶. Clemency is shown if information which assists the authorities is provided.

[Somalia

- **Death penalty conserved**
- **Date of the last execution: 2007**
- **Voted against the resolution of the UN General Assembly for a moratorium on the death penalty**

During the last few years several people have been sentenced and executed in Somalia, while others benefited from the *Dijya* system¹⁴⁷. At least ten executions (including one of a juvenile) were performed in 1999, and at least one was listed in 2001. According to Amnesty International, other executions were performed in 2002, at least four people were executed in 2003, four others in 2004 and five in 2007.

On 22 September 2006 a young man was killed in public in the Somali capital after being judged guilty of homicide. Via an announcement broadcast on the radio, the Public Ministry of Islamic Courts invited the public to attend this execution.

[Sudan

- **Death penalty conserved**
- **Date of the last execution: 2007**
- **Voted against the resolution of the UN General Assembly for a moratorium on the death penalty**

Based on *Sharia*, Sudan's Penal Code provides for corporal punishment such as flogging, amputation, stoning and crucifixions, as well as displaying the body in public after execution. The interim Sudanese Constitution, adopted in July 2005, did not abolish the death penalty and on the contrary allows it to be applied for juveniles under 18. The text stipulates that a juvenile at the time of the events must not be sentenced to death, except in the event of *Hududs*, crimes punished by sentences fixed on the basis of the teachings of the Koran¹⁴⁸. At least two juveniles were executed in 2005. According to the Sudanese Organisation Against Torture (SOAT), between March 2003 and March 2004 71 people were sentenced to death, at least ten of whom were executed. In 2004 88 individuals who had been sentenced to death within the framework of inter-ethnic confrontations in Rizeiqat, Darfur, benefited from a commutation of the sentence. In November 2006 seven men were sentenced to death for the murder of police officers during riots. In 2007 seven executions and 23 death sentences were recorded by Amnesty International¹⁴⁹.

The other countries in the Arab League

[Syria

- **Death penalty conserved**
- **(Known) date of the last execution: 2007**
- **Voted against the resolution of the UN General Assembly for a moratorium on the death penalty**

Aggravated homicide, aggravated rape, drugs trafficking and offences against the State are subject to capital punishment, as are verbal opposition to the Government and belonging to the Muslim Brotherhood. However, Syria does not sentence juveniles to death and, although no law specifies this, it has never sentenced to death a person over 60.

The death penalty is applied in Syria but no reliable information has filtered through. In the 1980s the

authorities recognised that they had authorised the hanging of 150 political opponents per week – without the families being informed. In 2002 and 2003 they declared that they had carried out “at least” 27 executions. According to Amnesty International, at least seven executions were performed in 2007 and ten new sentences were recorded¹⁵⁰. In October 2007 five young men aged between 18 and 23 were allegedly executed in public¹⁵¹.

In January 2006 a member of the Syrian Government came out against the death penalty. Bashar al-Shiaar, Minister responsible for the Red Crescent, said in an exclusive interview with the Adnki agency that he was “personally” opposed to capital punishment and that he hoped that his country would abolish it.

Other regional and international protagonists

[Regional protagonists

Arab Institute of Human Rights

The Arab Institute of Human Rights was the first regional organisation to coordinate a round table on the death penalty in the Arab world in October 1995 in Tunis. For the first time Arab and international researchers and experts in the fields of law, religion, social sciences and media, as well as parliamentarians and representatives from NGOs, came together. The first aim of this round table was to awaken consciences on the issue of the death penalty and its abolition. The participants demonstrated the absence of serious obstacles for abolition in Arab legislation. They particularly recommended that the following reforms be implemented¹⁵²:

- possibility of appeal against a sentenced passed;
- withdrawal of all exceptional courts;
- withdrawal of all legal articles which sentence the accused to death in political, thought and religious cases;
- greater possibility of being pardoned;
- revival of religious thought on human rights and a call to review cultural references in this sense;
- support for an international campaign to suspend executions.

However, the response to this first Arab international conference was not particularly enthusiastic in the Middle East. AIHR continued its work to raise awareness among the public and the training sessions for activists from Arab civil society it organises every year in el Hamamat in Tunisia¹⁵³. The right to life and the fight against capital punishment are an important part of these programmes. Today, the Institute has reaffirmed its commitment by supporting the Tunisian Coalition Against the Death Penalty founded in June 2007¹⁵⁴.

Arab Commission for Human Rights

Created in 1998, the Arab Commission for Human Rights (ACHR) is a pan-Arab NGO for protecting human rights and fundamental freedoms. The fight against the death penalty is part of this mandate. This commission, based in Paris, is presided over by Haytham Manaa, the son of a prisoner sentenced to death and Syrian political opponent. ACHR has taken a position on a variety of cases: Saddam Hussein, the Bulgarian nurses in Libya, the death sentences of

Asian workers in Saudi Arabia, those accused of terrorism in Iraq and political opponents in Iraqi Kurdistan. ACHR supports the action of organisations and has participated in several conferences and research on the death penalty which, through a multi-disciplinary approach, try to look at the issue from the religious angle, while taking into consideration the diversity of Arab nations.

The Arab Lawyers' Union and the Arab Organisation for Human Rights

The Arab Lawyers' Union, based in Cairo and bringing together 34 Bar organisations in the Middle East, has come out against the death penalty in several meetings organised since 1995, the date of the first regional conference which was held under the aegis of the Arab Institute of Human Rights. The Arab Lawyers' Union is a partner of the Arab Organisation for Human Rights. The latter also participated in the regional conference in 1995. Both bodies, which are also members of the board and founders of the AIHR, have played an important role in the creation of the NGO movement in the region. They have currently been overtaken in terms of motivation, reactivity and openness by younger organisations but are still well established as the founding movements for human rights in the region.

Union of Arab Jurists

This NGO has consultative status at the UN and is based in Amman. It works in the region on modernising Arab legislation¹⁵⁵ in line with universal human rights¹⁵⁶. The UAJ came out against the execution of Saddam Hussein and the preceding trial which was not in line with international standards.

Amman Center for Human Rights Studies

Since the launch of the regional programme against the death penalty in 2007, which it implemented in partnership with Penal Reform International (PRI) with financing from the European Commission, this Jordanian organisation which specialises in training and research is concentrating on regional action and has become an essential player on the issue of the death penalty. This strategy of opening up to regional organisations and cooperating with the international community is a new experience for ACHRS and appears to become one of the strengths of its action for the future¹⁵⁷.

Other regional and international protagonists

Arab Penal Reform Organization

This organisation was created in 2004¹⁵⁸ and groups together local organisations which work in their own country for penal reform. The organisation's latest reports examined the prison situation in the following countries: Algeria, Egypt, Jordan, Libya, Morocco, Lebanon, Tunisia, Bahrain, Yemen, Palestine, Iraq, Sudan and Syria. Its creation was initiated by a conference held in November 2007 devoted to the death penalty in the Middle East and during which ten countries were studied. The research work published on that occasion contains a wealth of information and recommendations for action by country¹⁵⁹.

The organisation aims to include a chapter on the conditions of prisoners sentenced to death in its report for 2008 and to create a database which would bring together information on death sentences passed over the last ten years in all Arab member countries of the organisation¹⁶⁰.

Center for Right to Life Against the Death Penalty: www.rtladp.org

This site, in English, Arabic and Kurdish, is devoted to abolition of the death penalty. It has a number of signatories and highlights the various events connected to executions and the work of abolitionists. Articles and reports on the subject can also be consulted. This centre is still isolated and seeks support and publicity from abolitionist players in the region.

[International protagonists

The Euromed Network

Created in 1997 in response to the Barcelona Declaration¹⁶¹ and the creation of a Euro/Mediterranean partnership, the Euro-Mediterranean Human Rights Network (EMHRN) is composed of 82 members, individual figures and representatives from human rights organisations and various institutions located in thirty countries in the Euro/Mediterranean region. A real regional forum for human rights NGOs, it is a major source of expertise in the field of promoting and protection these rights in the region. When the action plans for the partnership between the European Union and Arab countries such as Lebanon and Egypt were announced, EMHRN formulated some recommendations connected to promoting and respecting human rights in these countries, including abolition of the death penalty. During the international conference on terrorism and human rights in 2002 organised with FIDH and the Cairo Institute for Human Rights Studies, EMHRN put out a strong message in favour of political reform in Arab countries with a view to ending exceptional courts and the state of emergency, as well as abolition of the death penalty¹⁶².

