

News Release, 5th August 2009

“Kenya Commutes the Death Sentences of more than 4,000 prisoners”

The Death Penalty Project welcomes the decision of Kenya’s President Kibaki, acting under powers conferred upon him by the Kenyan Constitution, to commute all death sentences imposed upon condemned prisoners to sentences of life imprisonment. This will result in over 4,000 prisoners being removed from death row in Kenya which is thought to be one of, if not, the largest commutation of death sentences seen anywhere in the world. No executions have been carried out in Kenya for twenty-two years.

The decision, announced on 3rd August, was explained to have been the result of careful consideration of the many prevailing factors relating to the death penalty, including the cruel and inhuman treatment caused by the mental anguish and suffering of those on death row for many years.

Various legal challenges to the constitutionality of the mandatory death penalty in Kenya are currently before the domestic courts. These cases have been brought by the organisation CLEAR Kenya and in particular Timothy Bryant and William Wameyo, with the support and assistance of the Death Penalty Project and Joseph Middleton from Doughty Street Chambers.

Without doubt, a key underlying factor behind the decision to commute the sentences of all those on death row relates to the impact of these cases. Should the legal challenges have succeeded, and there is every indication that they would have done so, the Government would have been faced with the unenviable task of holding individual sentence hearings for all 4,000 plus prisoners under sentence of death. The decision to commute has avoided this scenario.

Speaking after the announcement, Saul Lehrfreund MBE and Parvais Jabbar, Human Rights Lawyers and Executive Directors of the Death Penalty Project said:

“This remarkable development provides further evidence that African countries are rapidly moving towards a capital punishment free continent. As little as twenty years ago only two African states had abolished the death penalty, whereas today there are fifteen completely abolitionist countries plus a further twenty one de facto abolitionist countries in Africa. The announcement is also in keeping with the resolution adopted by the African Commission on Human and People’s Rights in November 2008, calling for a moratorium on all executions in African countries. Kenya’s decision to commute all death sentences comes only a matter of months after the Supreme Court of Uganda declared unconstitutional the mandatory death penalty and excessive delay on death row, which affected approximately nine hundred death row inmates. The Government will now have to clarify the terms of life imprisonment for the 4,000 plus prisoners who have now been removed from death row and cannot now be executed. We hope the prisoners will be rehabilitated so they can play a positive role in the future rather than just languishing on death row facing the mental anguish of not knowing their fate.”

We are encouraged by this positive move and also by the President’s directions that Government Ministries and Departments conduct empirical studies, in tangent with public consultation and national debate, in order to determine whether the continued use of the death penalty in Kenyan law has any value or impact in the fight against crime.

Notes to Editors

1. The Death Penalty Project is an international human rights organisation providing free legal representation to many individuals still facing the death penalty in the Caribbean and Africa. The organisation is supported by grants from amongst others, the Oak Foundation, the Sigrid Rausing Trust, the Open Society Institute, the UK Foreign & Commonwealth Office, the United Nations Voluntary Fund for Victims of Torture and Simons Muirhead & Burton, solicitors. For further information, please go to www.deathpenaltyproject.org.
2. Timothy Bryant, Attorney at Law and William Wameyo, Attorney at Law through the organisation CLEAR Kenya are providing free legal representation to prisoners under sentence of death in Kenya in challenging the mandatory death penalty.

3. For further information please contact Saul Lehrfreund or Parvais Jabbar, Executive Directors of the Death Penalty Project or Joseph Middleton at Doughty Street Chambers.

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