

Take Action on 10 October 2014 to End the Death Penalty!

- 1 Organize a public debate and a movie screening with exonerates, murder victims' families, and experts, to raise awareness on the reality of the death penalty.
- 2 Organize an art exhibition (photographs, drawings, posters) or a theatre performance.
- 3 Organize a demonstration, a 'sit-in', a 'die-in', or a flash mob...
- 4 Join events organized by abolitionist organizations.
- 5 Support urgent appeals and take part in social media action in the lead up to 10 October
- 6 Write to a prisoner on death row.
- 7 Donate^(*) to the World Coalition against the Death Penalty or another group working to end the death penalty.
- 8 Join an abolitionist organization.
- 9 Mobilize the media to raise awareness on the issue of the death penalty.
- 10 Participate in 'Cities Against the Death Penalty/Cities for Life' on November 30, 2014.

(*) On the site, click on 'Donate' to reach the secure PayPal page.

TO FIND OUT MORE

Find out everything about World Day Against the Death Penalty at www.world-coalition.org/worldday, including:

- The poster of the 2014 World Day
- The mobilisation kit
- Detailed factsheet on mental health and the death penalty
- Facts and figures on the death penalty
- The 2013 World Day Report which includes hundreds of examples of initiatives



The World Coalition Against the Death Penalty is an alliance of more than 150 NGOs, bar associations, local authorities and unions.

The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty.

Its ultimate objective is to obtain the universal abolition of the death penalty.

The World Coalition gives a global dimension to the sometimes isolated action taken by its members on the ground.

It complements their initiatives, while constantly respecting their independence.



www.worldcoalition.org

World Coalition Against the Death Penalty

69 rue Michelet, 93100 Montreuil France
E-mail: contact@worldcoalition.org
Tel: +33 1 80 87 70 43 • Fax: +33 1 48 70 22 25



www.facebook.com/worldcoalition



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**MENTAL DISORDER IS
NEVER A CRIME**

CARE. DON'T KILL.
World Day Against
the Death Penalty | **10.10.14**
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**WORLD
COALITION**
AGAINST THE DEATH PENALTY



10 October 2014 12th World Day Against the Death Penalty

Mental Health

Mental health is a critical factor to consider at every stage of the death penalty process, from before a person commits a crime through the government's execution of the convicted person, and even post-execution, as the death penalty affects the mental health of the families concerned.

[Before the crime

According to the World Health Organisation, between 76% and 85% of people with severe mental disabilities in low-income and middle-income countries receive no treatment for their disabilities, and in high-income countries the figure is between 35% and 50%.

Moreover, people with mental disorders find it difficult to integrate into society, exacerbating their marginalisation and vulnerability. People with mental disorders are not necessarily more likely to commit violent crimes than people without such disorders.

[At trial

In many jurisdictions there is a lack of skilled legal advocates available to work on capital cases. It is additionally troubling that defendants with serious mental health problems are put on trial without adequate support when they are unable to participate effectively in their own defence.

If provided effective legal representation, a person's mental health would be a factor considered at trial. Depending on the jurisdiction and the type of mental disorder the a person has, mental disorder may relieve a person of criminal

CASE STUDY: Sub-Saharan Africa

In some countries in Sub-Saharan Africa, lawyers have limited resources and are often unable to have their clients seen by mental health workers. Without mental health assessments, some people suffering from serious mental illness are sentenced to death.

For example, in Malawi, a man was convicted of murder and sentenced to death after he cannibalised his niece. At no stage did his lawyer present a case of diminished responsibility because he had no access to mental health experts. It is likely that if expert evidence had been tendered, the inmate would be receiving treatment in a mental hospital, rather than living on death row.

liability, disqualify him or her from being eligible for the death penalty, or serve as a mitigating factor in sentencing procedures.

The most important form of evidence to support a claim of mental disorder is an official assessment by a mental health expert.

Many courts have held that individuals have a right to a mental health assessment prior to being sentenced to death.

