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## European Initiative for Democracy and Human Rights Evaluation on the Abolition of Death Penalty Projects

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**FINAL REPORT**  
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*Implemented by:*



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## Abbreviations

ABA	American Bar Association
ADP	Abolition of the Death Penalty
BIICL	British Institute of International Comparative Law
CLADHO	Collectif des Ligues et Associations de Défense des Droits de l’Homme au Rwanda
CRIS	Common Relex Information System
DPIC	Death Penalty Information Center
EC	European Commission
EIDHR	European Initiative (since 2007: Instrument) on Democracy and Human Rights
EU	European Union
EuropeAid	EC Directorate-General
FIDH	Fédération Internationale des Ligues des Droits de l’Homme
FLAG	Free Legal Assistance Group Human Rights Foundation, Inc.
GBCC	Great Britain-China Centre
HOF	Hands Off Cain
IHF-HR	International Helsinki Federation for human rights
IJCHR	Independent Jamaica Council for Human Rights
IPS	Inter-Press Service
NGO	Non-Governmental Organisation
PRI	Penal Reform International
Relex	EC Directorate-General (External Relations)

## Acknowledgements

The consultants would like to thank all those who gave their time and contributed information during the evaluation. Staff at EuropeAid and Relex in Brussels and in delegations have been helpful and open, and have accommodated visits at short notice. Representatives of implementing organisations have been particularly helpful in gathering information, sometimes on older projects. Many have given generously their time and provided the consultants with further contacts. Contacts in a number of human rights organisations, including Amnesty International in London, have also been extremely helpful. Staff at CESO CI have helped effectively with the preparation of the leaflet used at the February 2007 conference.

Any mistakes or omissions remain the responsibility of the authors. The views expressed in this report are those of the consultants and can in no way be taken to represent those of the European Commission.

# Executive Summary

The present report is an evaluation of the projects aiming at the abolition of the death penalty (ADP), financed under the European Initiative on Democracy and Human Rights (EIDHR). The evaluation, undertaken between November 2006 and February 2007, covers a portfolio of 28 projects, some dating back to 1994, whose total budget was approximately € 11,394,150.

The evaluation's overall objective is *“to help the European Commission to improve the impact of EIDHR projects supporting civil society activities aiming at the abolition of death penalty, by strengthening the Commission's ability to draw on lessons learnt of past and ongoing interventions for future planning, programming and project identification.”*

The implementing partners of the EC have performed well and the EC has much to be proud of after more than 10 years and over €10m of support. However, information gathered from files and interviews with EC staff show weak monitoring by EC staff and poor knowledge of what projects are actually about, particularly at the Brussels level. This has contributed to a lack of coherence and strategic approach to ADP projects by EC staff.

## Key findings

**Monitoring** of projects managed by country delegations is appropriate but needs to be shared systematically with Brussels. Monitoring of worldwide projects is weak. This problem would appear to be symptomatic of more complex management and personnel issues.

There appears to be no structured manner in which information and knowledge arising from ADP projects can influence and feed into **policy-making** at broader EC level. The evaluators believe that the relationship between EuropeAid and Relex in this regard remains unclear. In practice the EU Guidelines on the abolition of the death penalty offer an overview of the level of use of the death penalty, a summary of the applicable international standards, and what amounts to a list of research options, legal research avenues and campaigning themes to address the issue. However the Guidelines do not amount to a **strategy**. Such a strategy could set global priorities and identify short- and medium-term achievable goals which could provide momentum to the abolition movement.

Whilst devolution of project management responsibilities to country delegations has significantly improved monitoring and ongoing dialogue with implementing partners, there has been a very serious loss of a sense of overview and general coherence to the EC's support in this thematic area. The evaluators see the need for a **focal point** in EuropeAid, who can ensure such a sense of coherence.

The consultants believe that one of the risks and drawbacks to EC devolvement of management to country delegation level is that **regional cooperation and approaches** to the death penalty issues are not sufficiently encouraged and opportunities risk being missed. This is particularly the case in the ASEAN region where work on any human rights related issue is often fraught with difficulty and sensitivities, and in the Great Lakes region of Africa.

Issues of **impunity and reparation** are the flip-side of working towards moratoria and abolition and should not be ignored. The evaluators feel that the plight of victims and their families has not received enough attention. The report discusses this issue in further detail.

It is vital that EC efforts to do not **end with abolition**. As the history of the death penalty in the Philippines shows, (and it is not the only example), it is not impossible for governments to reverse decisions on abolition and reintroduce the death penalty at a later date.

At the time of writing, there appears to be uncertainty as to the status of abolition of the death penalty as a **priority thematic area** in the new European Instrument which replaces the Initiative. Any loss of priority for ADP work would be regrettable and could undermine progress to date.

### ***Recommendations to the European Commission***

#### **Strategy**

It is recommended that the EC should take into account the following two aspects in their approval process of future ADP projects:

- It does not necessarily matter whether a given project focuses only on one, or a small number of activities, provided the portfolio of ADP projects or activities in the target country or region can amount to an integrated strategy *and* that the implementing organisation is committed to, and able, to seek and maintain liaison with others working on ADP.
- Worldwide projects in particular run the risk of failing to establish linkages between their activities and those of ADP projects at country level.
- Project geographical distribution should reflect where the EC believes that it can make an impact and where there is a need.
- To ensure a balanced approach and with a view to seeking the support and understanding of the community of victims, the EC should consider favourably projects that address the plight of those who have suffered as a result of the most serious crimes.

#### **Coordination with Delegation's activities**

EC Delegations should be encouraged to look at all human rights issues, including ADP, in a regional and sub-regional context. This would facilitate strategic interventions and lead to greater impact. In countries where extrajudicial killings might result from abolition, the EC should carefully monitor any reported incidents of extrajudicial killings or suspicious deaths in custody.

#### **Monitoring**

The monitoring of worldwide projects should be enhanced, in particular by ensuring that EuropeAid staff visit the site of a project at least once during the project lifetime.

EuropeAid should consider altering the format of narrative reports, to highlight strategic challenges faced by projects and reduce the focus on the mere reporting on activities.

## **Reporting**

The EC should simplify reporting procedures and ensure that both NGOs and Delegations are provided with an up-to-date procedure manual. Whenever new grant contract conditions are developed by the EC, which lead to simplifying the grant management procedures, the EC should consider introducing such changes in all previously signed contracts, by means for example of a contract amendment letter.

## **Coalition-building and sustainability**

The EC should ensure that ADP remains a significant and visible part of the mandate of the new instrument due to replace EIDHR. To enhance coalition-building on the death penalty, the EC should fund an annual meeting bringing together in Brussels one representative of each NGO being funded under ADP. Efforts should be made to enlarge the pool of organisations and individuals working on the death penalty.

## **Focal Point**

EuropeAid should appoint a Brussels-based Focal Point for the ADP thematic area, tasked with ensuring systematic monitoring of worldwide ADP projects, following ADP projects managed at delegation level and disseminating the learning from projects within the EC.

## ***Recommendations to implementing organisations***

### **Strategy**

It is recommended that the NGOs planning ADP activities take account of the following key learning's stemming from the analysis of past activities:

- No single approach has overwhelming superiority over the others.
- Worldwide advocacy on its own has negligible impact.
- Projects should either adopt an integrated approach, bringing together complementary types of activities, or seek to develop partnerships with other, existing and planned, projects in relation to ADP. Such linkages should be made explicitly in project proposals.

To ensure a balanced approach, project implementers should ensure that the situation and views of victims' organisations, and the issues of impunity and reparation, are not ignored in their work. The evaluators feel that the plight of victims and their families has not received enough attention and could be further integrated into work towards moratoria and abolition.

Applicants and the EC should ensure that indicators and baseline information gathering are effectively mainstreamed into projects. They should, if necessary, encourage beneficiaries to work together to develop a range of appropriate and relevant indicators. Organisations working on the ADP projects should discuss the development of indicators of impact and methodologies to gather baseline information.

## **Coordination with Delegations and EuropeAid**

Implementers of worldwide projects should be requested to contact relevant EC Delegations whenever they implement activities in their country, with a view to inviting an EC representative to observe the activities. Implementers should also send to Delegations and Brussels any post-activity reports.

# 1. Introduction

*“Il y a cent pays qui ont aboli mais combien ont opté pour l’impunité ?”*  
 (Genocide survivor, Rwanda)

*“No country wants to be the last one in the region to abolish the death penalty.”*  
 (NGO coordinator, Kazakhstan)

The European Commission has contracted a consortium led by ECORYS to carry out an evaluation of the projects aiming at the abolition of the death penalty (ADP), financed under the European Initiative on Democracy and Human Rights (EIDHR). The present report has been prepared by a team of two independent consultants.<sup>1</sup>

The evaluation, undertaken between November 2006 and February 2007, covers a portfolio of 28 projects, some dating back to 1994, whose total budget was approximately €11,394,150. Six new projects, approved in late 2006 and totalling €2.815m, have been noted but are largely outside the scope of the evaluation as they have only begun implementation in 2007.

The majority of the projects under review were managed by EuropeAid in Brussels and others, more recently, by country delegations following a process of devolution of project management. The projects covered both a wide geographical scope and a diverse methodological approach.

The terms of reference of the evaluation are appended to this report. The evaluation’s overall objective is *“to help the European Commission to improve the impact of EIDHR projects supporting civil society activities aiming at the abolition of death penalty, by strengthening the Commission’s ability to draw on lessons learnt of past and ongoing interventions for future planning, programming and project identification.”*

The EC holds a clear and unambiguous position on the global abolition of the death penalty. Its policy position, outlined in the EU Guidelines on Human Rights and enshrined in many of the EC’s core policy documents, comprises diplomatic demarches, individual case work and human rights reporting. The EC is therefore well placed to support projects which complement and enhance political activities in this area. There are a limited number of donors supporting projects on the death penalty, which gives additional justification to EC support in this area.

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<sup>1</sup> Note on terminology: *abolition* of the death penalty is defined as a legislative measure which forbids the use of the death penalty as a criminal punishment (sometimes excluding crimes committed in wartime). A *moratorium* on the use of the death penalty is the interruption of the practice of executing prisoners sentenced to death. *Abolition* usually results in prisoners previously sentenced to death, but not yet executed, having their sentence commuted to life imprisonment or to the longest prison sentence available in the country. By contrast, *moratoria* simply stop the process of execution, but do not necessarily mean that no new death sentences are passed. In some countries with a moratorium in force, courts have continued to sentence convicted prisoners to death: in such cases, the ranks of those awaiting executions (ie the number of people on “death row”) may grow during the moratorium. This issue is discussed in Chapter 4 in reference to prison conditions and substitution sentences.

