

OSCE HDIM October 2013 – afternoon session 2 October 2013
Penal Reform International – oral statement

Penal Reform International (PRI)¹ thanks the OSCE for this opportunity to speak. We would like to comment on the debate around the death penalty.

Firstly, we highly welcome the accession by Latvia to the Second Optional Protocol to the International Covenant on Civil and Political Rights and the steps taken by Armenia towards ratification: we encourage ratification as soon as possible. PRI calls on all states that have not done so to follow these examples. We also commend the strong support given by OSCE member states to the most recent UN General Assembly Resolution on a death penalty moratorium, with 54 OSCE members voting in favour.

PRI welcomes the commitment by OSCE participating states to share information regarding the death penalty. We encourage states to include in this information details of the wider effects of the death penalty, including the impact on defence lawyers of trying to prevent a client's execution – what one recent book on the subject called 'fighting for their lives' – the effect on prison officers of administering prisoners on death row, and in particular the impact on family members, especially children, of having a parent arrested, tried, sentenced to death and executed.

These children have committed no offence and should not suffer because of the offences of others. Yet many experience emotions such as sadness, anger, fear and uncertainty; they can lose trust in the adults around them or in the state, sometimes becoming hostile towards government and criminal justice authorities. Particularly in judicial systems involving multiple appeals and stays of execution, they can experience emotional 'rollercoasters' of repeated hope and disappointment. Their health and wellbeing can also be affected by the reactions of adults around them, notably their other parent or carer, and by the imprisoned parent (this can be especially distressing where the imprisoned parent suffers from 'death row phenomenon'). The children's right to a relationship with both parents, guaranteed under Article 9 of the Convention on the Rights of the Child, can be infringed by the extremely restrictive visiting conditions that exist on death row, including short and infrequent visits, lack of privacy and a ban on the child touching their parent. State secrecy regarding the parent, particularly when the execution and burial of a parent happens without informing the family and allowing them a final 'goodbye' visit, is especially distressing and has been condemned by the UN Human Rights Committee.

These issues and others were considered by the UN Human Rights Council last month, in a panel discussion on 'children of parents sentenced to the death penalty or executed'. Documents relevant to that meeting are available on the internet, and PRI suggests that the OSCE may wish to explore this issue itself at a future meeting. Regarding what can be done to support children of parents sentenced to death, we as a minimum call on states to consider the impact of potential sentences (including death sentences) on children when sentencing a parent, in accordance with Article 3 of the UN Convention on the Rights of the Child.²

PRI is also concerned about the increased use of the death penalty for terrorism-related offences, including many that do not involve intentional killing and hence do not reach the threshold of 'most serious crimes'. We believe that debates about the death penalty following acts of terrorism can be highly emotive, thereby making it difficult to hold the reasoned and rational debate that is essential to respond to such acts. It is also the case that the threat of the death penalty may be particularly ineffective in relation to terrorism: those committing such acts may be expecting or even welcoming death, because of the increased publicity, potential rallying of support to their cause or the perceived benefits of 'martyrdom'. PRI is currently preparing a study of counter-terrorism and the death penalty, which we will be happy to share with interested parties.

¹ Penal Reform International (PRI) is an international, non-governmental organisation with Consultative Status at the United Nations Economic and Social Council (ECOSOC) and the Council of Europe, and Observer Status with the African Commission on Human and People's Rights and the Inter-Parliamentary Union. It aims to develop and promote international standards for the administration of justice, reduce the unnecessary use of imprisonment and promote the use of alternative sanctions which encourage reintegration while taking into account the interests of victims. PRI also works for the prevention of torture and ill-treatment, for a proportionate and sensitive response to women and juveniles in conflict with the law, and promotes the abolition of the death penalty.

² Article 3(1): In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.