Death Penalty Worldwide, 'Representing Individuals Facing the Death Penalty: A Best Practices Manual', April 2013.

[Post-conviction: on death row

Medical experts have argued that protracted time on death row can make inmates suicidal, delusional and insane.

Some have referred to the living conditions on death row (the bleak isolation and years of un-

certainty as to time of execution) as the "death row phenomenon," and the psychological effects that can result as "death row syndrome."^{*}

"Death row syndrome" is the traumatic stress imposed on a prisoner by having to wait in prison wings set aside for those sentenced to death.^{**}

In 1989, the European Court of Human Rights established in *Soering v United Kingdom* that the extradition of a person to a state where that person is not guaranteed his or her right against inhuman and degrading treatment, such as being exposed to death row syndrome, would amount to a violation of Article 3 of the European Convention on Human Rights.

^{*}Source: www.deathpenaltyinfo.org
^{**}Source: www.fiacat.org

CASE STUDY: Morocco

A study undertaken in Morocco in 2013 has shown that half of the people on death row take neuroleptics administered at the infirmary.


The majority of the pathologies are characterised as psychotic and 17% of the inmates develop other chronic illnesses that are also classified as a form of psychosis such as paranoia, manic depression, chronic hallucinatory psychosis, etc.

Consequently, 67% of death row inmates have serious psychiatric illnesses that require psychiatric treatment.

Furthermore, among those interviewed, 35% had had suicidal thoughts.

Source: Ensemble contre la peine de mort, The Organisation marocaine des droits humains, "Voyage au cimetière des vivants: Enquête dans les couloirs de la mort marocains", 2013.

KEYS DEFINITIONS



Mental illness: the presence of disorders of thought, mood or behavior that may impede the affected person's capacity to behave rationally and in conformity with the law.

Intellectual disability: (formerly known as "mental retardation"): a condition in which a person's mental capacity has not developed during childhood and adolescence leaving the person less able than average to adapt to independent life and decision-making.

Diminished responsibility: this is a legal rather than medical term and refers to the view that a person affected by a mental disorder may not be held to the same level of accountability as someone who is in possession of their faculties.

Personality disorder (in particular, antisocial or borderline personality disorder): this is not a mental illness that can be treated with drugs or therapy but rather constitutes a behavioural condition in which the affected person can lack empathy and understanding of others and can disregard social and legal conventions.

Source: Amnesty International, 'Hanging by a thread - mental health and the death penalty in Japan', September 2009.

10 October 2014 12th World Day Against the Death Penalty

Mental Health

[Execution

People with serious mental disorders are executed around the world despite the vast majority of states prohibiting the practice.

For example, in the United States the Supreme Court ruled in *Ford v Wainwright* (1986) that executing the “insane” is incompatible with the Eighth Amendment prohibiting cruel and unusual punishment.

Similarly, in 2002 the Court ruled in *Atkins v Virginia* that executing a prisoner with “mental retardation” would also be in breach of the Eighth Amendment.

Despite these rulings, a number of people who have been executed in recent years have shown signs of mental illness and/or intellectual disability.