By and large the implementing partners of the EC have performed well and the EC has much to be proud of after more than 10 years and over €10m of support. However, information gathered from files and interviews with EC staff show an organisation overly concerned with process over substance. It shows that monitoring by EC staff is weak, knowledge of what projects are actually about is poor, particularly at the Brussels level, and that there are overly complex reporting and bureaucratic requirements. These factors have contributed to a lack of coherence and strategic approach to ADP projects by EC staff and some alienation of project implementing partners.

The consultants believe that an evaluation of this well-defined and comparatively small-scale thematic area provides an insight into some of the weaknesses of the EIDHR and its operating systems. The report also highlights and analyses the range of approaches adopted by project implementers and comments on their relative effectiveness, relevance, efficiency, sustainability and impact. Successful projects and good practice are noted, as are less positive experiences.

The report reviews EC programme and project management. Findings and conclusions and recommendations are highlighted throughout the report, both for the EC and their NGO/implementing partners.

## **1.1 Limitations**

Given the wide scope of the projects covered by the evaluation and that more time than had been envisaged was needed to gather information on individual projects, the consultants found that the number of days allotted for the evaluation was insufficient. For this reason the consultants were unable to meet with as many implementing partners and with as many background figures working in the death penalty field as had been planned. In particular, the team had hoped to be able to visit the headquarters of several Europe-based implementing organisations, but were unable to do so<sup>2</sup>.

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<sup>2</sup> These include Article Z (Paris), which also did not respond to the evaluation questionnaire, and Hands off Cain (Rome) whose main projects were not covered by the evaluation but who were involved in ADP activities in some countries visited, such as Kazakhstan. In other cases (FIDH, IHF) the evaluators did not visit the organisations' offices but were able to meet with representatives and/or interview them by phone, as well as using their responses to the evaluation questionnaire.

## 2. Methodology

The evaluation was in two phases. An initial desk study was followed by country visits and interviews with implementing partners. The consultants attended the Third World Congress against the Death Penalty in Paris in February 2007 where they presented initial findings in both leaflet form and at a specially convened workshop.

### 2.1 Desk study

The consultants began their evaluation with meetings with EuropeAid and Relex staff, who were helpful and supportive. They started by compiling information about each project, and meeting with relevant EC staff as well as some contacts within implementing NGOs<sup>3</sup>. A report, Desk Study Draft Preliminary Findings, was presented by the consultants and discussed with EuropeAid and Relex staff at a meeting on 22 November in Brussels.

### 2.2 Project files

The consultants started the evaluation by compiling files on each project. Additional material was collected during the course of the evaluation and the paper files as constituted will be presented to EuropeAid along with the final report. Information for the files came from a variety of sources including the archives of EuropeAid. Despite considerable difficulty finding project documentation, particularly for the earlier projects, the consultants have been able to piece together a project history for each project.

### 2.3 Questionnaire

The consultants sent out a questionnaire to all the project implementing partners and this report takes into account the information from all the completed questionnaires received to date. The questionnaire (see annex 2) was sent to all 18 implementing partners of projects covered by the evaluation, and 10 completed questionnaires were received. These were extremely useful in establishing contact with all the NGOs concerned, especially since it was impossible to visit and meet with each and every implementing partner. The questionnaire also provided an opportunity for the implementing partners to provide feedback on their experience of being funded by the EC. Responses to the questionnaire feed into the findings throughout the report.

### 2.4 Country visits

The consultants carried out the following project visits and individual project evaluations based on discussions with headquarters, reference to the files, relevance of projects and efforts to provide a geographical and cultural balance. Where possible the consultants used

<sup>3</sup> Strictly speaking not all the project implementers were non-governmental organisations (NGOs): some were academic institutions, one was an intergovernmental institution and one was a media production company. In this report references to NGOs include these different organisations.

visits to assess the impact of worldwide projects, which included some of the destinations selected for project activities. In each location the consultants sought to meet the organisations implementing the EIDHR projects, the EC Delegation, and any outside observers or stakeholders (other NGOs, academics, legal practitioners, etc, as relevant to each project) who were able to provide information about the projects and their impact. Visits were made to China, Jamaica, Kazakhstan, Kenya, Kyrgyzstan, the Philippines, Rwanda, and the USA.

## **2.5 Leaflet for World Congress**

As part of the evaluation, the team were required to prepare a leaflet of their preliminary findings for the Paris meeting. This was done (see Annex 4) and the contents of the leaflet presented at a workshop during the congress. The workshop also included the participation of EC staff from both EuropeAid and Relex.

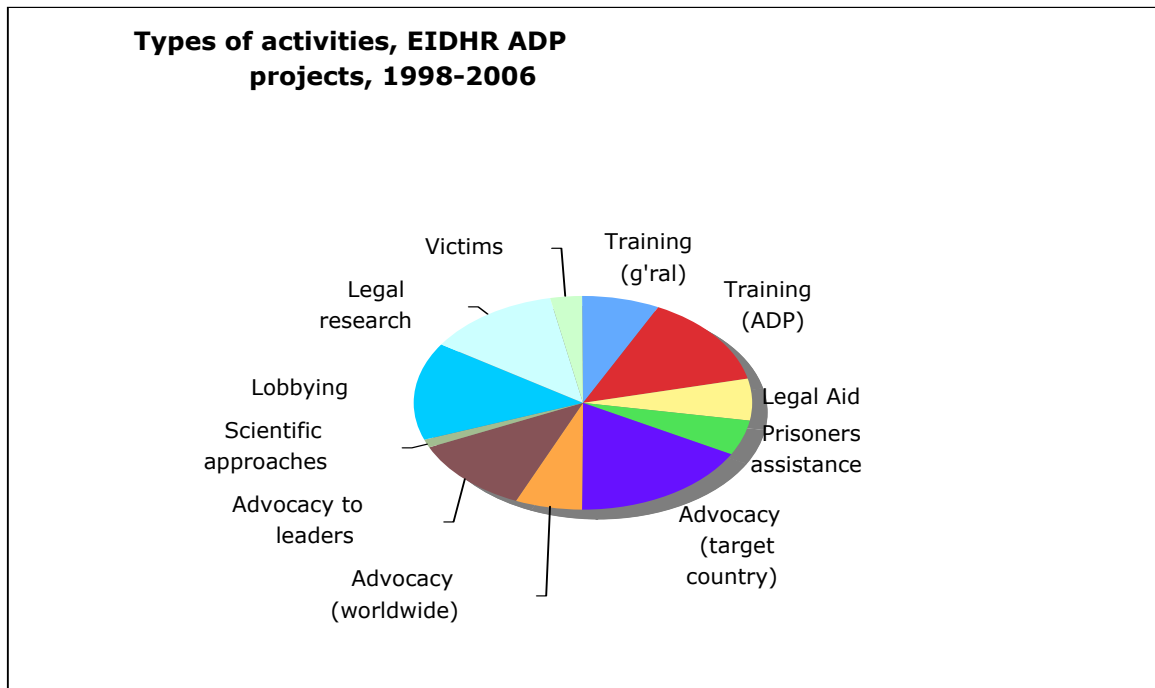
### 3. The Projects

This chapter is based on the results of the evaluators’ site visits and an analysis of the data on file at EuropeAid concerning all 28 ADP projects supported by the EC since 1994 (including projects not covered by the present evaluation). Annex 4 gives an overview of each of these projects. The numbering used in Annex 4 is used in the present chapter and the rest of this report to refer to specific projects.

#### 3.1 Analysis of project approaches

The chart below represents the activities carried out under the ADP projects between 1998 and 2006. The evaluators divided them into 11 broad categories as described under the chart, using project proposals and feedback from field visits. Many projects comprised more than one type of activity – indeed, projects undertook an average of four types of activities. It is impossible to give a meaningful assessment of the financial and human resources devoted by each project to each activity, because application forms and reports are not broken down according to these activities. As a result the chart below is not a percentage breakdown in terms of time and resources and is only indicative of the popularity of each approach.<sup>4</sup>

The chart is followed by an overview of the key findings of the evaluators as to the effectiveness of each approach. These findings are based on responses to the evaluation questionnaires and on the outcome of country visits. They also take account of the views of other stakeholders, including participants at the Paris Conference and representatives of human rights organisations such as Amnesty International, consulted by the evaluators.



<sup>4</sup> Annex 5 contains a table providing a summary of the analysis of project approaches.

The chart shows that advocacy (in all its forms) and lobbying represented close to half of the activities undertaken. Training (including human rights training not specifically directed at the death penalty) represented less than one quarter of the activities, while work with prisoners sentenced to death or at risk of receiving a death sentence (assistance and legal aid) represented about 10% of the activities. The number of projects involved with victims of crime was marginal (three projects included this activity, among several others), and just one project focussed on forensic science aspects, probing the reliability of the use of DNA evidence in convictions in the Philippines.

### **3.1.1 Effectiveness of different approaches**

#### **Training (general)**

Some training and advocacy activities have focused on human rights in general rather than on the death penalty itself. Their impact is impossible to assess; it may be negligible when not combined with other activities which ensure that training is *followed-up* with lobbying, public advocacy, work with prisoners and families, legal research, or whatever else is appropriate to the situation in the target country.

#### **Training (focusing on the death penalty)**

While training on the human rights aspects of the death penalty is valuable in itself, some worldwide projects have comprised one-off training workshops in countries where no other project activities have taken place. As for more general human rights training, this approach lacked sustainability and risks having little impact – the recommendation made above about follow-up also holds.

#### **Legal aid**

Legal aid can be a powerful tool to create precedents/jurisprudence that can limit the use of the death penalty. The experience of the Caribbean is relevant in that respect, as is (in a more indirect way consistent with the domestic context) the experience in China. In some countries legal aid and legal research could effectively complement each other, potentially resulting in powerful, case-based research on individual death penalty cases highlighting procedural and legal shortcomings.

#### **Assistance to prisoners (and their families)**

Assistance has shone a spotlight on prison conditions which often remains an issue of concern even after a moratorium or abolition. This type of activity is often low-key and does not lend itself to wide publicity to the extent that the situation of prisoners on “death row” arouses little public sympathy. However it is a very effective entry point to initiate and maintain a dialogue with the authorities, as the experience of this work in the Caribbean, and to a lesser extent in Central Asia, has shown. Assistance to prisoners is also an important component in countries where a moratorium on executions is in place and those where the death penalty has been abolished and replaced with life imprisonment (with or without possibility of parole). This is because prisoners whose death sentence has been “suspended” by a moratorium may find themselves in a sort of legal limbo: in addition to the possibility that their death sentence may in theory be carried out if the moratorium ends, such prisoners may be held in worse conditions than those serving long prison sentences.