Penal Reform International (PRI), regional office for North Africa and the Middle East (Amman, Jordan)

In March 2007 the Amman office of Penal Reform International (PRI) launched a programme financed by the European Commission and implemented in collaboration with ACHRS aiming to develop a regional strategy over two years in favour of abolition while considering the cultural, historic and religious characteristics of the countries concerned.¹⁶³ The debates which have taken place during the various conferences organised within the framework of this programme by PRI and its national partners concern in particular the issue of alternative sentences for the most serious crimes. Since the launch of the programme, PRI has encouraged the federation of efforts in the form of national coalitions and directly contributed to their creation in Jordan, Yemen, Palestine, Egypt and Mauritania. A regional conference in July 2007 brought together abolitionists from the entire region (Lebanon, Yemen, Egypt, Tunisia, Algeria, Morocco, Palestine and Jordan) to outline concrete action for the future¹⁶⁴.

Ford Foundation, Cairo regional office

The Ford Foundation (FF) supports a number of human rights projects in the region. Several representatives from the region therefore participated in the World Congresses Against the Death Penalty. Recently, the FF created the Arab Human Rights Fund. The first aim of this Fund is to support human rights organisations working in the region. The fight against the death penalty should be able to benefit from this support¹⁶⁵.

Amnesty International

Located in Beirut, the regional office of Amnesty International (AI) has been working on the issue of the death penalty since the conference held on this subject in 2002 with Chaire Jean Monnet and the European Union Research Centre at Saint Joseph University¹⁶⁶.

AI is a member of the Moroccan Coalition Against the Death Penalty and initiated a similar coalition in Tunisia. AI's Arabic website is an undeniable reference for most of the Arab protagonists in the region. It is still one of the best sources of information and a tool for encouraging people to participate in campaigns organised to protest against certain sentences or executions.

Fédération internationale des ligues des droits de l'Homme (FIDH)

The *Fédération Internationale des ligues des Droits de l'Homme* (FIDH) is an international NGO based in Paris working to defend the human rights included in the Universal Declaration of Human Rights. FIDH has shown ongoing interest in this region (both North Africa and the Middle East). Its continuous support is shown during local events, conferences, round tables and calls for mobilisation against executions. FIDH represents 155 human rights organisations across the world.

In the region FIDH supports several affiliated human rights organisations in Algeria, Bahrain, Djibouti, Egypt, Jordan, Lebanon, Libya, Morocco, Mauritania, the occupied Palestinian Territories, Sudan, Tunisia and Yemen. FIDH's reports of international investigations into the death penalty in Egypt and Morocco contain a wealth of information on the context, penal code, conditions of arrest and detention, proposals for reform, arguments in favour of abolition of capital punishment and the prevailing obstacles in the countries concerned, etc., and formulate precise proposals and recommendations for those involved in the fight.

World Coalition Against the Death Penalty

Since 2002 the World Coalition Against the Death Penalty, based in Paris, has worked to strengthen the international dimension of the fight against the death penalty. By encouraging its members to exchange experiences and network, it enables common international and regional strategies in favour of abolition of the death penalty to be proposed, provides support for abolitionists across the world and makes available information, awareness raising and mobilisation tools. One of the World Coalition's aims is to encourage and strengthen regional currents by developing arguments and tools for action which are suitable for the context¹⁶⁷. With more than 74 members, the World Coalition brings together players from the region, including the Arab Coalition Against the Death Penalty, the Moroccan Coalition Against the Death Penalty and several national associations.

The arguments against the death penalty

This chapter goes back over the arguments regularly used by practitioners and academicians in the Arab world in favour of the abolition of the death penalty. In general they apply to all countries in the region, and can be sub-divided into three groups: arguments of a religious nature, those of a political nature and arguments of a legal nature.

[Religious arguments

Terminology

Taking into account the specific nature of the context in question, it would be useful first to define the concepts that will be used in the current document:

- *Sharia*: brings together the rules of conduct to be followed by Muslims ("the way to be followed") which are based on the Koran, the acts and gestures of the Prophet (*Sunnah*), his words (*Hadiths*), the power to interpret these two sources (*Ijtihad*), and the consensus of the community (*Ijmaa*);
- *The Koran*: is the Holy Book of Islam, and is considered to be the word of Allah revealed to his messenger, Mohammed, in Mecca, then in Medina;
- *Diyya*: represents the financial compensation paid by the guilty party to the family of the victim in exchange for a pardon;
- *The Hadith*: refers to the words of the Prophet written down in narratives, and which serve as an example, indeed take on the status of a law, if the narratives come from different sources and where there is a consensus about them;
- *The Sunnah*: comprises all the actions and gestures of the Prophet, and can also become a basis for law if narratives about them are in agreement and form the subject of a consensus;
- *Hududs* (singular: *Hadd*): are offences for which fixed punishments are laid down in the Koran;
- *Ta'zir*: are offences for which punishments are discretionary (the punishments vary according to the circumstances and are left to the discretion of the judge);
- *Haraba*: literally "the act of waging war against God or his Prophet" or of "sowing corruption and chaos on earth", this concept has been subject to many interpretations and is often, in practice, taken to be murder.
- *Fiqh*: commonly translated as "Islamic jurisprudence", the expression means literally "reflection,

understanding, intelligence, wisdom" and is better translated as "the science of law".

- *Ijtihad* is the effort of deep thought that ulemas or muftis and Muslim jurists make, complementary to the Koran and the Sunnah, to interpret the texts that form the basis of Islam, and to transcribe them into Muslim law.

Diversity of sources and interpretations

There is no escaping the religious factor when the question of capital punishment in the Arab world arises. Legal sources and interpretations vary from one country to the other according to denominational peculiarities. There is no one homogenous and positive Muslim criminal law.

The criminal system which characterizes the countries that are Muslim in tradition is based on four different sources. The principal one is the Koran, the word of God revealed to the Prophet Mohammed; in the case where the Koran does not give a clear ruling on a subject, the *Sunna* or the *Hadith* are two further sources; finally if none of the aforementioned sources gives a definite ruling on a given subject, the *Fatwa* or the *Fiqh* come into play, the new rules of law prescribed by the highest religious authorities, the doctors of law or the 'muftis' of the country.

These sources are not accepted unanimously. The interpretations of the *Sunnah* or the *Hadith* may vary according to denomination. In addition, the narratives that have been confirmed by several corroborating sources (*Moutawatiir*) carry more weight than those that only come from a single source (*Ahad*).

A distinction is made between two sorts of offence in the Muslim criminal system: offences which carry fixed punishments (or *Hududs*) and offences that carry discretionary punishments (or *Ta'zir*):

Crimes subject to fixed punishments or *Hududs*, are defined in the Koran by the holy legislator, and it is therefore impossible to pronounce any other punishment than those laid down for these offences. The *Hududs* include murder, theft, adultery and *Haraba* (violent crime or armed insurrection). According to a strict interpretation of the Koran, the only *Hududs* which can carry the death penalty are murder and *Haraba*.

Crimes subject to discretionary punishments or *Ta'zir*, where the punishment is left to the discretion of

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the judge, include the offences listed above where one of the conditions happens to be missing, as well as offences that do not come under the *Hududs*. They may include: offences against national security, against public liberties, those committed by State employees or individuals against public order or public security, offences of forgery, offences against individuals, against the family and public morality, and finally offences against property.

Extremely rigorous conditions for application

The *Hududs*, literally 'limits' in Arabic, demand very rigorous conditions for application, which are generally impossible to satisfy¹⁶⁸. In the case of adultery, for example, the judgement is only possible if there are four eye-witnesses to the events.

