



**Justice Institute Guyana**  
**56 Main & New Market Streets**  
**North Cummingsburg**  
**Georgetown**  
**Tel: 231 7996**

[www.justiceinstituteGuyana.org](http://www.justiceinstituteGuyana.org)

---

## **The Death Penalty**

*“Yet centuries of experience have taught mankind that executions do not deter men from committing crimes.” On Crimes and Punishments: Cesare Beccaria 1764*

### **1. Our Values**

The Justice Institute Guyana believes that each and every person has inherent dignity which must be respected. Respect for human dignity is meaningless without respect for that most basic of human rights – the right to life.

### **2. Overall Recommendation**

**We recommend the abolition of the death penalty for all crimes.**

### **3. Specific Recommendations**

- (i) Guyana should accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights. This protocol aims to abolish the death penalty and has 75 parties.
- (ii) There should be a broad national programme of education on the death penalty including the reasons for and against the death penalty, the evidence in support of the different positions and alternatives to the death penalty.
- (iii) The European Union has a strong commitment to abolition of the death penalty and should be invited to provide information on the European experience with abolition.
- (iv) Abolition of the death penalty should not be considered in isolation but should form part of an overall strategy to move Guyana towards becoming a society free of murder.<sup>1</sup>

---

<sup>1</sup> In the last 10 years Monaco, Liechtenstein, Iceland, Palau, Malta, Brunei Darussalam, Turks & Caicos Islands, Montserrat have all reported at least 1 year free of murders.

- (v) The criminal justice system should be reformed to ensure that each accused is given a fair trial, for example
  - a. the time taken for a criminal trial must be reduced
  - b. the jury system should be reformed to ensure better quality decisions
  - c. the hinterland courts which deal with the preliminary stages of serious offences, must sit more often.
- (vi) The criminal justice system should be reformed so that justice is done and seen to be done, for example through improvements in the quality of investigation and prosecution.
- (vii) The State should require all schools to teach pupils about human rights especially respect for the inherent dignity of each and every person and respect for life.

#### **4. Human rights**

The death penalty is the ultimate violation of a person's human rights. It has no place in a civilised society.

The State of Guyana should show respect for life by giving up its legal power to execute people for criminal offences. Every act by a public body or public official must be compatible with respect for life, including the life of a criminal offender.

A society which is founded upon respect for life is a society which will have justice and peace.

#### **5. International law**

The death penalty is unlawful under certain protocols which Guyana has not signed. The death penalty is not yet prohibited by customary international law.

Guyana has signed the International Covenant on Civil and Political Rights. Article 6 does not make the death penalty illegal but it sets restrictions on its use. Paragraph 1 states that

*“Every human being has the inherent right to life. This right shall be protected by law. **No one shall be arbitrarily deprived of his life.**”*

A person is arbitrarily deprived of his or her life if the death penalty is applied without proper legal procedures being followed. The Human Rights Committee has stated that for a State to use the death penalty:

*“The procedural guarantees therein prescribed must be observed, including the right to a fair hearing by an independent tribunal, the presumption of innocence, the minimum*

*guarantees for the defence, and the right to review by a higher tribunal.”<sup>2</sup>*

Article 144 of the Constitution sets out the procedural requirements. It is doubtful whether these procedural requirements are met given the current problems in the criminal justice system. In particular, long delays in trials and the need for reform of the jury system indicate that Guyana cannot currently guarantee a fair trial to every defendant.

Until such time as the State can guarantee a fair trial, it would be contrary to international law to impose the death penalty.

### **The State must not take the risk of executing innocent people.**

#### **6. The rule of law**

The criminal justice system is there to ensure that justice is a public matter to be arrived at through the due process of law. It is not a matter for private individuals. If the State is not able to provide a well-functioning criminal justice system, there is a serious risk that the “guilty” will go free and the innocent will be punished.

Justice must not only be done, it must be seen to be done. Public confidence in the criminal justice system is essential to ensure that individuals do not take matters in their own hands and dispense their own form of “justice”. When the death penalty remains on the statute books, there is a risk that extra-judicial killings may be perceived as tolerable because the criminal justice system does not do its job.

It is the rule of law, not the rule of men, which protects each and every one of us against the abuse of power.

#### **7. Comparisons with the rest of the world**

According to Amnesty International<sup>3</sup> more than two-thirds of countries in the world have abolished the death penalty in law or in practice as at 31st December 2011.

Abolitionist for all crimes	96
Abolitionist for ordinary crimes only	9
Abolitionist in practice	35
Total	140

The European Union has abolished the death penalty by law. Two-thirds of the African Union has abolished the death penalty by law or in practice. South America has also abolished the death penalty by law or in practice with the exception of Guyana. Across

<sup>2</sup> [http://www.unhcr.ch/tbs/doc.nsf/\(Symbol\)/84ab9690ccd81fc7c12563ed0046fae3?Opendocument](http://www.unhcr.ch/tbs/doc.nsf/(Symbol)/84ab9690ccd81fc7c12563ed0046fae3?Opendocument)

<sup>3</sup> <http://www.amnesty.org/en/library/asset/ACT50/001/2012/en/241a8301-05b4-41c0-bfd9-2fe72899cda4/act500012012en.pdf>

the border, Venezuela has abolished the death penalty by law, Brazil has abolished it for ordinary crimes and Suriname has abolished it in practice.

58 countries retain the death penalty. They are:

Afghanistan, Antigua and Barbuda, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Botswana, Chad, China, Comoros, Democratic Republic of the Congo, Cuba, Dominica, Egypt, Equatorial Guinea, Ethiopia, Guatemala, Guinea, **Guyana**, India, Indonesia, Iran, Iraq, Jamaica, Japan, Jordan, Kuwait, Lebanon, Lesotho, Libya, Malaysia, Mongolia, Nigeria, North Korea, Oman, Pakistan, Palestinian Authority, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Somalia, South Sudan, Sudan, Syria, Taiwan, Thailand, Trinidad And Tobago, Uganda, United Arab Emirates, USA, Viet Nam, Yemen, Zimbabwe.

Culturally Guyana identifies with the English-speaking Caribbean which stands out as a retentionist bloc. Guyana also has strong ties with the USA, not least through the significant number of Guyanese who have gone to live there. In 2011 the USA executed more people than Afghanistan, Sudan, South Sudan, the United Arab Emirates, Egypt, Belarus, Taiwan, Bangladesh, the Palestinian Authority and the Transitional Federal Government in Somalia put together.

In order to hold informed discussion about the death penalty, Guyana will have to reach beyond the Caribbean and the USA. The experiences of abolitionist countries, particularly their strategies for reducing violent crime, may provide useful lessons.

## **8. Death penalty as a deterrent**

A number of studies have been carried out but so far there is no conclusive evidence that the death penalty acts as a deterrent to crime. A number of countries who have abolished the death penalty have low murder rates but there are exceptions. Preventing murder (or other serious crimes) is a complex subject that goes beyond the retention or abolition of the death penalty.

## **9. Conclusion**

The trend in the world is towards abolition of the death penalty.

Guyana should not be left behind in the struggle to create a more just world.

*Melinda Janki*

.....  
**Melinda Janki**  
**Director**

*Ronella Hill Wharton*

.....  
**Ronella Hill-Wharton**  
**Administrator**