### **Advocacy (worldwide and in target country)**

General advocacy (attempting to influence public opinion) achieves little impact in itself; it must be focused, strategic and combined with other activities. There is little evidence that worldwide advocacy projects have an impact on their own. Those advocating abolition must be conscious of issues such as impunity and reparation for victims and their families. Some projects have successfully incorporated these elements and highlighted the strategic importance of including the voices of victims and their families in the abolitionist cause.

### **Advocacy (to leaders)**

This approach usually means work with the media: publishing articles in the opinion pages of newspapers (or persuading well-known people to sign such articles, for example). In some cases it also involves work with senior politicians, although access to those is difficult. Like other forms of advocacy, it is not effective on its own and achieves noticeable impact only in combination with research, engagement with prisoners, families, victims' groups, etc.

### **Scientific approaches**

The experience of the Philippines suggests that a project on scientific/forensic issues can contribute to the fight against the death penalty in conjunction with other approaches. Arguably, projects which use scientific approach to expose miscarriages of justice, or which contribute to better crime-fighting through scientific evidence-gathering, can both contribute to a reduction in the use of the death penalty. However, either of these approaches may also, *in isolation*, be construed as effectively making the death penalty acceptable for “real” criminals – hence the need for combination with other approaches, as was done in the Philippines.

### **Lobbying**

To be effective, lobbying is dependent on quality legal research – the credibility of the lobbying being based on unassailable legal arguments. The research (at national and international level) needs to be backed-up by campaigning targeted to specific individuals and/or institutions.

### **Legal research**

Lobbying for legal reform is most effective when based on thorough legal research: legislation in the target jurisdiction, legal precedents where relevant, practice in comparable jurisdictions, etc. Research can also be a ‘way in’ when direct lobbying is not appropriate (in China for example, and perhaps in some Middle Eastern countries). Legal research should complement – indeed it should be the basis of – other approaches such as lobbying and advocacy.

### **Work with victims**

This is a vital constituency to listen to and work with. Victims and their families who speak out in favour of abolition have a particularly powerful voice. Work with representatives of victims and their relatives is particularly important in relation to the debates, which are rife in many countries, about impunity and reparation. In some countries, a powerful objection to abolition of the death penalty comes from the perception that abolition would mean that criminals (particularly mass criminals, perpetrators of genocide, and other people guilty of heinous crimes) would not be adequately punished with a “mere” prison sentence. The cause

of abolition is liable to progress if individuals and organisations representing victims can be encouraged to advocate against the use of the death penalty,

In a similar vein, working with victims' representatives to address the issue of compensation or redress can contribute to overcoming an objection to abolition on the part of such groups: abolition should not mean that victims' relatives and survivors of crime are deprived of an opportunity to receive compensation and to see their loss formally acknowledged.

**It is recommended that the NGOs planning ADP activities take account of the following key learning stemming from the analysis of past activities:**

- **No single approach has overwhelming superiority over the others.**
- **Worldwide advocacy on its own has negligible impact.**
- **Projects should either adopt an integrated approach, bringing together complementary types of activities, or seek to develop partnerships with other, existing and planned, projects in relation to ADP. Such linkages should be made explicitly in project proposals.**

**In parallel, it is recommended that the EC should take into account the following two aspects in their approval process of future ADP projects:**

- **It does not necessarily matter whether a given project focuses only on one, or a small number of activities, provided the portfolio of ADP projects or activities in the target country or region can amount to an integrated strategy *and* that the implementing organisation is committed to, and able, to seek and maintain liaison with others working on ADP. As a result, it is appropriate for the EC to seek assurances from project applicants on any such linkages.**
- **Worldwide projects in particular run the risk of failing to establish linkages between their activities and those of ADP projects at country level. It is important that implementers of worldwide projects have procedures and resources in place to liaise *on an on-going basis* with national-level organisations carrying out ADP activities.**

### **3.2 Analysis of the geographical distribution of projects**

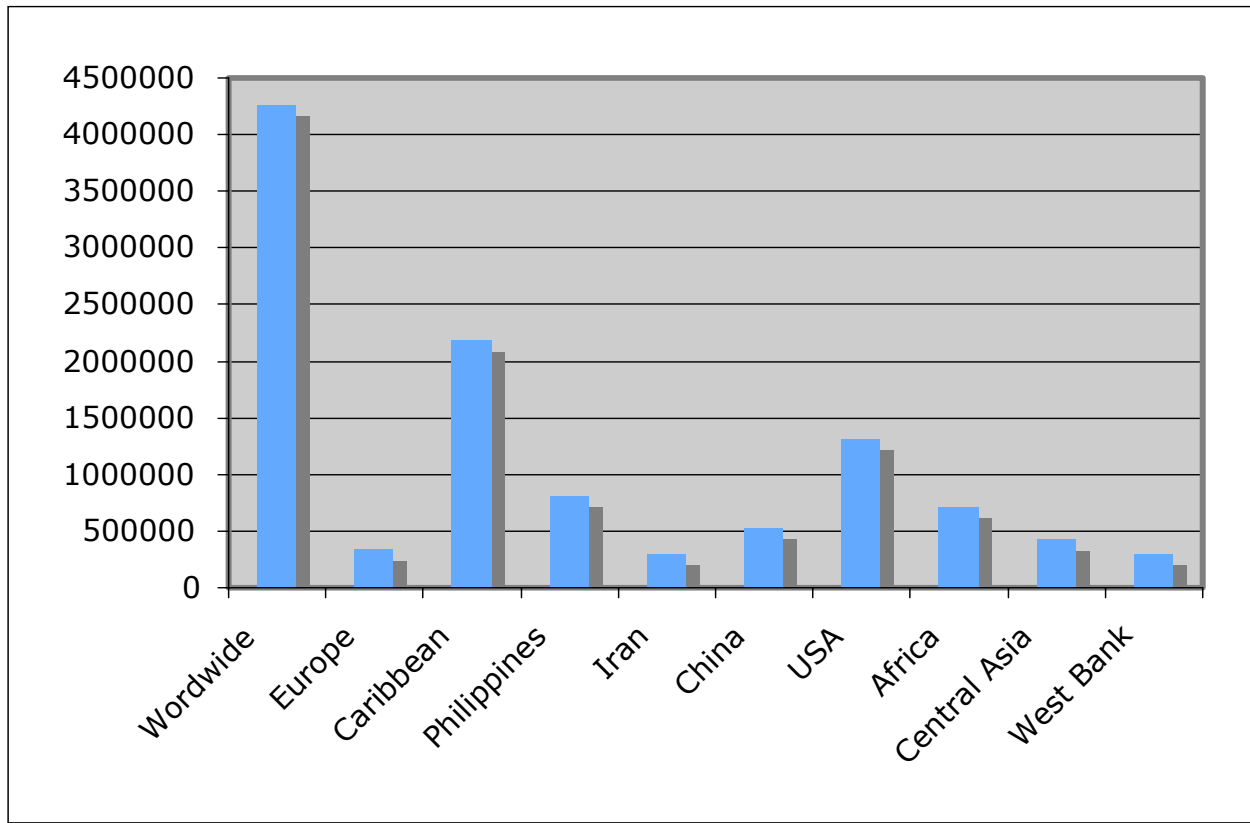
The chart below shows the geographical distribution of spending on ADP projects, since 1994. The chart is based on amounts (in €) agreed in grant contracts. The information available from grant contracts and implementation reports does not make it possible to know precisely how much money the worldwide projects have devoted to each country or region,<sup>5</sup> Most projects involving lobbying and other work with intergovernmental organisations (IGOs) were in the “worldwide” category, even though such IGO work may have been directed at specific countries or regions. As a result of these caveats, the chart should not be seen as an exact measure of the geographical distribution of the grants to ADP projects, but as a mere indication of orders of magnitude,

<sup>5</sup> The only exception concerns the USA: projects taking place entirely in the USA have been funded under the “worldwide” heading. These projects are counted separately in the graph below.

The following remarks may be made from the analysis of the geographical distribution:

- **Worldwide:** there were 9 worldwide projects, including a broad range of activities, from legal research to training and advocacy. See Annex 4, projects 3, 4, 6, 8, 11, 14, 18, 20, 28.
- **Europe:** one project has taken place, which targeted four member states of the Council of Europe (see Annex 4, project 9). This was the only project targeting European countries (and Turkey), although some earlier projects such as the petition campaign by Hands off Cain (project 4) also included activities in Europe. The project covered mostly lobbying to turn *de facto* moratoria into formal abolition in law.
- **Caribbean:** 7 projects covered that region (mostly Jamaica, Bermuda and other English-speaking Caribbean countries) since 1994 (4 since 1998). The main focus of these projects was always legal work, although in recent years they have involved more work with prisoners (on legal aid and prison conditions) and more public advocacy work. See projects 1, 2, 5, 7, 10, 16, 24.
- **Philippines:** 3 projects have covered that country. Although there were some overlaps, the projects were mostly complementary. See Annex 4, projects 12, 13, 19.
- **Iran:** 1 project concerned this country (project 15). On the basis of limited information available, the evaluators are doubtful if the Iran project can truly be classified as a death penalty project. The film that was funded through the project apparently addressed many important social issues including women in detention but, as far as could be discerned, did not directly address the death penalty.
- **China:** 1 project (project 17) covered this country, which is by far the biggest user of the death penalty (a new project, building on the previous one, has recently been initiated).
- **USA:** 2 projects were funded in the USA: these are complementary and cover key research and advocacy issues in that country, whose role in the worldwide death penalty debate is essential. See Annex 4, projects 21 and 23.
- **Africa:** most of the work in Africa has focussed on Rwanda, and one project covered Commonwealth African countries. See Annex 4, projects 22 and 26.
- **Central Asia:** one project (number 25) in that region covered four of the five countries in the region (Turkmenistan being excluded because NGO activities have been impossible there), with a focus on obtaining, then entrenching, a region-wide moratorium on execution. The project has been mostly successful.
- **West Bank:** one project targeted the Palestinian authority, essentially focussing on training for legal professionals (Annex 4, project 27).