In the case of murder, capital punishment is explained by the *Qasas* or the Law of Talion¹⁶⁹, an ancestral system of punishment conceived on the proportionality rule in an age where revenge attacks were very common, and which aimed to reduce murders between families. Only the close relatives have the right to ask for this punishment. However, they are encouraged to grant a pardon or to accept a *Dijya*, a financial compensation, the amount of which is agreed with the perpetrator of the crime¹⁷⁰. It is imperative that the four following conditions are satisfied: the family of the victim itself asks for the application of capital punishment; there is irrefutable proof of guilt; there is intention to murder; there are no extenuating circumstances. When the conditions of application are not cumulatively satisfied, the fixed punishment initially laid down (including capital punishment) cannot be pronounced.

Finally, and on a general note, it should be remembered that Islam asks of the good Muslim to make use of his most noble human qualities (forgiveness, repentance, doubt)¹⁷¹, before having recourse to the *Hududs*. It is the encouragement to forgive contained in the Koran which explains, for example, that in the case of murder, the relatives of the victim can ask for blood money instead of the execution of the murderer (*Dijya*). As for repentance, it is supposed to play a deciding role in favour of a commutation of the punishment if it is expressed before guilt is pronounced¹⁷².

The religious factor is exploited to political ends

Political considerations have come along to add to the religious interpretation, the result being that the field of application of capital punishment is extended.

Thus, as far as *Haraba* (insurrection) is concerned, there is a divergence of interpretation as to which punishment should be applied. Considered as a war against God and his Prophet, *Haraba* would be equivalent to sowing corruption on earth. It is the interpretation of 'corruption on earth' which is abused by certain governments to apply capital punishment against every potential political opponent¹⁷³. The Egyptian jurist and theologian Dr Mohamed Said Ashmawi, in a speech at the regional conference against the death penalty organised in Tunis in October 1995, thought that this crime could be punished by amputation, exile or imprisonment and not only by capital punishment¹⁷⁴. He deduced from this that the legislator could specifically decide not to apply capital punishment.

As for the crime of adultery, if capital punishment is applied (by stoning) in certain Muslim regions, the truth is that this is not the case in the Koran. Those in favour of stoning take as a basis the *Sunnah*, which is subject to a difference of interpretation¹⁷⁵.

In addition, apostasy is not considered to be a crime in the Koran¹⁷⁶. The application of capital punishment for this offence is certainly laid down in the *Sunnah* of Mohammed but, taking the narratives of *Ahad* into account, that have only been reported by a single source, it could be contested. However, two countries have entered the death penalty for apostasy into their criminal code¹⁷⁷: Sudan and Mauritania. In Egypt or in Morocco, the apostate is thrown in prison, without there being a law that establishes apostasy as a crime punishable by law.

Neither does the application of *Dijya* (or pardon) escape political considerations. In Saudi Arabia, for example, Amnesty International noted that this favour applies to Saudi nationals – sometimes following persistent pressure from tribal leaders and key figures – and less to foreign nationals, particularly those from the poor countries of the Middle East, Africa or Asia, who, without resources or relatives, never benefit from the pardon¹⁷⁸.

The theologians seize the debate

The debate about the conditions for application of *Sharia* and its adaptability to contemporary situations

is increasingly growing in scale in Muslim society. On a general note, it seems that, although abolition may be difficult to promote (the death penalty laid down in the Koran is considered to be the word of God and cannot be called into question), a restriction of the field of application of capital punishment or the establishment of a moratorium could be encouraged. Moreover, this debate aims to denounce the occasional unwarranted use of *Sharia* for political interest rather than religious¹⁷⁹.

In the Muslim community, thinkers, jurists and religious figures are taking action around these questions. A call for a moratorium on corporal punishments, stoning and the death penalty was launched in 2005 by Tariq Ramadan. He thinks that the application of *Sharia* today is exploited by repressive powers who are increasing the numbers of summary executions against women, poor people and political opponents in a sort of legal loophole¹⁸⁰.

In addition to the conditions for the application of capital punishment in respect of *Sharia*, this debate also intends to raise the question of the modernization of Islam. These progressive opinions also have a foundation in respect for tradition. Throughout history, in fact, the great majority of the ulemas (Islamic theologians) have considered that, in view of the requirements surrounding their application, the *Hududs* were almost never applicable, when they should not quite simply be rejected as they lead to iniquitous situations.

Similarly, in the year 635 after Jesus Christ the second Caliph Omar Ibn Al Khattab had opposed the execution of a thief, as there was so much poverty at this time. Using such an established precedent as a basis, a contemporary movement of reformers (thinkers and specialists in Islam or religious leaders like Mohamed Bahr Al Ulum¹⁸¹, Mohammed Arkoun¹⁸², Abdullahi An Na'im¹⁸³, Mohamed Amin Al Midani¹⁸⁴, Mohammed Said El Ashmawi), is currently forming in Muslim society, proposing ideas that are better able to reconcile modern man and Islamic prescriptions.

[Legal arguments

The criminal codes are obsolete and unsuitable

Apart from Saudi Arabia which refers exclusively to *Sharia*, and countries like the Yemen or Sudan who draw inspiration from the Islamic texts, the majority of Arab countries use positive laws influenced by the Western codes. Nevertheless these codes often date from independence, and are no longer suitable for the current socio-political situation. For example, in Jordan, collaboration with the enemy can be subject to capital punishment and, although the Hachemite kingdom has been at peace with Israel since 1994, the sale of a piece of land to an Israeli citizen is still subject to capital punishment¹⁸⁵. In the Lebanon legislation condemns to death any Lebanese citizen who takes up arms with the enemies of the Lebanon, or who gets involved in manoeuvres with a foreign power with a view to launching hostilities against the Lebanon¹⁸⁶. If they were really applied in the country, these two articles alone would provoke the condemnation of hundreds of people from different political camps.

The judicial system suffers from serious failings

Most of the criminal justice systems in the Arab world are currently subject to attempts to reform them, which are revealing the imperfections and failings within. Even if the law often imposes procedures and safeguards to be respected where a case is liable to capital punishment, torture, miscarriages of justice, the absence of legal aid and discrimination reduce their effectiveness and give rise to almost automatic death sentences.

Torture

In Egypt, for example, the international enquiry by the FIDH on the death penalty in the country reveals that the authorities tolerate torture to get rapid confessions, on the pretext of protecting or safeguarding public order, especially in the case of terrorism¹⁸⁷, although these methods constitute a grave violation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatments or Punishments, which it agreed to support in 1986.

The FIDH enquiry which quotes information obtained from the Nadim Centre¹⁸⁸, also reports on the use of different sexual and physical torture techniques and denounces the reign of terror of the Egyptian police. The case of Aida Nouredine, widely reported in the

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media, is an example of this. Accused, while she was a nurse, of being responsible for several deaths in her hospital, she was condemned to death on the basis of confessions obtained by force. On appeal, her punishment was commuted to a ten-year prison sentence.

Miscarriage of justice

The risk of executing innocent people remains indissolubly linked to the application of the death penalty. The symbolic case of Zuheir Khatib, executed by hanging in Jordan in 2005 for murder, caused a scandal at the time and served as a reminder of the irreversible nature of capital punishment. In fact, somebody else had already been hanged five years earlier for the same crime¹⁸⁹.

The non-respect of safeguards relative to a fair trial

Whether it be the absence of a lawyer, of information, of appeal or of possibility of a retrial, the violation of safeguards which should accompany a fair trial occurs frequently. In Saudi Arabia, for example, almost one half of executed prisoners come from foreign countries. A large number of them do not understand the language in which their trial is being held, and do not benefit from the assistance of an interpreter nor of a lawyer.¹⁹⁰ In Tunisia, in December 2007, Radhia Nassraoui, lawyer for a member of a Salafist group who had been condemned to death for terrorism in the Soliman case, talked of the difficulties faced by the NGOs in defence of human rights in this case. The defence lawyers were prevented from carrying out their job under the conditions laid down by law: the judge refused all their petitions and did not authorize them to plead their case¹⁹¹.

Discrimination

The system of blood money or *Djyya* is still discriminatory because it excludes poor people who do not have the means to pay. In Saudi Arabia almost two thirds of those condemned to death are foreigners, who have come to work in the country because of financial problems. According to the report on the death penalty by Amnesty International, in 2006, some of them were executed without really having understood the reason for which they had been sentenced, as they did not understand Arabic and had not benefitted from the services of an interpreter.