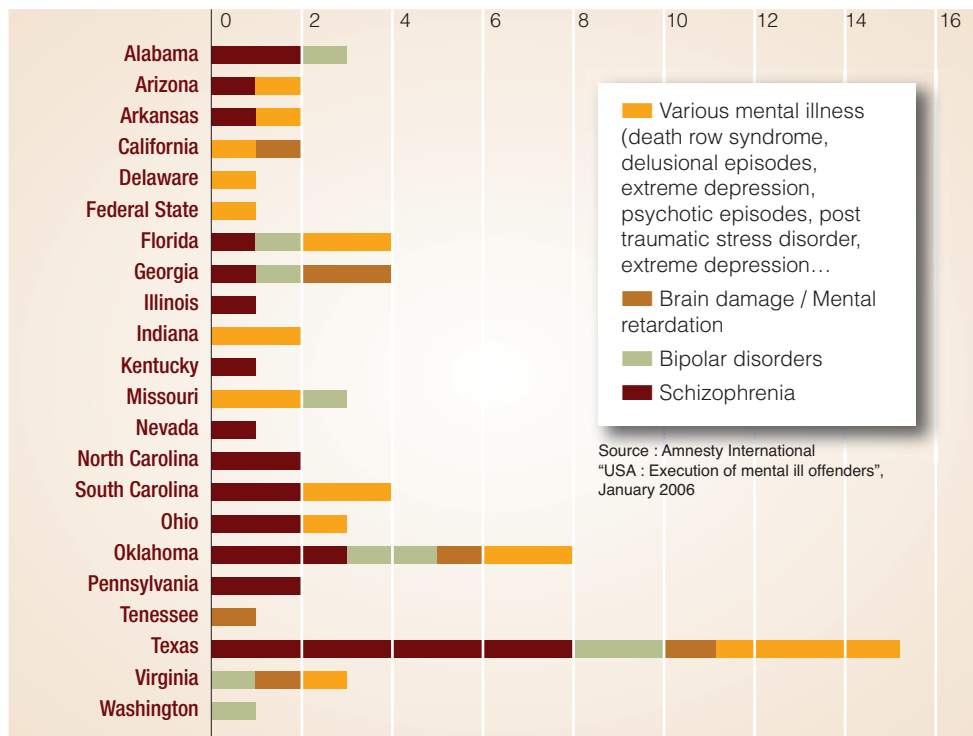
Many governments lack transparency regarding the mental health of people on death row.

In Japan for example, the Code of Criminal Procedure (Article 479) provides for a stay of execution for inmates who are “insane,” but, as Amnesty International reports, due to “...the stringent isolation placed on prisoners, the secrecy regarding prison conditions and prisoners’ health, and the lack of scrutiny by independent mental health professionals, it is necessary to rely substantially on secondary testimony and documentation to adjudge the mental state of those on death row.”

tragic violence. Families of murder victims and families of people with mental illness who have committed murder have a cascade of questions and needs. It is to these questions rather than to the death penalty that as a society we must turn our attention and our collective energies if we are truly to address the problem of untreated mental illness and the lethal violence that can result.”

Source: Murder Victims’ Families for Human Rights, ‘Double Tragedies’, July 2009.

Offenders with mental disorders executed in the USA between 1995 and 2005



[And all the while: victims’ families and families of the condemned

The death penalty process not only exacerbates the poor mental health of the accused but it can place serious emotional strain on his or her family and the family of the victim.

It is a myth that all murder victims’ families wish to see the murderer of their loved one executed, and this myth applies equally when the perpetrator suffers from mental disorders.

“The death penalty is not only inappropriate and unwarranted for persons with severe mental illness but...it also serves as a distraction from problems within the mental health system that contributed or even led directly to

Families of people sentenced to death face disenfranchised and unresolved grief.

“Disenfranchised grief”, according to Kenneth Doka, a leading expert on grief counselling and psychotherapy, refers to losses that people experience but that are not always acknowledged, validated or recognised by others. And uncertainty can “freeze” the grieving process in the families of death row inmates.

“I supported the death penalty until it came knocking on my door. The death penalty compounds the tragedy of murder by harming another set of families.”

BILL BABBITT, whose paranoid schizophrenic brother Manny was executed in 1999.

Ambiguous loss, where the status of the loved one is somehow unclear, “dead or alive, dying or recovering, absent or present, on his or her way to be executed or about to be exonerated”, often results in unresolved grief.

Family members who experience ambiguous loss are more likely to make an incomplete recovery, often resulting in lifelong mental health problems.

Source: Helen F. Kearney, ‘Children of parents sentenced to death’, Quaker United Nations Office, February 2012.

[An international trend towards preventing the execution of people with mental disorders.

International texts

1984 : United Nations Economic and Social Council adopts Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty. Article 3 states that the death penalty should not be “*carried out on...persons who have become insane.*”

1993 : In a report, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions has stated that “international law prohibits the capital punishment of mentally retarded [intellectually disabled] or insane persons.”