**Chart: geographical distribution of resources (in €) allocated to ADP projects**



The chart exposes some relevant geographical and thematic trends, which can be summarised as follows:

- The amount of project funding is not directly related to the number of executions (or death sentences<sup>6</sup>) in the target country or region. If it was, 90% of grant funding would target China and another sizeable proportion should focus on Iran, for example. The fact that this is not the case is not an indication of a weakness, because:
  - o Some of the countries where executions are most widely used forbid or severely limit the activities of independent NGOs.
  - o It makes strategic sense to encourage a continuous worldwide trend towards abolition of the death penalty and moratoria on executions: in this regard, the relevant quantitative criterion is the number of countries which have abolished or enforced a moratorium. As a result, it is often appropriate to campaign for abolition in countries where the death penalty is seldom used if that can help enhance the abolitionist trend.
- Some of the “worldwide” projects are in fact research and information-dissemination activities, which are valuable in their own right and also because they may support other, country- or region-focussed, ADP projects.

<sup>6</sup> The number of death sentences and that of executions may be very different in the same country because many years may elapse between a death sentence being passed by a tribunal and an execution actually taking place.

- Nevertheless, the geographical distribution analysis suggests that the funding of the last decade or so has failed to cover two key countries and regions:
  - o The Middle East and North Africa: there has been some coverage of the West Bank and of Iran (where the focus was not really on the death penalty, as indicated in Chapter 3.2). Despite the existence of a few activities in the Middle East (as part of some worldwide projects), the region has been largely outside the scope of work supported so far. This is regrettable, partly because of the importance of some countries like Saudi Arabia on the worldwide “map” of the use of the death penalty, and partly because of the strategic importance for overall human rights work of addressing many countries in the region where Islam is a source of inspiration for the legislation. A project was agreed in 2006 to address the death penalty in some the region, starting with Morocco: this project will therefore contribute to filling this gap.
  - o Japan is the other significant gap: while the number of executions is low (three to seven per year), Japan is significant in relation to the use of the death penalty because of its status as a major developed economy. The abolitionist movement in Japan is determined but very small (bringing together some lawyers, NGOs and people inspired by Buddhist values). Abolitionist groups find it difficult to find financial support in Japan for their work, despite the overall wealth of the country. Funding from the European Commission could help the Japanese abolitionist movement to enhance its activities and reach, in a way similar to what has taken place in the USA with EIDHR ADP grants there (see Chapter 3.3).

Finally, the analysis of the geographical distribution of grants suggests that large grants should sometimes be complemented with smaller ones. In particular, the past grants have not covered many countries where the death penalty is not widely used, and where abolition is not widely debated (such as Kenya, Senegal, even Indonesia, etc). It may be appropriate for the EC to use the EIDHR micro-project procedures to encourage small-scale, pilot initiatives in such countries.

**Recommendation: Project geographical distribution should reflect where the EC believes that it can make an impact and where there is a need. To achieve this, a truly strategic and holistic approach towards project identification and funding is needed. Micro-projects might also be used in this regard, as would the use of tendering for specific projects.**

### **3.3 Overview of country-based and regional projects**

Annex 4 includes an outline of each ADP project funded since 1994 by the EC. In this section, the evaluators bring together overall findings on the country-based and regional projects, in terms of their relevance, effectiveness and impact. (As the consultants did not visit the West Bank, they are not proposing an assessment of the project implemented there by NOVIB, which is ongoing. An outline of the project is given in Annex 4, project 27.)

#### **3.3.1 Projects in the Caribbean**

The Caribbean is the region with the longest and most consistent succession of ADP projects funded by the EC. In all these projects, although Penal Reform International was formally the

grant-receiving NGO, the work was actually carried out by two London-based lawyers, in coordination with Caribbean-based lawyers and NGOs. The projects' strategy was to seek high-level court scrutiny of the legal process leading to death sentences, and of prison conditions. From about 1997, on the basis of the success of the first two projects, the work was scaled up, in part by the addition of a training dimension to the original legal support strategy, and in part by the increase in the number of cases brought to the attention of the UK's Privy Council (the region's highest court at the time). In subsequent years activities were developed to cover more countries in the English-speaking Caribbean and more local engagement, mostly in the form of training for lawyers and legal aid to prisoners on death row. Some of the work concerning conditions of detention also benefited non- "death row" prisoners serving long sentences.

The successive projects were relevant because they correctly identified a very fruitful approach to challenging the application of the death penalty in the region. They gradually grew in scope (training, prison conditions, new cases) and led to the increased involvement of local NGOs – a current project (Annex 4, project 24) is implemented locally in Jamaica – which allowed the work to include a strong advocacy dimension, supported by the previous legal work.

While abolition of the death penalty remains a distant objective in the region, the number of death sentences has radically diminished, mostly as a result of a Privy Council ruling limiting the length of time a condemned prisoner may spend awaiting execution: death sentences have been automatically commuted to life imprisonment after five years on "death row". The ruling came largely as a result of the legal activism of the project implementers.

### 3.3.2 Project in Europe

The Council of Europe project was assessed by the EC itself as having lacked effectiveness. The evaluators were not able to visit any of the countries covered by the project, but note that all of them had *de facto* moratoria on the death penalty in place at the time of the project. The project therefore focused on the ratification of Protocol No 6 of the European Convention and on domestic legal reforms aimed at turning the moratoria into formal abolition. Of the four countries, three have abolished the death penalty since 1999. The aim of achieving formal abolition in the four countries was unrealistic because of the situation in Russia. It is also to be noted that there were no synergies from the selection of the four target countries.

While the project was relevant, it is not clear that the positive impact observed in the three countries which subsequently abolished the death penalty can be attributed in any meaningful way to this project. This is because the project appears to have lacked coordination with civil society actors, and because abolition, where it took place, happened a long time after the project's conclusion.

This project highlights the importance of ensuring synergies amongst the various parts of a project, which this one (scattered over four countries, with no effective linkages amongst them) did not have.

### 3.3.3 Project in Iran

This project was in effect itself a call for proposals aimed at Iranian film-makers. It was therefore dependent on the scenarios proposed by potential film-makers. Its connection with the death penalty was remote, which the application form itself acknowledged. In practice, one of the films did deal with the situation of people facing a death sentence, but not with the issue of the death penalty itself. There is no evidence that the films themselves had any impact in Iran, and indeed no evidence as to the audience which saw any of the films in the series.

### 3.3.4 Project in China

The premise of the Great Britain-China Centre (GBCC) project approach is that explicit and direct focus on abolition of the death penalty is a non-starter in China. This is also the case for attempts to reduce the number of crimes regarded as capital offences. Statistics related to the death penalty are regarded as state secrets and there is considerable official sensitivity in this area. For this reason, the GBCC decided to focus its efforts on improving the legal defence for those facing capital charges. The project has chosen local partners, the majority of them academic, who share these concerns. As luck would have it the project also coincided with a growing unease in academic and legal circles in China that the death penalty was being used too liberally, that there were serious risks of miscarriage of justice and that, due to weak defence and growing discrepancies at the provincial level, there was a growing discriminatory aspect to the use of the death penalty.

The recently completed GBCC project can be regarded as an overall success. It is worth noting that the GBCC enjoys good relations with the Chinese authorities – an essential prerequisite to being able to work in this highly sensitive area in China.

### 3.3.5 Projects on the USA

There are two EC-funded ADP projects in the USA, both of which are still active. One is a legal research programme, run by a dedicated team within the American Bar Association (ABA). This very impressive and highly strategic project is contributing to a significant degree to the debate about the death penalty in the USA. In essence, the project consists in carrying out (and disseminating) very detailed studies of the legal process used in key US states where the death penalty is in use (the project originally expected to cover all such states in detail, but the cost and logistics of the study led to a decision to restrict the number of states covered). The studies (over 200 pages, 13 chapters) all follow a similar template and examine the totality of the legal process, from police criminal investigation procedures to jury selection and methods of execution. Each aspect is analysed according to a set template, which allows for comparisons between states. In each case, all the loopholes and weaknesses of the process are noted, and recommendations made for remedies to be brought.

On the basis of these and other similar reports, the ABA has taken the position that it calls for moratoria on the use of the death penalty in each state concerned, until all the identified weaknesses have been addressed. The project demonstrates, however, that it is virtually impossible to address all the weaknesses of the process – indeed, no state has been able so far to reform its legal system to meet all the concerns expressed by the ABA and other NGOs.

The detailed research templates developed by the ABA for these projects could be used in other jurisdiction, where they could form the basis of a very persuasive call for radical reform or moratoria. The project has led to the development of high-quality research and reporting. The reports issued so far have been disseminated through the ABA itself (at its conferences) and the findings have been the object of effective media work. In addition, there were conferences and debates at law faculties in the target states and elsewhere,

The project is probably too recent for its impact to be assessed fully, because some reports have yet to be published. However, in those states where the reports have been issued, there has been an increase in the visibility of the debate about the legal system surrounding the death penalty, shown for example through the holding of state congressional hearings.

The second EC-funded project involves support to the work of the Death Penalty Information Centre (DPIC), a Washington DC-based organisation. The project supports many of the activities of the DPIC, which is widely seen as a source of objective research and information about the death penalty in the USA. Like the ABA project, DPIC does not purport formally to be abolitionist, because doing so would alienate the very interlocutors whom it seeks to engage: people and institutions which support the death penalty (or at least have a positive view of it). The DPIC is gradually developing links with a number of relevant sectors of society, most recently the teaching community (through the development of education material that teachers can use to help foster debates amongst students about the death penalty). It is planning to address religious communities in a more structured manner in future. A key aspect of the DPIC's work is its responsiveness to the media, and its availability to testify and otherwise provide information to state legislatures.

The project contributed to the development of documentation for use by different audiences, such as curricula for college students, briefings for the media and state congresses, etc. The research and media work has contributed to enhancing the reputation of DPIC as a credible national resource on the death penalty.

Taken together, the two projects have significantly contributed to enhancing the visibility of the debate over the death penalty, and the credibility of the arguments used by critics of the practice. Both projects have contributed to the death penalty issue becoming the object of more informed debates *in fora* that can exercise influence, such as state congresses.

The close links between the project implementers and the EC Delegation in the USA have also played a role in enhancing the impact of the debate on the death penalty: the Delegation has made numerous interventions on individual cases of people sentenced to death, and has repeatedly used its influence to convey its concerns on the death penalty to the highest levels. This included the rare recourse to an “amicus curiae”<sup>7</sup> brief to the Supreme Court in a death penalty case, and other high-level communications with the US Administration. The USA is an example of how the work of NGOs and that of a Delegation can complement each other.