These discriminations constitute a violation of the International Convention on the Elimination of all Forms of Racial Discrimination, which has however, been ratified by the majority of Arab countries.

Discrimination also affects women: under these systems, social pressure often leads the family of a woman who has (supposedly) committed a crime to disown her. As a result she is no longer able to pay the *Djyya*.

Specialized courts and proceedings have increased

The majority of Arab states have a parallel legal system where judgements are pronounced by specialized courts or military tribunals charged with judging crimes that are liable to the death penalty, in particular attacks on state security, terrorism or treason. This is the case in the Lebanon, Libya and Jordan. In other countries, like Egypt (since 1980) and Syria (since 1963), it is a state of emergency that justifies this recourse to a court martial. In Egypt, for example, a state of emergency entitles the Egyptian president to refer all violations of the criminal code to military tribunals or specialized courts, whatever the nature of the violation. More generally, the waves of terrorist attacks have promoted, if not brought into widespread use, the recourse to specialized courts or court martials. At the least suspicion of a link with a terrorist act, but also in situations where there is no link at all, as well as in cases where drugs are involved, these courts are likely to become competent¹⁹².

These entities are traditionally recognised as not respecting the international standards which dictate that everybody should be judged by a competent, independent and impartial court¹⁹³. Those accused are generally deprived of the rights guaranteed by the criminal legislation applicable before ordinary courts (the time limits for police custody are not respected, lawyers rarely have access to the files before the day of the hearing, and cannot meet those accused for more than ten minutes, although many of them are liable to capital punishment, trials are hasty and conducted without the accused being present, judgements are not made public)¹⁹⁴. In Egypt, for example, judgements pronounced by the court martials are not published and are not liable to any appeal, except to the President of the Republic¹⁹⁵.

[Political arguments

The death penalty is exploited to political ends

Capital punishment is often used to gag political opponents. In Syria, for example, the former Minister of Defence, Mustafa Tlas confirmed that he had authorized the hanging of one hundred and fifty political opponents during the 1980s, and signed thousands of execution orders without informing the prisoners' families of the fate of their relatives¹⁹⁶. In Iraq, in Saudi Arabia, in Syria, in Jordan, in Egypt, in the Sudan and also in Libya, many have been executed for their political opinion, in the case of opponents of the regime, or for being suspected of plotting to overthrow the government, in the case of certain army officers¹⁹⁷, for the most part following a questionable trial. The most significant recent example is that of Saddam Hussein. Having made the day of his execution a public holiday is a clear political message to those who opposed the judgement of the ex-President of Iraq by an Iraqi tribunal under American occupation.

In the Lebanon, Antoinette Chahine was sentenced to death in January 1997. She was prosecuted for having taken part in attacks on a church, a charge that she always denied. In fact, the point was, through her, to put pressure on her exiled brother, and in this way to gather information against a political party to which he

was affiliated, and so deemed to be undesirable (the Lebanese Forces party). Finally, as a result of pressure from the international community and with the support of Amnesty International, she was cleared of the charge and released¹⁹⁸.

The death penalty does not dissuade terrorists

The new anti-terrorist laws, which the majority of Arab countries have taken on, have, by their nature, led to an increase in the number of crimes liable to capital punishment, sometimes above and beyond murder and other related crimes alone, as in Morocco¹⁹⁹. Several perpetrators of terrorist attacks have been sentenced to death: three in Egypt at the end of 2006 for taking part in the Taba attacks, twenty seven in Algeria in March 2007, two in Morocco in December 2006 for organising attacks and illegal possession of explosives (the punishment was pronounced by the anti-terrorist tribunal in Salé).

It has not been proven that capital punishment dissuades terrorists. On the contrary, those responsible for the fight against political crimes and terrorism have indicated several times that the death penalty could have the opposite effect, since it allows the perpetrators of terrorist crimes to die as martyrs²⁰⁰. In reality, the fight against terrorism has become a convenient pretext that rulers control to reinforce their power without any advantage to the community.

Prospects for action against the death penalty

As the countries in question are in the Arab world, the choice of strategies to adopt in the fight against the death penalty must take into account the specific context of each country, how far advanced the debate is in the country, how open the authorities are, the religious factor, and whether or not the players are able to take action.

In fact, in certain countries (the Yemen, Egypt), it is premature, indeed inconceivable, to begin working from the point of view of abolition. On the other hand, in Morocco and in the Lebanon, the context seems favourable to abolition. Other countries have had a de facto moratorium for many years (Algeria, Tunisia, Mauritania) which might suggest that the time is right, if not for the moratorium to be made official, at least for a legislative reform to reduce the field of application of capital punishment. It is this latter route that abolitionist movements working in more sealed countries could follow (the Yemen, Bahrain, Jordan, or Egypt). In certain countries the religious factor remains a real obstacle: according to the interpretations, which vary from one country to another, and according to religious denomination, the list of crimes liable to the death penalty (in addition to those expressly laid down in the Koran) may be more or less long. So, in support of their plea in favour of the reduction of the field of application of the death penalty, activists should make sure to highlight the following realities: death sentences are often of a political nature and the fight against terrorism remains a pretext ; the list of crimes liable to capital punishment has got longer rather than decreasing ; Islam also contains within it arguments against the death penalty.

These three options (abolition, moratorium, reduction) are not mutually exclusive. To get to abolition it may first be necessary to take a route via a moratorium or the reduction of the field of application of capital punishment.

Whatever the favoured strategy, abolitionists should pool their efforts and their forces for mobilization, document their actions where they have used specially adapted arguments to make a plea, raise public awareness, get media coverage for the abolitionist cause, and open the debate by establishing a dialogue with all those whose involvement is essential for the evolution both of laws and ways of thinking.

The following points are meant to be real routes to take, inspired by experiences of the countries studied and previous considerations, and are equally suggestions and recommendations to inspire abolitionist players in the organisation of their mobilization.

[Getting organised

Defining objectives

Defining precise objectives and, preferably, only focussing on one objective at a time, is essential. The first stage consists in choosing a base strategy (abolition, moratorium, reduction of the field of application of the death penalty). Related strategies will be added on, such as equipping the organisation with the relevant mandate; taking part in a national coalition; once this is organised, providing a realistic plan of action in relation to available means; if the coalition is operational, defining the relevant action in relation to context and needs; taking care to protect the image of the movement in associations with the media; taking care over pleas to members of parliament; etc.

For example, in June 2006, in Jordan, efforts were concentrated on the reduction of the list of crimes liable to capital punishment²⁰¹. In the Lebanon the last government Bill tabled in parliament to obtain abolition chose only to consist of one clause, to avoid polemic and the debate getting bogged down in the details.

The definition of a relevant objective is closely linked to the political context of the country in question, including the importance given to the religious factor. In several countries in the region, political opposition is intensified within parties with a link to Islam. These latter have a very strong influence on public opinion and, fearing that they will cause the population to rise up against them, governments prefer to curb the debate on abolition. On the other hand, certain Islamist groups openly advocate capital punishment, contrary to thinkers or regimes who support ideas that are different from theirs. Public opinion in large part agrees with them, as this is seen as a holy punishment since it is mentioned in the Koran. The greatest difficulty for the abolitionist movement will be to avoid political manipulation on the part of certain parties with a religious link. These latter risk directing the debate in their own interests, pleading for a reduction of the punishment applied to terrorism, uniquely because this is where their particular concern lies, or looking for alliances with the sole aim of proving their participation in democratic life and winning over new partners.

Organising and consulting at the national level

Disparate actions cannot by their nature advance the fight to reduce the application of capital punishment.

Prospects for action against the death penalty

Consultation and coordination increase the impact of the action. It is important to show united ranks and common objectives. Ideally, but not necessarily, this consultation will be organised in the form of a national coalition. Such a structure aims to bring together people and organisations of varying horizons, driven by the same objective: activists and human rights organisations, bar associations, political figures, legal figures, media, etc.²⁰². Ideally it should seek, if not to bring them into its ranks, at least to collaborate with the national human rights institutions or councils, if they exist. These entities, at the same time as being close to the general public, have a great capacity to make pleas to governments. The example of the essential role that the Consultative Council for Human Rights played in the fight against the death penalty in Morocco confirms the importance of this type of partnership²⁰³.