2005 : United Nations Commission of Human Rights adopts Resolution 2005/59 urging state “*not to impose the death penalty on a person suffering from any mental or intellectual disabilities or to execute any such person.*”

Judicial rulings

2009 : Inter-American Court of Human Rights rules that Tyrone Da Costa Cadogan (Barbados) was denied a fair trial because mental health professionals had never fully evaluated his mental health at the time of the offence.

2012 : Eastern Caribbean Court of Appeal acquits Sheldon Isaac, concluding that he was unfit to stand trial in the first place, and his Saint Kitts and Nevis court in 2008 should never have sentenced him to death, because prior to his conviction, he had been severely brain damaged as a result of being shot in the head.

2014 : India’s Supreme Court formally bans the execution of people who are mentally ill. The Court acknowledged the “*unbearable mental agony after confirmation of death sentence*” and added that in some cases “*death-row prisoners lost their mental balance on account of prolonged anxiety and suffering experienced on death row.*” In reaching its decision, the Court referred to “*well-established canons of human rights*” prohibiting the execution of people who are mentally ill.

WORLD MEDICAL ASSOCIATION

“It is unethical for physicians to participate in capital punishment, in any way, or during any step of the execution process [...]”

INTERNATIONAL COUNCIL OF NURSES

“Participation by nurses, either directly or indirectly, in the preparation for and the implementation of executions is a violation of nursing’s ethical code.”

WORLD PSYCHIATRIC ASSOCIATION

“Conscious that psychiatrists may be called on to participate in any action connected to executions, [the World Psychiatric Association] declares that the participation of psychiatrists in any such action is a violation of professional ethics”; and “Under no circumstances should psychiatrists participate in legally authorized executions nor participate in assessments of competency to be executed.”

MENTAL HEALTH AMERICA

“No legitimate government purpose is served by the execution of someone who is not competent at the time of the execution... MHA is opposed to the practice of having a psychiatrist or other mental health professional treat a person in order to restore competency solely to permit the state to execute that person...”

NATIONAL ALLIANCE ON MENTAL ILLNESS

“NAMI opposes the death penalty for persons with serious mental illnesses [and] urges jurisdictions that impose capital punishment not to execute persons with mental disabilities in cases where they [lack competency].”

10 REASONS TO END THE DEATH PENALTY

- 1 No state** should have the power to takes a person’s life.
- 2 It is irrevocable.** No justice system is safe from judicial error and innocent people are likely to be sentenced to death.
- 3 It does not keep society safe.** It has never been shown that the death penalty deters crimes more effectively than other punishments.
- 4 It is unfair.** The death penalty is discriminatory and is often used disproportionately against people who are poor, mentally ill, and from racial and ethnic minorities. In some places, the imposition of the death penalty is rooted in discrimination on the basis of sexual orientation or religion.
- 5 Not all murder victims’ families want the death penalty.** A large and growing number of victims’ families worldwide reject the death penalty and are speaking out against it, saying it does not bring back or honor their murdered family member, does not heal the pain of the murder, and violates their ethical and religious beliefs.
- 6 It creates more pain.** The death penalty inflicts pain on the families of people on death row and causes great pain to the family members of people who have been executed.
- 7 It is inhuman, cruel and degrading.** The conditions on death row inflict extreme psychological suffering, and execution is a physical and mental assault.
- 8 It is applied overwhelmingly in violation of international standards.** It breaches the principles of the 1948 Universal Declaration of Human Rights, which states that everyone has the right to life and that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. On four occasions, the United Nations General Assembly has called for the establishment of a moratorium on the use of the death penalty (resolutions 62/149, 63/168, 65/206 and 67/176 adopted in December 2007, 2008, 2010 and 2012).
- 9 It is inefficient.** Time and money are diverted from other more efficient law enforcement measures.
- 10 It denies any possibility of rehabilitation to the criminal.**

10/10/14