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<sup>7</sup> A “friend of the Court” statement of the views of its author about an issue brought before the Supreme Court. The EC's and other similar statements may have contributed to the Supreme Court taking a greater account in its decision-making of international developments relating to the death penalty.

### 3.3.6 Project on Central Asia

The International Helsinki Federation for Human Rights (IHF-HR) project is an effective though complex project, implemented with a range of NGO partners in the region. It addresses issues such as conditions of detention, police violence and complaints procedures for victims of human rights violations: these issues, although not directly linked to the death penalty, are seen by local NGOs as necessary to address in view of what is already effectively a post-death penalty situation (thanks to moratoria now in force in all the countries covered), with prisoners serving life sentences in deplorable conditions. One concern which the project also addresses is the fact that death sentences have continued to be handed down since moratoria were put in place on executions. The question of extraditions to China of people who may be executed there is on the mind of many NGO activists, but in practice they appear to have little leeway to influence that situation.

### 3.3.7 Project in Rwanda

The CLADHO-implemented<sup>8</sup> project is at an early stage. Despite strong signals that de jure abolition will occur soon, this project has the potential to be timely and appropriate. The initial two research projects which are underway and/or near completion should provide valuable information pertinent to the current strategic review exercise. The project has got off to a slow start and the proposed review might also serve to introduce increased momentum into the project team and ensure that timelines are adhered to more strictly.

Given the recent start of the project, it is not possible at this stage to assess the effectiveness and efficiency of the project. However, there are strong arguments for the project to continue even after the death penalty is formally abolished. Firstly, the need for public debate/discussion and greater understanding of the value of abolition is vital for long term reconciliation efforts in Rwanda. NGOs play a vital role in this process. Secondly, a move in public opinion towards greater acceptance of abolition will be vital to combat pressure in the future for the re-imposition of the death penalty that is feared by several observers.

### 3.3.8 Projects in the Philippines

The FLAG project is impressive and effective, and seems to have played a major role in the recent abolition of the death penalty in the Philippines. FLAG also received interns as part of the University of Westminster project. The same person, FLAG's Secretary General, appears throughout project documents, correspondence and even completed the questionnaire, indicating consistency of approach, which is a good sign.

Elements of the project that were particularly interesting included the strategic advocacy focus on individual senators and congressmen and women seen as key in voting through abolitionist legislation. This included the preparation of 'briefing boxes' comprising questions and answers for politicians, the contents of these boxes often being used word for word by politicians. FLAG also played an essential role in the drafting of legislation which was later adopted on the issue. Despite being a coalition effort, FLAG is clearly driven by an

<sup>8</sup> CLADHO was established in 1993 and now comprises five human rights organizations – ADL, AVP, ARDHO and Kanyarwanda, as well as LIPRODHOR, the Rwandese League for the Promotion and Defence of Human Rights.

energetic and extremely well-connected Secretary General. It is very doubtful that this project would have achieved the success it has without the efforts of this individual.

The scientific project was also impressive. It was apparently the first time that the EC had supported a scientific project of this type, consisting in testing the reliability of DNA tests as evidence in death penalty cases. The project is closely linked to other aspects of a grand coalition of activities advocating abolition and in this way was able to focus attention on possible cases of miscarriage of justice. Using DNA tests to question paternity of rape victims who have subsequently given birth was a well judged intervention in a much larger and complex debate. The project has led to numerous beneficial consequences beyond its scope including enhancing rigorous scientific involvement in criminal law. It is also important to note that the project included activities in which other scientists linked to the judiciary in neighbouring Asian countries were involved. The potential for this project as a regional good practice model is significant.

The PhilRights project – focusing on public advocacy and lobbying – was less effective than the other two EC ADP funded projects in the Philippines in terms of strategic thinking and timing. However, public advocacy work may prove crucial in the long run to ensure that the death penalty is never reintroduced and in contributing to the eventual signing of the 2<sup>nd</sup> Optional Protocol. PhilRights activities also helped broaden the anti-death penalty coalition in the Philippines. There are questions about the national scope of this project.

It is clear that the three projects taken together have been effective and have made a significant contribution to the abolition of the death penalty in the Philippines. Although it is difficult to measure that contribution because other organisations were also actively working towards abolition, the three implementers were amongst the most visible actors. It is now important to address the question of the fate of all those on death row (over 1000!).

The activities may have regional implications, and even worldwide ones in the case of the scientific DNA-related project. NGOs in other countries should be encouraged to look at the Philippines experience. The projects also illustrate good practice in that they were closely monitored by the EC at Delegation and Headquarters levels, and their experience fed into the work of the Delegation in relation to the death penalty.

### **3.4 Overview of thematic aspects**

This section provides comments on some thematic aspects of ADP projects. These should be read in conjunction with the findings set out in Chapters 3.1 and 4.

#### **3.4.1 Projects on international advocacy**

Projects centered on worldwide or international advocacy are of a questionable effectiveness. This is because they tend to have scattered activities with little follow-up, and because they tend, wherever they hold activities, to attract the support of people who already oppose the death penalty.

The relative merits of broad-brush advocacy as opposed to very targeted interventions can be illustrated by the worldwide projects of Hands Off Cain. A large amount of EC funding has gone to worldwide and UN advocacy campaigns with very little if any discernable impact.

Projects centered on UN resolutions may not only lack effectiveness – they may be outright harmful to the abolition objective. Projects 4 and 6 have sought to press for a United Nations resolution in favour of abolition. These projects raise the issue of divisions amongst NGOs about the strategy to adopt in relation to the UN, and of the impact on the strategy of the EC as a funder. Organisations like Amnesty International have opposed the tabling of resolutions on the death penalty in UN contexts (particularly the General Assembly) out of concern that the regular rejection of such draft resolutions dampens the interest for the issue and indirectly strengthens pro-death penalty countries. Tabling of resolutions can therefore actually be counterproductive, in that it antagonises governments and displays divisions amongst ADP supporters. Governments which have the death penalty on their books are bound to oppose such resolutions even if they don't actually use the death penalty.<sup>9</sup>

### 3.4.2 Projects involving legal research

Worldwide projects, particularly those implemented by the Centre for Capital Punishment Studies (CCPS) and a number of country-based projects (such as the ABA project in the USA), have involved detailed research on the policy, legislation and process aspects of the implementation of the death penalty. Such research is valuable and should be more widely shared, because it can be used in a variety of contexts. For example, the ABA research on the shortcomings of the legal process in specific US States could be emulated, following a similar template, in other jurisdictions where the death penalty is in force.

The CCPS studies have addressed a number of issues of relevance across the world, such as the way other forms of punishments such as life imprisonment can be substituted to the death penalty. The CCPS has also supported an internship system whereby law students have been seconded to NGOs around the world working on abolition. These two approaches have been supportive of the broader abolitionist movement.

### 3.4.3 Scientific approaches

As suggested above in the discussion of the Philippines projects, the research on the reliability of the use of DNA testing in some death penalty cases is an original approach, which has proven effective in that country. The project has led to numerous beneficial consequences beyond its scope including enhancing rigorous scientific involvement in criminal law, thus contributing to widening the range of stakeholders with an interest in the abolition debate.

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<sup>9</sup> In addition to its questionable strategy, the continuing Hands off Cain campaign (not funded by the EC) appears to overlook the fact that the death penalty is a very emotive issue. Inappropriate campaigning may be perceived as zealotry and may entrench pro-death penalty views. For example, a recent press release by HOC stated that “98% of the world’s executions... are carried [out] in totalitarian and repressive countries”. Such value judgements are unlikely to contribute to UN Member States supporting a resolution against the death penalty.

### 3.4.4 Coalition building

Coalition building might become an important focus of the forthcoming new EIDHR grant process. It is therefore appropriate to consider the role played by coalition building in ADP projects.

Many country-based projects have provided for significant coalition-building activities. In some countries and regions (such as Rwanda and Central Asia) the project implementers were themselves NGO coalitions. In others (USA DPIC project, Jamaica, Philippines, etc) the implementing NGO devoted significant amounts of time and resources to the development of joint activities with other NGOs, such as joint advocacy platforms, training sessions, publications, etc.

Some types of activities, such as legal research, do not lend themselves so directly to coalition-building, because they need to be implemented by relatively small teams of experts. However, as the USA ABA project demonstrated, the dissemination of such legal research effectively relies on coalition-building.

At the international level, two projects had coalition-building as an integral part of their mode of operation:

- The project by the International Federation of Human Rights Leagues (FIDH, project 20) involved a coalition-building process between prisoners sentenced to death (or at risk) and human rights defenders. In practice, the human rights defenders involved were mostly the human rights organisations affiliated to the FIDH itself, which to a large extent limited the coalition-building to a pre-set range of stakeholders (although some other organisations were involved too on occasion).
- The project by Inter-Press Service (IPS, project 28) took an entirely different, but until now very fruitful, approach that can be considered to be a form of coalition-building. The project consists in setting-up and developing a website on the death penalty, including a news-gathering aspect, information about the activities of ADP organisations. The news website is very well organised and managed, and is highly informative. It is typically the kind of project that should be brought to the attention of all the organisations implementing EC-funded ADP projects because it could help publicise their activities and could, potentially, act as a forum for strategy discussion.

Provided a flexible approach is taken to the modalities of coalition-building in the new EIDHR, there is the potential for it to encompass effective ADP projects.

## 4. Project Design and Implementation

### 4.1 Project cycle

The table on the next page summarises the findings related to the various stages of the project management cycle. Comments are expanded upon in the subsequent sections of this chapter.

### 4.2 Strategy development

The EIDHR is first and foremost a grant process, based on proposals developed by applicant organisations. To that extent, the onus is on the applicants to develop strategies for their own projects. However, this does not mean that the EC itself does not need to develop a strategy in relation to the death penalty. This section explores the process and substance of the EC strategy on the death penalty.

#### 4.2.1 The role of Relex and EuropeAid in EC strategy development

*“(...) Little or no use is made of the expertise developed by some projects in advising EU / EC strategy on the death penalty.”*

From a response to the evaluation questionnaire

There appears to be no systematic, structured manner in which information and knowledge arising from ADP projects can influence and feed into policy-making at broader EC level. The evaluators believe that the relationship between EuropeAid and Relex in this regard remains unclear. It is difficult to see how the system as it is presently configured allows for constructive feedback and learning from action. This is compounded by the weak monitoring described below (section 4.3).