Ideally still, this consultation authority will equip itself with an executive committee who will be in charge of coordinating the actions and initiatives decided on by the coalition, as a function of priorities, capacities and resources. All regional or international support should sign up to the objectives and the strategy adopted by the national coalition.

Documenting and analyzing the death penalty

It is essential, for any mobilization effort on the death penalty, to master and to document the question in detail, as much to elaborate a strategy that is relevant and adapted to the needs that it addresses, as to convince hesitant interlocutors. This covers in particular:

• Documentation of the context

This documentation of a general nature will draw up the history of the death penalty in the country concerned establishing the link with the socio-political situation. It will attempt to draw up statistics on death sentences and executions and compare them with recorded crime rates in the country, with a view to demonstrating that the death penalty does not have a deterrent effect.

• Documentation and analysis of the legal texts

The documentation of the laws and procedures applicable to capital punishment is particularly essential for those who have legislative reform as their objective, with a view to reducing the field of application of capital punishment.

An analysis of existing legislation should make it possible in particular to:

- identify and highlight the list of crimes liable to capital punishment;
- measure whether international standards relative to human rights and fair trials are respected, and the degree of independence of the judicial system;
- identify the scope of military tribunals or specialized courts and the means to reduce their sphere of activity.

• Documentation of symbolic cases

This is a question of identifying a certain number of cases of death sentences or executions that are particularly questionable by the disproportionate nature of the punishment in relation to the complaints made, the report of miscarriages of justice, the unfair nature of the trial or the strictly political nature of the case. In this type of documentation it is always useful to include the context of the crime, the social and economic situation of the convicted person, the testimonies of the family of the convicted person and, in certain cases, of the victims. Audio-visual testimonies often give a greater impact. In Morocco, Tahqiq, a documentary broadcast on the 2M TV channel was dedicated to the death penalty, and made it possible to reach a large section of public opinion. In the Lebanon a Conference for Forgiveness allowed the families of victims to explain that the sentencing to death or the execution of the perpetrator of the crime had not brought them justice, and that, on the contrary, they had the feeling of having participated in another crime²⁰⁴.

• Documentation of individual cases

Following a case from beginning to end, through the intermediary, for example, of a legal aid scheme, makes it possible to garner detailed information on the conditions in which the trials are carried out. A piece of work of this type could be done automatically and the information fed into a database, or could promote the idea of an 'observatory' to oversee the death penalty.

Seeking out collaboration with relevant players in society

• The particular case of members of the legal service

Raising the awareness of judges (and, where necessary, educating them) can prove to be extremely use-

ful, especially if the objective is to reduce the application of the death penalty. Targetting this audience makes it possible not only to forge legitimate links with the judiciary, to remind judges of their responsibilities and their power of assessment in the pronouncement of punishments, but also to identify those who could prove to be allies in the fight.

• ***The particular case of members of parliament***

In Morocco and in the Lebanon national movements saw their action taking off again from the moment when their partnership with the members of parliament was organised. In addition, in the countries which have parliamentary commissions relating to human rights or to the administration of justice, or their equivalent, this approach is imperative, since the issue of the death penalty comes directly under their scope of activities. Members of parliament are those who propose laws (in the case in point, the abolitionist laws or the laws aiming to restrict the field of application of capital punishment) and are therefore, on the front line to question the executive, and to make a genuine plea to their peers. Moreover, the member of parliament generally represents a political party and gaining his support for the abolitionist cause implies therefore, the backing of the said party. Four routes should be explored:

- Identify the key members of parliament who are against the death penalty;
- Encourage them to launch the debate within their own party;
- Provide them with documentary and logistical support: studies, testimonies of victims etc. which will serve to back up and support the Bill in front of the chamber;
- Promote exchanges and contacts with members of parliament of abolitionist countries or international networks of members of parliament who could lend support in the fight.

• ***The particular case of theologians and religious figures***

Taking the debate relating to the death penalty onto religious ground is not without its risks and limitations, but as capital punishment is still often closely linked to the religious question, this point should at least be broached.

At the end of August 2007, a large number of Muslim theologians met in Amman in Jordan to consider sub-

jects such as international treaties and Islamic jurisdiction, the new forms of marriage, such as marriage on the internet etc. This meeting entitled the "First Conference on the Islamic Criminal System" is the first of its type and brought together nine countries in the region, including Saudi Arabia, Egypt, Kuwait, United Arab Emirates, Qatar, the Lebanon, the Palestinian Territories, Syria and Jordan, as well as religious representatives from Muslim movements in the West. It shows that the door for debate is opening in Muslim society.

The abolitionist movement could therefore, take advantage of this prevailing mood in favour of debate to tackle the question of the death penalty. Exchanges of this type can by their nature encourage, if not a reconciliation, at least an understanding and respect of each other's points of view, and an easing of the hostility sometimes displayed by parties with a religious link, certain religious figures themselves, and often, a large section of public opinion that they carry along behind them. An example in the Yemen demonstrates this: following the participation of the new Yemeni national coalition in the regional conference in June 2007 in Jordan, its coordinator was attacked in the media. It was because the coalition had religious figures amongst its members that it was able to reduce the risk of seeing its fight snuffed out before it had achieved its aim.

In certain cases however, as in Egypt, a collaboration with key religious figures would probably be counter-productive; either because the religious authorities still follow the intransigent position adopted by the government; or because the government is clearly trying to reduce the sphere of activity of the Islamists, who are viewed as political opponents and feared as such. Therefore, any association with these religious figures risks being interpreted as subversive and could endanger the abolitionist fight.

On a more general note, any association with religious figures cannot go further in its objective than the reduction of the application of capital punishment: limiting its application to the most serious crimes, demanding respect of the conditions imposed by *Sharia*, reminding people that clemency and doubt are concepts that form an integral part of Islam.

Prospects for action against the death penalty

[Mobilization

Organising campaigns of national mobilization

A campaign of action can take different forms: sit-ins in front of parliamentary chambers or a minister's private office, marches, petitions, press releases, plays, items broadcast on television to publicize the cause, meetings with the key abolitionists of the country, open letters to the President or Prime Minister etc.... These campaigns can take place at certain key moments (on the occasion of the World Day against the Death Penalty, when public opinion is strongly shifting) or systematically (taking a stance in reaction to each new death sentence). The most diverse media coverage possible of these actions will be a guarantee of success.

Raising awareness and providing information on the death penalty

This evidently means raising the awareness of the general public in its broadest sense, but also the different elements within it – the political parties, the professional syndicates or trade unions, the human rights associations and organisations, the journalists, the jurists and members of the legal service. Bar associations should also be included, and are generally supportive of the cause, but can sometimes constitute an obstacle, as is the case in Jordan.

Exchanges with intellectuals (members of parliament, judges, the key religious figures) make it possible to deepen the debate, to better define the arguments that are not favourable to abolition, in particular religious ones, and to identify some key figures who could support the abolitionist movement in the future. Meetings with political leaders at the highest level makes it possible to better define the strategies for making pleas.

Finally, work with human rights associations makes it possible to pool efforts. These associations will be encouraged to include abolition of the death penalty in their mandate, or even to join the abolitionist movement. Firstly, local associations will be targeted who work in the most disadvantaged regions, where the question is not being addressed as a priority.

Then there is the general public. In the countries where the death penalty is considered to come under *Sharia*, it is not generally questioned by public opinion. In such a situation, work carried out to raise awareness should prioritize the religious argument. The greatest possible

number of people must be reached: school children, young people, universities, associations, through internet forums, public debates, during radio or television broadcasts, on websites for exchanges on the question of rights, etc. Ideally influential people should be identified to conduct debates and meetings with the general public. This is what was done in the Lebanon, for example, where the abolitionist movement built certain stages of its campaign and its public debates around political figures, judges and members of parliament.