#### 4.2.2 Guidelines and strategy

Effecting change on the death penalty is notoriously difficult and requires dedication, perseverance and strategic thinking. An illustration of this is in the pattern of EC funding itself, for example the fact that seven successive projects covered the Caribbean over the last decade.

The EC does not have an ADP strategy as such. Instead, there are four key stages in the development of the EC approach on EIDHR ADP projects:

- The European Council adopt the EU Guidelines on ADP.
- In a separate but related process, the European Parliament and Commission agree on a Regulation for the EIDHR.
- Based on these and on several other documents, RELEX drafts a strategy for the entire EIDHR integrating the death penalty issue.
- EuropeAid implements the strategy in its Annual Action Programme.
- The Annual Action Programme is translated into guidelines for a given year’s Call for Proposals.

The EU Guidelines on the death penalty therefore constitute the closest equivalent to a formal strategy. In practice, however, the Guidelines fall short of proposing a strategy that would set out long-term objectives, intermediate milestones and priorities on thematic and geographic aspects.

Instead, the Guidelines provide a general overview of the level of use of the death penalty worldwide, a summary of the applicable international standards, and what amounts to a list of options: essentially research avenues and campaigning themes to address the issue. Most strikingly (and perhaps understandably in view of diplomatic sensitivities) the strategy does not include a survey of the geographical distribution of the use of the death penalty, and never suggests prioritising work on countries where the death penalty is in most use. Nor does it offer any other basis for prioritising ADP activities.

Successive Calls for Proposals have prioritised specific aspects mentioned in the Guidelines. For example, in 2004 there was a focus on assistance to prisoners and in 2005, a focus on legal reform.

One important aspect of the EU Guidelines is that they do not only apply to EIDHR project: they also, in principle, influence the work of EC Delegations. This should be reflected in the EIDHR strategy as a whole. On the occasion of the adoption of the new EIDHR Regulation in 2007, there may be an opportunity to review the ADP aspects of the EIDHR strategy (see section 4.5 below). Such a review could broaden the research and campaigning options, integrate the issue of impunity and reparation for victims (see section 4.2.4 below) and encourage closer liaison, if not coordination, between NGO activities in target countries and the ADP-related activities of the relevant EC Delegations (demarches on individual cases, follow-up of court cases, discussions with government officials, etc).

### **4.2.3 EC decentralisation and regional projects**

The consultants believe that one of the risks of EC decentralisation of EIDHR project management to Delegations is that regional cooperation and approaches to the death penalty issues are not sufficiently encouraged and opportunities risk being missed. This is particularly the case in the ASEAN region where work on any human rights related issue is often fraught with difficulty and sensitivities. The Philippines DNA project offers a glimpse of possible ways in which such cooperation might be achieved.

Another example of the need for a regional overview is the Great Lakes region of Africa. A coordinated approach to the abolition of the death penalty in Burundi, Rwanda and the Democratic Republic of Congo is required, particularly between Burundi and Rwanda.

The Central Asia project, monitored from Almaty in Kazakhstan, does have a welcome regional dimension. Monitoring from Almaty is facilitated by the fact that the Delegation there has a regional remit.

Worldwide projects have, in some cases, managed to capitalize on this regional approach. Notably, EC-funded litigation work in the Caribbean, and more recent PRI approaches to

Muslim countries, look at abolition in a regional context. The British Institute of International and Comparative Law (BIICL) efforts to establish a network of lawyers in Africa and produce a multi-nation handbook are other good examples of a regional approach. There is no doubt that governments at a regional level consult and are aware of each other's strategies and positions on human rights issues. It is essential that those involved in human rights and development do likewise.

**Recommendation:**

**EC Delegations should be encouraged to look at all human rights issues, including ADP, in a regional and sub-regional context. This would facilitate strategic interventions and lead to greater impact.**

## Strategy – abolition in the Philippines

*“We had to be flexible and learn when to shut up – we couldn’t be noisy all the time.”*  
(Philippines NGO on their abolitionist strategy)

The history of the death penalty in the Philippines is a long and complex one. In recent times the death penalty was “abolished” under the 1987 Constitution. However, this did not prevent re-imposition by a “Republic Act” in 1993. A subsequent moratorium was lifted by President Arroyo in 2003 due to the rise in crimes related to drugs and kidnappings that targeted the influential Filipino-Chinese community. The death penalty was abolished again in mid-2006 after a successful campaign led by the Catholic Church and NGOs.

The death penalty issue in the Philippines was highly charged and it is worth noting that, from the outset, the abolitionist groups agreed not to convene rallies or other public demonstrations. Rather, persuading was done in a more low-key and targeted way behind closed doors. Decisions on opportune moments to push or not were made with reference to the crime statistics at any given time. In other words, during a period of public outcry and For concern about serious crime it was considered a waste of time and inappropriate to try and make headway on abolition. The media in the Philippines were said to have “worked well and quietly” with abolition groups.

Members of Congress and Senators asked NGOs to prepare drafted bills. For example, FLAG provided Q and A boxes for politicians which were particularly effective. These were literally boxes containing Frequently Asked Questions about the death penalty and examples of appropriate responses. They also outlined the arguments for abolition, including statistical backing to support these arguments.

It is not an accident that three NGOs working on abolition were funded at the same time in the Philippines (the EC also supported the work on abolition of the Philippines Human Rights Commission). The EU delegation was proactive and made a significant political contribution to the process. The NGOs described to the evaluators how they were ‘encouraged’ to apply for funding. Annual death row visits were organised by EU embassies (together with Australia and Canada). The embassies were criticized by the Philippines authorities for these visits but they were an important and effective way to highlight the continuing risk of execution.

It is also worth noting that NGOs funded by the EU in the Philippines were instrumental in taking cases to the UN’s Human Rights Committee under the 1<sup>st</sup> Optional Protocol of the ICCPR related to the death penalty. Three decisions against the Philippine government were made which were also helpful in putting pressure on the authorities to abolish.

A word of caution: several people who have worked on the abolition issue in the Philippines thought that the decision to abolish might be overturned again, if public opinion was whipped up in response to a crime wave. The need for ratification of the 2<sup>nd</sup> Optional Protocol is evident and urgent.

See Annex 4, projects 12, 13 and 19, for more details about the three EC-funded projects and an assessment of each project’s effectiveness.

#### 4.2.4 Impunity and reparation: working with victims' representatives

The issues of impunity and reparation are the flip-side of working towards moratoria and abolition and should not be ignored. This is mainly because victims of crime (or their relatives and other representatives) have a significant role in the debate about crime and punishment. Since they have directly suffered from crime, victims' representatives enjoy in this regard a legitimacy that other stakeholders may lack. The evaluators feel that the plight of victims and their families has not received enough attention. For example, the 'survivor' community in Rwanda, who are still subjects of targeted killings, have been largely sidelined in the move towards abolition in that country. The project by the Centre for Capital Punishment Studies has studied the issue of victims, as has the Death Penalty Information Centre in the USA.

##### *The views of victims: survivors in Rwanda*

In Rwanda, the part of the population assumed to have most difficulty accepting abolition are the survivors of the genocide. IBUKA, an umbrella organization for survivors has been unable to come out with a consensus position on abolition and feelings obviously remain very raw on this subject within the survivor community. There is a strong sense of grievance amongst survivors due to several factors including widely covered press reports of on-going killings of survivors as well as the thorny issue of adequate reparation.

Victims' representatives should be included in debates on the death penalty at three levels:

- To address any perception that abolition of the death penalty may amount to impunity for criminals. This perception may not be entirely assuaged by substituting lengthy prison sentences to the death penalty, because the perception might remain that the removal of the death penalty could lead to a general "softening" of the sentencing regime for criminals convicted in the future.
- To deal with concerns over reparations. In many countries where the death penalty is in force, there are few systems in place to ensure that survivors of crime and their relatives receive reparation from the state, for example by suing in civil courts for damages. As a result, the "symbolic" punishment of criminals is the only "reparation" victims' relatives and survivors may count on, and there may be a perception that this "symbolic" reparation is less effective when the sentence is any less than the death penalty.
- The most potent reason to engage with victims' relatives, however, is that they may play a key role in calling for abolition. In the Philippines, a Senator whose child was killed was widely listened to and respected when he voiced opposition to the death penalty, irrespective of his personal suffering as a result of this crime. Similarly in the USA, organisations representing relatives of crime victims and opposed to the death penalty have been established in recent years, and have enjoyed a significant degree of public exposure.

### **Recommendation:**

**The EC should consider favourably projects that address victims and their families, for both moral and strategic reasons. For example, it might be important to consider offering additional humanitarian assistance to survivors groups in Rwanda to ensure the perception by Rwandese society of a balanced EU approach. More generally, NGOs/Implementers should ensure that victims and issues of impunity and reparation are not ignored in their work.**

#### **4.2.5 The importance of the 2<sup>nd</sup> Optional Protocol**

It is vital that EC efforts do not end with abolition. As the history of the death penalty in the Philippines shows (and it is not the only example) it is not impossible for governments to reverse decisions on abolition and reintroduce the death penalty at a later date. As has been mentioned elsewhere in this report, fears about eventual reintroduction of the death penalty in Rwanda after the expected decision to abolish its use also highlight this fear. Signing up to the Optional Protocol is an important tool in making it harder for governments to return to the death penalty. Such a signature also helps governments to resist pressure from public opinion for reintroduction. This pressure is a periodic reality even in European states, especially after particularly grisly crimes have taken place. In the signing and ratification of international human rights instruments EC delegations and Brussels can play a particularly constructive role and complement the work of NGOs and other institutions. The role of demarches and bilateral dialogues between Delegations and governments can be very important in this regard.

#### **4.2.6 Negative unintended consequences**

Fears emerged in at least two countries visited as part of this evaluation that an unintended consequence of death penalty abolition might be an increase in extrajudicial executions by government security forces (police and military). It was suggested that a reported rise in the number of extrajudicial executions in some parts of the Philippines might be linked to recent abolition. The assumption seems to be that local security forces have little faith or respect in the judiciary and have taken matters into their own hands. There are allegations that government-supported death squads target criminal suspects in some parts of the country.<sup>10</sup> Fears were also voiced in Rwanda that those accused of playing leading roles in the recent genocide now being held, or due to be held, in Rwandan prisons might be subjected to life threatening ill-treatment.

Several early PRI projects supported cases to be submitted to the UK-based Privy Council - the final court of appeal for the Commonwealth Caribbean. The Privy Council ruled that those held for long periods (over five years) on death row should have their death sentences commuted. The death penalty is overwhelmingly popular in the Caribbean and the perceived interference by the former colonial power was almost universally badly received. As a result of these and other Privy Council cases, some countries in the Commonwealth Caribbean have moved to establish their own final court of appeal. It is, as yet, unclear what the implications

<sup>10</sup> However, the majority of extra-judicial killings, which have received significant international publicity, are related to the Philippines armed forces targeting leftist groups. The UN Special Rapporteur on Extra-Judicial Executions visited the Philippines recently and issued a report critical of the military.

of this might be for the abolitions of the death penalty in the region: contrary to fears voiced by some observers, the Caribbean Court of Appeals has not overturned the decisions of the Privy Council so far.

In addition, it has been suggested that another consequence of the litigation approach in the Caribbean has been a recent Constitutional amendment in Barbados which might risk restricting the scope for appeals in death penalty cases. Indeed, there has been a lively academic debate on whether or not “the only route to abolition is one paved with successful litigation”.

Litigation is often based on individual cases and loopholes in their prosecution. This is commendable at the individual level and, without doubt, EC funding has saved many people’s lives in this regard. However, there is a problem of approach which risks the unintended consequence that repeated legal challenges and litigation simply result in the legal system getting their act together and eliminating miscarriages of justice and weak defence. The result being that fewer people are sentenced to death but perhaps the principle of abolition is no closer to reality. Therefore, DNA testing can ensure that the guilty are punished and expose miscarriages of justice, but, proponents of capital punishment may also welcome its introduction and use it and other litigation improvements to advocate that the death penalty is “safer” than previously.

**Recommendation:**

**In ‘at risk’ countries, i.e. some abolitionist countries and some countries that have introduced *de facto* or *de jure* moratoria, the EC should carefully monitor any reported incidents of extrajudicial killings or suspicious deaths in custody. More generally, it is important to link ADP related activities to the overall promotion and protection of human rights.**

**4.2.7 Positive unintended consequences**

There are numerous examples of these, one being the effect on the quality of criminal defence in China made by the GBCC project. This might ensure that those who risk being given the death penalty get better standards of defence and may have a knock-on positive effect for the quality of defence generally. Similarly, the DNA project in the Philippines will be very important in the future prosecution of those accused of rape.

In Jamaica, it was noticeable that lawyers and other activists assisting prisoners on death row inevitably start offering support to non-death row prisoners in difficulty. It is clear that the death penalty has resulted in many people in many countries visiting prisons and prisoners who would not otherwise be visited. This has significant implications related to the monitoring of prison conditions in general and problems such as alleged prison guard brutality.

## 4.3 Project monitoring issues

### 4.3.1 The role of EuropeAid in monitoring worldwide projects

*“Despite invitations annually to visit us (...) [we] have not received a single visit or response during the decade we have received EC funding.”*

From a response to the evaluation questionnaire

Monitoring of worldwide projects is a key area which needs to be addressed urgently. Monitoring of projects managed by country delegations is appropriate but, as has been mentioned elsewhere, needs to be shared systematically with Brussels. From correspondence and completed questionnaires it is evident that, in many cases, EC Delegation staff do follow the progress of projects. This happens despite the apparent lack of a formal country-led monitoring process for projects under €1,000,000<sup>11</sup>.

The monitoring of worldwide projects is weak. It is based on the following process:

- Financial and narrative reports sent by implementers to the EC provide information about project implementation.
- The task of the EC is to “read the reports and check that both financial and narrative reports confirm that the projects did what they said they would do”.
- When the EC has concerns about project implementation, it seeks clarification from implementers.
- When the EC has significant concerns about financial matters, it may (and does) send representatives to visit implementers of worldwide projects to discuss these concerns.

While this process deals adequately with financial issues, it does not seem able to contribute to an effective interaction between the EC and implementers on matters of strategy and project substance.

In the case of projects in one country or region, the relevant EC staff at Delegations are able to attend project activities and therefore to develop an on-going relationship with project implementers. In the case of worldwide projects, although one EuropeAid senior staff member stated to the consultants that it was considered good practice for every worldwide project to be visited by a member of EuropeAid staff at least once during the project lifetime, this is clearly not common practice. Out of six worldwide projects covered by this evaluation, the consultants have only found references to two such visits.

This situation leads to the perception on the part of organisations implementing worldwide projects that the EC is not interested in the substance of their work. More importantly perhaps, it effectively deprives the EC as a whole of an understanding of the lessons learned by project implementers.

Implementing organisations complained to the evaluators that they had received no feedback on the substance of their projects other than correspondence on purely administrative matters.

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<sup>11</sup> The consultants were informed that the ROM (results-orientated monitoring) standardised monitoring procedures do not apply to thematic projects under €1m at present.

This absence of communications inevitably leads on occasion to misunderstandings. EuropeAid staff acknowledge that, while they read all reports, they do not provide “much feedback” to implementers when “everything seems to be in order”. This may be incorrectly interpreted by implementers as lack of interest, which EuropeAid remarks is not the case.

**Recommendations:**

- **The monitoring of worldwide projects should be enhanced, in particular by ensuring that EuropeAid staff visit the site of a project at least once during the project lifetime.**
- **EuropeAid should consider altering the format of narrative reports, to highlight strategic challenges faced by projects and reduce the focus on the mere reporting on activities.**
- **Implementers of worldwide projects should be requested to contact relevant EC Delegations whenever they implement activities in their country, with a view to inviting an EC representative to observe the activities. Implementers should also send to Delegations and Brussels any post-activity reports.**
- **Monitoring could be significantly improved with the establishment of the Focal Point mentioned below (see Section 4.5).**

### **4.3.2 Paper and electronic filing**

The consultants spent a significant amount of the allotted time trying to establish files for each project with the help of EuropeAid staff. Most of these projects were implemented before devolution of project management to Delegation level, and files for these projects should have been in Brussels. The acknowledged problem of poor ‘housekeeping’ cannot be overemphasized. No files were complete<sup>12</sup>, with many missing interim and/or final reports, logframes etc. It is also very apparent that little or no project management information was shared by the delegations with headquarters. For example, the consultants found few instances of monitoring documents, or notes for the file following site visits, being sent to Brussels for inclusion on the file.

The CRIS electronic seems to make it difficult to look up documents related to cross-cutting thematic areas. CRIS files related to projects appear incomplete. For example, while recent EC-funded project contracts have required the beneficiaries to conduct independent evaluations of the project concerned, the consultants were unable to find any such evaluations on file. Some EC monitoring reports were filed in Delegation offices but none were in Brussels.

Whatever filing system is used, it is essential that Brussels be able to locate easily all the essential documentation related to thematic areas otherwise global programmatic strategy and overview is impossible.

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<sup>12</sup> The consultants regard a complete file as containing the original proposal, the project evaluation grids, a project logframe, completed contract with all annexes, interim and final report. Any external evaluation should also be included.

### Recommendation:

- **A decision should be taken as to whether paper files on each project should be kept at the Brussels level and what would constitute a complete paper file.**
- **Guidance should be issued on what documents related to a project should be put on CRIS. The consultants strongly urge that this should include any external evaluations of projects or monitoring reports and any notes for the file related to the project or death penalty in the country concerned.**

## 4.4 Project management

### 4.4.1 Procedures

Responses to the questionnaire identified significant problems with the management of projects. There is a consensus view among implementing organisations that EC regulations are unnecessarily time-consuming and inflexible:

*“The process of reporting was very cumbersome. Requirements were too bureaucratic; approval needed to be sought from headquarters for every change (no matter how minor) to the project. This led to delay, given the distance between headquarters and [the country concerned]. Is it possible to review the reporting process and requirements?...The reporting requirements took so much time and effort, we probably would have hired more administrative personnel to attend to those requirements [if we had realised this at the outset]. Other than this, we probably would have pursued the project in the same way.”*

And, from another respondent:

*“The EC requirement that each budget line be balanced, in addition to the budget as a whole, creates problems. Given the level of detail in the budget (printing vs. copying, for example), it is difficult to accurately predict how much will be spent in each budget line. It would be much simpler if grantees were required to stay within a range on each budget line and to stay within the entire budget total.”*

This same concern was echoed in yet another completed questionnaire:

*“The course of an EIDHR-funded project can extend to 4-5 years from planning, approval through to implementation and completion. It is inevitable that, within this timeframe, both project activities and the budget will see some developments and possibly require change. There is a procedure for making change both to the budget and the project activities but it is unnecessarily cumbersome and bureaucratic. There could therefore be a higher degree of flexibility within the budget for the transfer of budget amounts from one item to another (within reason), particularly in view of possible currency fluctuations and travel price uncertainties. Perhaps some form of contingency could be allowed for, with strict implementing rules but which would provide a little bit more flexibility.”*

These remarks from project implementers need to be seen in perspective. In particular, the following points should be taken into account:

- Contract procedures have changed over the years, making procedures more flexible over time. For example, implementers now have much greater leeway to reallocate funds amongst different budget lines than was the case a few years ago. But implementers whose contract was signed before the changes were introduced remain bound by the contract conditions in force earlier.
- Some organisations have clearly underestimated the reporting requirement they signed up to when they agreed the grant contract with the EC. The EC correctly points out that some have simply failed to read the grant contract conditions.
- The decentralisation of project monitoring to Delegations has meant that, at least initially, some of the Delegation staff were unfamiliar with EIDHR procedures and may have, as a result, been overly cautious in the guidance they gave to implementing organisations.

The fact remains, however, that EIDHR procedures are significantly more strict than those of many other donors.<sup>13</sup> The grant contracts tend to discourage changes to original plans, which has the undesirable effect that implementing organisations are wary of proposing changes to their plans for fear of being denied funding.

Many of the above concerns could be alleviated if both Delegations and NGOs had access to a procedures manual. Such a manual should be available in paper form and online, and cover the entire EIDHR project cycle. The manual should be kept up-to-date whenever procedures change. It should include in particular:

- A sample concept note
- A sample filled application form
- A sample assessment grid
- The applicable contractual terms and conditions.
- An explanation of the terms and conditions, highlighting in particular the practical steps to be taken in specific situations (such as requesting an extension, notifying the EC of a problem, etc)
- Sample letters/messages to be used to communicate between the EC and implementers
- A Frequently Asked Questions section, developed on the basis of the experience of EC staff at Delegations and in Brussels and including directions to specific areas of the EC websites (such as visibility guidelines, etc)
- As part of this manual, there should also be guidance to EC staff on which information should be stored into CRIS and how information on project activities should be disseminated within EuropeAid and Relex.