Work to raise awareness and influence public opinion should put the emphasis on the following subjects:

- political sentencing and the fight against terrorism;
- miscarriages of justice (particularly in symbolic cases);
- the great number of crimes liable to capital punishment;
- the arguments against the death penalty held by Islam itself: the value of life, the possibility of forgiveness and repentance, the impossible conditions for application of capital punishment, etc.;
- the examples of Arab countries who are on the road to abolition and the steps that are starting to be taken elsewhere in favour of the fight against the death penalty.

Measuring the impact of awareness-raising is important to evaluate the relevance of action taken. Putting in place tools such as internet surveys, the drawing up of questionnaires etc., will help to evaluate this impact. It is not only the opinion of the public on the question that should be measured, but also its opinion on the impact of the actions carried out. In order to obtain the best results, it is necessary to keep the same sample of people, and to question them several times, at intervals.

Involving the media

The press and the media are still the most effective means of relaying information to the general public, and of obtaining a widespread airing of the fight. Media coverage is therefore, essential, indeed strategic. The subject can be covered from different angles: giving information on the result of studies carried out on the question, delivering testimonies on individual cases, ensuring coverage of debates organised on the death penalty, creating special broadcasts dedicated to the subject, airing audio-visual interviews with convicted people, with convicted people who have been cleared, or families, relaying information on a campaign, etc.

Not only should the media be associated with these one-off events, but a strategy should also be thought out which aims to involve the media systematically and for the long term.

Many routes are conceivable to be assured of the cooperation of the media²⁰⁵:

- Organise specific meetings with journalists on the death penalty and training sessions on the strategy to be followed for abolition and on the way to record legal cases and to deal with judgements;
- Identify the 'key' journalists, who are in charge of broadcasts or pages of daily newspapers that are valued by public opinion;
- Involve journalists belonging to all political parties (pro-government, opposition, religious etc.);
- Involve journalists in the drawing up of the strategy to be followed. They are able, in fact, to identify the 'decision makers' or 'opinion leaders' capable of reaching public opinion;
- Involve the 'virtual' or indeed electronic press, which reaches more and more people, and young people in particular.

The collaboration of the media is not acquired in advance. In certain countries the media may even show reticence. In these contexts the abolitionist movement should not aim immediately for abolition, but rather for alternatives in preparation, such as reduction, as well as putting in place sessions for information and awareness-raising directed specifically at journalists, with a view to providing them with a critical documentation on the issues, covering all viewpoints.

Encouraging legislative reform

Whatever the target objectives and the strategy adopted in favour of abolition or of a reduction of the application of the death penalty, it must often go through a reform of laws.

• Towards the improvement of the procedures safeguarding the conditions of a fair trial

Studies carried out on the administration of the judicial system, possibly on precise cases, will make it possible to give a clear idea of the violations to make good: what are the conditions throughout the running of trials (from arrest all the way through to execution) and what are the failings noted?

In Egypt, for example, the law of June 2007, although it remains unsatisfactory, is the culmination of efforts

made in this direction: initially, military tribunals, who had to their name the greatest number of death sentences, made judgements at first instance, against which no appeal is possible. Since then, it has become possible to make an appeal (even if the court at the highest level is still made up of the military).

Tackling the question of the death penalty from the angle of the fair trial can prove to be effective in countries where the judicial system is used against political opponents. These politicized contexts are still dangerous for abolitionists themselves who run the risk of seeing themselves put in the same category as the opponents. In the Yemen, for example, the national coalition was the object of an attack in the media on the part of certain theologians, who accused them of collaborating with the Zionists²⁰⁶. This is why talking about respect for the conditions of the safeguards – objectively and internationally recognized – linked to a fair trial can help to extract the debate from partisan considerations and to place it on the technical legal level.

• Towards a reduction in the application of capital punishment

If the target objective is the reduction in the application of capital punishment, the strategy should first be to:

- Identify the crimes that are punishable by the death penalty;
- Analyse the political conditions in which these death sentences are pronounced;
- Think about alternative strategies to capital punishment: which alternative punishment, how to preserve proportionality between crime and punishment, which procedure, on whose authority, what financial and other support for the victims etc?
- Make concrete proposals, indeed draft government Bills.

• Towards officialization of a de facto moratorium

Countries such as Algeria, Morocco, Tunisia, Mauritania and the Lebanon have a de facto moratorium on executions. Such a situation is favourable to an in-depth piece of work with a view to legislative reform, the reduction in the application of capital punishment, or even total abolition. But, by definition, the situation remains fragile. In the Lebanon after a de facto moratorium between 1998 and 2004, the resumption of executions was only suspended by one signature.

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Therefore, it is important, according to the context, either to take the plunge towards abolition, or to formalize the moratorium. This can be achieved by a presidential decree or by the passing of a law. In the context of the Arab world, and in particular in the case of countries which refer to *Sharia*, public stances taken by certain important personalities can be seen to be a sort of moratorium. The appeal by Tariq Ramadan, who called for a stop to executions to open the debate with the religious contingent, goes some way towards this, even though this debate aims to reduce the application of the punishment, and does not necessarily aim for abolition.

• **Towards abolition**

Where the context lends itself, abolitionists will make a plea for the legislative arsenal to be in accordance with the clear political will. A law with one single article would be a clear expression of this will.

Towards ratification of the Second Optional Protocol relative to the ICCPR

The ratification of this protocol generally follows on from a first positive reform, and ensures above all the irreversibility of this commitment, that authorities could be tempted to suspend during unfavourable political times or changes of government.

[**Bringing a regional and international dimension to the debate**

Lobbying and coordination on a regional level

Since the Arab countries share a certain number of cultural and social values, but also the same religious factor that makes the work of the abolitionists more difficult, the pooling of efforts on a regional level can prove to be beneficial. An organised fight at the regional level will have real repercussions on the national level.

Encouraging exchanges at the regional level can also make it possible to reduce the risk of individuals or religious parties taking a counter position at the national level. In their regional programme against the death penalty, Penal Reform International and the Amman Centre for Human Rights Studies have the participation of key religious figures during exchanges organised against the death penalty. This allowed them to identify a number of religious figures and theologians in each of the countries targeted by this programme, as well as to bring together academic research and studies on the death penalty in Islam, notably those that support the fight against the death penalty.

There are important players who work against the death penalty on a regional level, even where their actions are not carried out under the framework of a regional coalition, or remain isolated: the Union of Arab Jurists, the Union of Arab Lawyers, the Arab Commission for Human Rights or certain individual researchers who participate regularly in local and regional conferences on questions of human rights, and in particular the death penalty²⁰⁷. Bringing these players together will reinforce a regional dynamic, ideally, but not necessarily, under the framework of the regional coalition.

Updating declarations and regional charters

In the 1980s and 1990s, several regional conferences and meetings debated the question of human rights in the region, which led to a wave of diverse declarations²⁰⁸.

Only the Arab Charter on Human Rights was reviewed in 2004. Its final version came into force on 15 January 2008 after ratification by seven Arab States: Algeria, Bahrain, the United Arab Emirates, Libya, Jordan, Syria and the Palestinian Territories. The death penalty still figures in article 6 of this new charter, but the 2004 ver-

sion is more flexible than that which prevailed in 1994. The death penalty is henceforth reduced to the most serious crimes, must be pronounced by a court that is authorized to do so, and the right to ask for a pardon or a reduction in the punishment is henceforth guaranteed. Concerning the death penalty for minors, article 7 is particularly ambiguous since it sets out that: "The death penalty cannot be pronounced against people aged less than 18 years except where there is contrary provision in the legislation in force at the time of the offence". This same article clearly forbids the execution of pregnant women during their pregnancy and for up to two years after the birth of the child if they are breast-feeding. Even this more flexible 2004 version, which authorizes de facto recourse to the death penalty for minors, was the object of strong criticism, notably on the part of the International Commission of Jurists at the time of its revision in February 2004²⁰⁹ and the United Nations High Commission of Human Rights on the occasion of its coming into force in January 2008²¹⁰.

The preamble of the Arab Charter recalls the commitment of the signatory states to an initial text: the Declaration of the Islamic Conference, adopted in Cairo in August 1990, which had already established capital punishment as coming "under the framework of Islamic law". An inter-governmental group of experts was charged with reworking the text of this declaration. To this end, it organised, until January 2003, seven meetings under the aegis of the Secretary General of the Organisation of the Islamic Conference²¹¹.

The final text amongst the most important and explicit is the Charter of Arab Jurists on Human Rights of 1986. Its article 2.2 states that: "The death penalty can only be imposed for the most serious crimes; this punishment cannot be applied for crimes of a political nature, except in cases where they are accompanied by a murder or an attempted murder."²¹²

Some abolitionists in the region think that these texts should be updated again, essentially to promote the idea of a moratorium on the death penalty. Here the objective would still remain a moratorium and not abolition.

Looking for international support

Each national movement, but also the regional movement, would benefit from an association with the international movement, but should avoid however, the danger of seeing the latter perceived as an 'intrusion' by the

West, a 'substitution' or an 'importing' of its ideas.

The press conference and the regional workshop organised in Rabat on the occasion of the 2007 World Day by the Moroccan Coalition against the Death Penalty and the World Coalition against the Death Penalty offer a good example of association between a national movement and the international movement. Another example is in the support given to national players by Penal Reform International, within the context of a financing by the European Union, which allowed for national coalitions to be put in place, as well as the regional coalition.

Looking for international support can also help to broaden the scope of the debate from a strictly national (and so also sometimes religious) level, and to make reference to the principles of international law, which are unanimously recognised and which govern human rights.

Finally, international support can also prove to be particularly effective in the framework of precise actions, such as the ratification of the second protocol or making the national justice system conform to the rules of an international tribunal, which would be set up in a given country.

Reinforcing the regional coalition

The regional conference organised by PRI and the ACHRS in July 2007 gave rise to new hopes. This conference was the second of its type after that organised in 1995 by the Arab Institute of Human Rights. The tone and the objectives of the participants were however, largely different from those of the conference in 1995. The objective of abolition was clearly expressed, and the different participants, including judges and journalists, promised to promote it in their own countries under the framework of existing national coalitions and coalitions that were created on the occasion of the regional conference.

In particular, this conference allowed for the establishing of a regional coalition, the first of its type, bringing together the associations who participated in the conference. This coalition concretizes the activist movement which is taking shape on the regional level. The recommendations of this coalition have been very pragmatic:

- The structuring of the regional coalition to allow for its indefinite continuation (organisation, strategy, timetable of actions etc.);

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- The organisation of demonstrations at the regional level to celebrate the World Day against the Death Penalty;
- The identification of indicators marking socio-political opportunities to be seized in favour of the fight against the death penalty;
- The establishment of a regional observatory on the death penalty which will allow for the collection and broadcasting of information necessary for the fight against capital punishment;
- The publication of studies and pieces of work on the death penalty in Arabic starting with work from the regional conference;
- The promotion of the coalition at regional and international levels as a means of lobbying and creating networks;
- The establishment of a Day against the Death Penalty at the regional level which would be held on the date of abolition of the first Arab country.

The regionalization of the abolitionist movement brings with it another effect which is not insignificant, as illustrated by the example of the Yemen: solidarity. In fact, if the regional coalition chose the Yemen to represent it in Morocco for the events linked to the World Day against the Death Penalty, this choice was a strategic one. The Yemeni members of the coalition came under political pressure and became the object of a national smear campaign led by parties with a religious link. The support displayed by the regional coalition aimed to reduce the risks that members of the Yemeni coalition faced if they were isolated.

Other recommendations have given this new coalition courses of action to take²¹³. They augur the establishment of an active and committed regional force:

- The creation of a database on the death penalty in the region which will be a source of information, of arguments, of legal references, of useful addresses which can be drawn on to support the fight on a national level and to better coordinate actions. A database created by the World Coalition against the Death Penalty could be a place to start. These data would be added to and shared between the different activists against the death penalty (and would be distributed securely).
- The publication of an information report on the actions of the different national coalitions in the Arab

countries with a view to raising the awareness of the general public.

- The creation of an internet site.
- The necessary development of an effective communication policy.

To these first courses of action can be added the following:

- The putting in place of an executive committee charged with practical and daily monitoring of actions, the broadcasting of said actions and the communication of stances taken;
- The mobilization of regional opinion (by means of petitions, through the internet, by correspondence with the embassies concerned);
- The setting up of a committee of jurists in the region with a view to updating the regional declarations;
- The promotion of sub-regional movements or sub-regional strategies (Maghreb or Middle East). Algeria, for example, was the only one to vote in favour of the resolution of the General Assembly of the United Nations for a moratorium on the death penalty. The promotion of this initiative at a sub-regional level could serve to encourage Tunisia or Morocco to follow suit.

State of ratification and signature of international and regional treaties and declarations

Country	CCPR (1)	CCPR-OP2 DP (2)	CERD (3)	CAT (4)	CRC (5)	Arab Charter on Human Rights	African Charter on Human Rights
Algeria	12/09/1989		14/02/1972	12/09/1989	16/04/1993	2004	01/03/1987
Saudi Arabia			22/09/1997	23/09/1997	26/01/1996		
Bahrain	20/09/2006		27/03/1990	06/03/1998	13/02/1992	2004	
Comoros			27/09/2004	signed	22/06/1993		01/06/1986
Djibouti	05/11/2002	05/11/2002		05/11/2002	06/12/1990		11/11/1991
Egypt	14/01/1982		01/05/1967	25/06/1986	06/07/1990		20/03/1984
United Arab Emirates			20/06/1974		03/01/1997	2008	
Iraq	25/01/1971		14/01/1970		15/06/1994		
Jordan	28/05/1975		30/05/1974	13/11/1991	24/05/1991	2004	
Koweit	21/05/1996		15/10/1968	08/03/1996	21/10/1991		
Lebanon	03/11/1972		12/11/1971	05/10/2000	14/05/1991		
Libya	15/05/1970		03/07/1968	16/05/1989	15/04/1993	2004	19/07/1986
Mauritania	17/11/2004		13/12/1988	17/11/2004	16/05/1991		14/06/1986
Morocco	03/05/1979		18/12/1970	21/06/1993	21/06/1993	12/29/2004	
Oman			02/01/2003		09/12/1996		
Qatar			22/07/1976	11/01/2000	03/04/1995		
Somalia	24/01/1990		26/08/1975	24/01/1990	signed		31/07/1985
Sudan	18/03/1976		21/03/1977	4/6/1986	03/08/1990		18/02/1986
Syria	21/04/1969		21/04/1969	19/08/2004	15/07/1993	2004	
Palestine	The Palestinian Authority is not entitled to sign international treaties						
Tunisia	18/03/1969		13/01/1967	23/09/1988	30/01/1992		16/03/1983
Yemen	09/02/1987		18/10/1972	05/11/1991	01/05/1991		

(1) The International Covenant on Civil and Political Rights, monitored by the Human Rights Committee;

(2) The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty;

(3) International Convention on the Elimination of All Forms of Racial Discrimination, monitored by the Committee on the Elimination of Racial Discrimination;

(4) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, monitored by the Committee Against Torture;

(5) Convention on the Rights of the Child, monitored by the Committee on the Rights of the Child.

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(http://www.unicbeirut.org/unic_editor/Download.asp?table_name=uploadDocs&field_name=id&FileID=248), while on 19 October 2007 the "Abolishing the death penalty in Lebanon and the rest of the world: legal and social outlook" conference brought together 75 people (http://www.lebanon-support.org/viewresources.php?Cat_ResCode_Menu=7).
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- 148 For explanations on religious terminology, see below Chapter 2, The arguments against the death penalty, Religious Arguments.
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- 155 Shabib el Maliky, "The political obstacles to unified Arab legislation and legal orders", Azzaman International Newspaper, issue 2545 <http://www.azzaman.com/azz/articles/2006/11/11-13/883.htm>
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- 157 The 2007 report can be downloaded on: <http://www.worldcoalition.org/modules/smartsection/item.php?itemid=282>
- 158 Initiated by Moahmmed Zaree, founder of the Egyptian organisation, the Human Rights Association for the Assistance of Prisoners.
- 159 Jordan, Bahrain, Saudi Arabia, Syria, Iraq, Palestine, Lebanon, Egypt, Morocco and Yemen, see http://www.aproarab.org/modules.php?name=Reports_Publications to download the research in Arabic or English.
- 160 According to a telephone interview with the Secretary General from the organisation on 30 May 2007.
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- 163 Regional program advocating abolition of death penalty, Jordan Times, 28/03/2007
- 164 Cf. above, Historical Considerations. Further, the recommendations related to this regional conference are detailed in the Prospects section under "Reinforcing the regional coalition", see below.
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- 166 See above, Lebanon, Birthplace of the abolitionist movement.
- 167 This is one of the main reasons why this report has been published.
- 168 Dr Mohamed Said el Ashmawi, speech at the regional conference on the death penalty organised by the Arab Institute of Human Rights in Tunis, October 1995 (from his book "The foundations of *Sharia*", May 1979)
- 169 The Koran verse 2:177 and 178 (chapter Al Bakara)
- 170 Ibid.
- 171 Islamic precepts are clear as to encouragement to forgive in several verses of the Koran: "the punishment of evil engenders more evil, and he who forgives is rewarded by God"" (chapter Al Shura, verse 40) or "and those who calm their anger and forgive people, they will be loved by God" (chapter Al 'Umran, verse 134).
- 172 The Koran, verse 5:34 (chapter al Maida). Dr Mohammed Said Ashmawi reports in his book 'The foundations of *Sharia*' that the Prophet wanted a woman accused of adultery to express repentance, and that she would be pardoned even if all the evidence confirmed her crime and if she had admitted it herself.
- 173 Cf Mohamed Said el Ashmawi
- 174 The Koran, verse 5:32 and 33 (chapter Al Maida)
- 175 The narrative reports that this punishment was pronounced against a Jewish woman and so was based on the Torah. This punishment was used until the revelation of a new chapter (Cf Mohamed Said el Ashmawi). Since then, adultery committed by an unmarried Muslim woman is punishable by one hundred lashes, as it is for her male partner, and not by the death penalty (The Koran, Verse 24:2 - chapter el Nour).
- 176 The Koran, verse 54:5 (chapter al Maida) and 2:217 (chapter al Bakara). To punish apostasy could even be considered to be contrary to the chapter which guarantees freedom of belief (no constraint in Islam): The Koran verse 2:256 (chapter al Bakara). In addition, repentance by the apostate can result in him avoiding the death penalty: Leaving Islam is not a capital crime by Sherif Bassiouni, www.csidonline.org/index.php?option=com_content&task=view&id=182&Itemid=73#1094617a76abef5a_nigeria
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- 178 Amnesty International made a count in Saudi Arabia of all those prisoners sentenced to death for murder who benefitted afterwards from a pardon from the heirs of the victim, and noted that between 1991 and 1999, nine out of the twelve prisoners counted were Saudis. In the majority of cases, the pardon seems to have been granted following persistent pressure from tribal chiefs. Amnesty International, Saudi Arabia Campaign, <http://pagesperso-orange.fr/amnesty-alpes/campagne/arabie/arabie4.htm> (AI: MDE 23/001/00)
- 179 Comments on this study by Ph.Y.Demaison, vice-president of the Muslim Scouts in France
- 180 Tariq Ramadan, 30 March 2005, "International appeal for a moratorium on corporal punishments, stoning and the death penalty in the Muslim world". http://www.tariqramadan.com/article.php3?id_article=258 who concludes "There must be an immediate stop to all the legalized injustices carried out in the name of Islam".
- 181 Iranian religious leader (fakih) from Najaf, in exile in London
- 182 Philosopher and historian of Islam, Professor at Paris III Author of 'Readings of the Koran, Paris, Maisonneuve et Larose, 1982
- 183 Author of Human Rights in Africa: Cross-Cultural Perspectives, The Brookings Institute, Washington DC, 1990 as well as Human Rights in Cross-Cultural Perspectives: Quest for Consensus Philadelphia: University of Philadelphia Press, 1992
- 184 President of the Arab Centre for International Humanitarian Law and Human Rights Education, Lyon. Deputy Director of the Research Group in Islamic Religion and Theology, Marc Bloch University, Strasbourg / France.

- 185 Ali Fehmi, advisor at the Centre for Socio-legal Research in Cairo, speech at the regional conference against the death penalty organised by the IADH in Tunis in 1995.
- 186 Melkar Khoury, Foundation of Human and Humanitarian Rights (Lebanon), speech at the regional conference against the death penalty, Amman July 2007.
- 187 Report of the International Investigation, The death penalty in Egypt , FIDH, April 2005
- 188 The Nadim Centre for the rehabilitation of victims of torture provides legal aid to the victims of torture and domestic violence.
- 189 This example of a miscarriage of justice has not unfortunately been used in the fight against the death penalty because the person concerned was also being prosecuted for other crimes liable to capital punishment. See also above, chapter 1 State of play and protagonists, and State of play by country, Jordan.
- 190 <http://web.amnesty.org/pages/deathpenalty-worldday2006-fra>
- 191 "In the first instance, for example, the authorities made use of the Christmas period, during which the western NGOs were not present in Tunisia to hurry the case along. Each time the lawyers for the International Federation for Human Rights (FIDH) or Amnesty International were present, the hearings were postponed." Extract from an interview with Radhia Nassraoui in the Soliman case, of 15th February 2008 published in the abolition Mail of ECPM (<http://www.abolition.fr/ecpm/french/article-dossier.php?dossier=24>)
- 192 2006 Report of the Arab Organisation for Penal Reform http://www.aproarab.org/press_a/09.07.06.htm.
- 193 At the Tunis conference against the death penalty in 1995, the Egyptian researcher Ali Fehmi had insisted on the need to create independent and impartial appeal courts to deal with the judgements pronounced in the first instance by military tribunals. He had proposed that their decisions be submitted to civil appeal courts.
- 194 The report of the international investigation led by the FIDH in Egypt in April 2005 details these points.
- 195 Since April 2007, a new law has established an appeal level, but as the higher level court is still made up of judges from the military, the opposition parties are, in truth, doubtful of its effectiveness. Cf. El arabya net, 22nd April 2007, <http://www.alarabiya.net/articles/2007/04/22/33744.html> and above: State of play by country, Egypt.
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- 197 List of "Amnesty International" political prisoners, Public Document Index AI: 54/062/2005
- 198 Crime of Innocence, Antoinette Chahine, Dar An Nahar, January 2007
- 199 Report of the international investigation, "the death penalty in Morocco: the time for responsibility.", FIDH, October 2007.
- 200 Diaa Rachwan, specialist in armed Islam in Egypt and researcher at the Al-Ahram Centre for Political and Strategic Studies in Cairo, Egypt explains that the death penalty is not a dissuasive measure against terrorists "because for them death is just a passage to something better. Therefore, the death penalty is not effective against them": Amnesty International Index AI: ACT 50/001/00 and Amnesty International, 2006 report.
- 201 See above, chapter 1, state of play by country, Jordan.
- 202 See below, "Look for collaboration with relevant players in society"
- 203 For the details, see above, chapter 1, state of play by country, Morocco.
- 204 Report "The death penalty in the Lebanon", investigation Beirut 21-26 February 2004, <http://www.solida.org/>
- 205 These routes were suggested on the occasion of discussions that were held during the regional conference on the death penalty organised by PRI and the ACHRS in Amman in July 2007.
- 206 The Yemeni daily newspaper Akhbar and Yaoum, 9 July 2007
- 207 See above, chapter 1, Other regional and international players.
- 208 See above, chapter 1, Historical considerations
- 209 Comments from the International Commission of Jurists following the supplementary meeting to the second extraordinary session of the Permanent Arab Commission on Human Rights dedicated to the updating of the Arab Charter on Human Rights, February 2004.
- 210 <http://www.ohchr.org/french/index.htm>">HCDH
- 211 Islamic human rights declarations, Mohammed Amin Al Midani, le 31/3/2005; http://www.acihr.org/articles.htm&article_id=5
- 212 <http://www.peinedemort.org/International/Droit/Textes/articles-regions.php>
- 213 These recommendations are the result of the workshop for validation of the regional study on the death penalty organised by the World Coalition and the Moroccan Coalition on 3 October 2007 in Rabat.