A procedures manual is not in itself sufficient to rectify the concerns identified about the monitoring of projects and the interactions between the EC and implementers. The Focal Point discussed in Section 4.5 should complement the clarification of procedures recommended in this section.

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<sup>13</sup> Some bilateral donors agree changes to project activities, reallocations of funds and no-cost extensions in a matter of hours, by email. Implementers of EIDHR projects note that the EC requires an exchange of letters, a process that may last for weeks.

**Recommendation:**

- **Simplify reporting procedures (for example by allowing the use of email for all but the most essential communications such as signed contracts) and ensure that both NGOs and Delegations are provided with an up-to-date procedure manual.**
- **Whenever new grant contract conditions are developed by the EC, which lead to simplifying the grant management procedures, the EC should consider introducing such changes in all previously signed contracts, by means for example of a contract amendment letter. This could ensure that all contracts at any given time are implemented according to the same set of rules, thus simplifying the management tasks of EC staff at Headquarters and Delegation levels.**

**4.4.2 Indicators and benchmarks**

Many projects proposals have been developed without clear indicators of success, and on the basis of insufficient information about baseline indicators related to the issue addressed. In the context of ADP projects such a weakness is a particular concern, because abolition is usually a very distant goal unlikely to be reached during the lifetime of a given project. It is therefore important for applicants to reflect closely on the “milestones” they plan to reach in the course of the project implementation.

It was noted that guidelines for calls for proposals now include information on suggested indicators of impact. This is to be welcomed, as is the project that lead to the development of these indicators<sup>14</sup>. The Channel Research report is available online to the applicants, and some of its findings and proposed indicators are referred to in the 2005-2006 Guidelines for grant applicants. However, the generation of smart and relevant indicators and benchmarks is a difficult and challenging process in an area like the death penalty. In addition to the indicators proposed in the Channel Research report, applicants should be encouraged to use the guidance on indicator development proposed in that report (and also to be found in other project management literature).

***Summary of suggested indicators of impact***

A study of project proposals and reports suggests that future ADP project proposals could use some of the following criteria as indicators of impact:

- Increase in government commitments on ending or limiting the death penalty (laws, ratification of international standards, moratoria, etc)
- Legal changes (number of capital offences, exclusion of the mentally ill, right of appeal, etc)
- Improvement in conditions of detention for people at risk of, or awaiting, execution.
- Implementation of criminal procedures and trial practice which enhance the right to a fair trial.
- Increased use (where legal) of international complaints mechanisms.
- Enhanced availability of public information about the death penalty, death sentences, executions, conditions of detention, etc.
- Attitudinal surveys, both of public opinion and judicial practitioners.
- Surveys of media attention to the ADP issue.

<sup>14</sup> See *Generating Impact Indicators*, EIDHR, Channel Research, March 2005.

**Recommendation:**

**Applicants and the EC should ensure that indicators and baseline information gathering are effectively mainstreamed into projects. They should, if necessary, encourage beneficiaries to work together to develop a range of appropriate and relevant indicators.**

**Organisations working on the ADP projects should discuss the development of indicators of impact and methodologies to gather baseline information. They could base their discussions on the preliminary work done on death penalty indicators in the Channel Research report.**

### **4.4.3 Sustainability**

The nature of effecting change on the death penalty requires time and the relatively short project timeframes of EC-funded projects is potentially a problem and works against sustainability. The consultants have noticed several instances of repeat funding, which is to be welcomed if the projects concerned are solid. In this regard, well-defined objectives and outputs are even more important to prevent dependency and “project drift”.

Looking at the range of ADP projects supported by the EC, it would appear that the projects with the best chance of long term impact and sustainability are those implemented by organizations with a history of work on the death penalty. For example, the BIICL project came from an organization not previously active in this area. Once funded, the organization had to identify and recruit staff to manage the project. Once completed, these staff left the organization which would appear to have little interest in ensuring follow-up and continued activity in this area. This can be seen, for example, by the discontinuation of the dedicated web-site set up as part of the project.

The EC should also be careful not to fund NGOs who are simply re-packaging judicial reform work dressed up as ADP projects. The consultants believe that this has been the case in at least two instances. However, the need for “new blood” in this area is apparent. The EC, through country delegations, should identify new potential beneficiaries who are aware of the long-term nature of the commitment working in this area, and who have the capacity to design and implement programmes over long periods which stretch beyond normal project cycles.

**Recommendation:**

**When project proposals on ADP are considered, prior commitment to work in this area should be taken into consideration. In the consideration of project proposals, the sustainability aspect should be given a high priority, even if the implication might be that a higher proportion of project costs than usual will be dedicated to the sustainability of the project. For example, a project may require the recruitment of a specialist fundraiser to ensure that a project can be maintained beyond the funding period in question.**

### Project management cycle: a critical appraisal of EIDHR ADP practice

Stage	Key stakeholders	Strengths	Weaknesses	Comments & Recommendations
Concept note	NGO=> Delegations or Brussels	Short, can be written in NGO's own language, small investment when required before a full application is drafted, useful guide for EC use.	Does not address strategic weakness, i.e. that the EIDHR process – Call for Proposals – is largely dependent on NGOs' ideas. Delegations require applicants to present the Concept Note <i>and</i> the full application, thus defeating the purpose of the Concept Note as a short, pre-application stage.	The Concept Notes are useful. It is also important to have seminars or meetings between Delegations and NGOs beforehand to explain EC policy and procedures.  It is also important to ensure consistent practice: the full application form should not be required at the Concept Note stage.
Application	NGO=> Outside experts, Delegation, Brussels.	Process looks objective. Includes outside thematic expertise.	Outside experts may lack key information about applicants. Sometimes wide differences in appreciations between two experts (difficult to know whether they are right, even if they don't disagree).  Very complicated, process rewards good application-writers, not necessarily effective NGOs. Also fosters a "black market" in application-writing consultants.	NGOs which have received past grants should be encouraged to adopt a buddy system to help other smaller, country-based NGOs seek grants.
Grant decision	Delegation/ Brussels	Collegial decision.	Language issues and complexity of process discourage smaller country-based NGOs from applying at all.  In practice, panel may often lack information about the qualities and weaknesses of the applicant.	It is important to ensure that the external assessors who help grade the applications should have expertise in relation to the death penalty.
Contract	EC/NGO	Legal document, clear allocation of responsibilities	General conditions tend to discourage change. Strategic issues are overshadowed by process concerns.  Project modification to address changed circumstances may in effect be discouraged and even result in funds being withdrawn/not renewed if the implementer fails to follow strict procedures and time limits.	Amend contract conditions to allow NGO to propose strategic changes each year, with an amended budget allocation (but in principle an unchanged overall envelope). Achieving project objectives should be more important than sticking to an agreed but outdated contract.  Develop a procedures manual for NGOs and EC staff.

Implemented by:

Interim and final reports	NGO=> Delegations / Brussels	The most important project management tool, i.e. still allows for modifications to project, to ensure objectives are met.	<p>In practice NGOs write these in order to satisfy the donor, not to learn from past difficulties. Tendency therefore to gloss over problems.</p> <p>EC report format tends to conflate process and strategic issues, hence uninteresting read for people not directly involved in the management of the process</p> <p>Without feedback NGOs regard reports as empty gesture which renders them useless and only as a 'tick box' exercise for the donor.</p>	<p>Reports are rarely a vehicle for rigorous self-assessment as they should be.</p> <p>EC staff must read these reports and must provide detailed feedback to implementers.</p> <p>Restructure report format to separate the reporting on activities and finance from the review of strategic aspects. The strategic review part could be circulated more widely within the EC (and possibly other NGOs), whereas the activities/financial section can remain with EuropeAid.</p>
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Monitoring missions and reports	EuropeAid and Delegations	Helps sort out process issues. Enhances EC's understanding of projects.	In the case of worldwide projects, monitoring missions appear often to take place when problems have already arisen (and then, only problems related to process).	There should be at least one monitoring mission during project lifetime.  Worldwide project activities should be monitored by country delegations who need to be informed by both NGO and by EuropeAid Brussels
NGO internal evaluation	NGO internal (stipulated often in contract)	Very important. Should help NGO better meet objectives and provide objective insights to the EC on the project.  Brings an independent overview to portfolio of projects	Potential conflict of interest if NGOs are not rigorous in choice of evaluator.	These documents should be placed on CRIS and should be sent to Brussels to be placed on file. They are essential for any EC-commissioned evaluation or other project follow up..
Thematic evaluation commissioned by the EC	Outside consultants=> EuropeAid+NGO+Delegation+Relex		Comes too late to influence the projects	Restructuring the interim report and having more interaction between EC and implementer would reduce dependency on post-facto evaluations.

## 4.5 The future European Instrument

### 4.5.1 Coalition building and death penalty projects

At the time of writing, concerns were expressed that the death penalty might lose its status as a priority thematic area in the new European Instrument for Democracy and Human Rights<sup>15</sup>. Relex staff suggested to the evaluators that future death penalty projects might be funded under the “coalition building” heading. If this the case, there may be a concern that some kinds of activities currently undertaken by ADP projects will not fit easily under that heading, even though they may be highly relevant to specific country or regional contexts. For example, activities such as legal research, legal aid, work with victims and prisoners, etc, may not be considered to be contributing to coalition building and may therefore not be able to be funded under the new instrument.

In addition, in certain potential target countries for death penalty projects (notably China and in the Middle East) it may be difficult to put together an effective coalition. It would be a pity if the excellent work by individual organisations that the evaluators have looked at (FLAG in the Philippines being an example) would not receive funding in the future. It should be stressed that some of the best initiatives are by small organisations or indeed individuals who are not regarded as “team players”.

On the other hand, the analysis of coalition-building aspects of the projects funded until now shows that many activities relevant to ADP projects can be understood as contributing to coalition-building, provided this notion is applied with some flexibility and takes account of country and regional conditions. Indeed, the consultants have been impressed by the degree of cooperation and, by and large, the good communications that were in evidence amongst organizations working in the area of the death penalty. This is in large part due to the small size of this field and also to regular international meetings held on death penalty.

For example, the University of Westminster has provided interns (as part of its EC-funded project) to numerous agencies receiving EC funding. These include FLAG and the DNA laboratory in the Philippines and the Independent Jamaica Council on Human Rights. GBCC are using the same UK-based lawyers as trainers in China who, under the PRI umbrella, have been responsible for most of the EC-funded death penalty litigation work in the Caribbean in the last 10 years. CLADHO in Rwanda have also received assistance from PRI, etc.

Because of gaps in its monitoring coverage, the EC may be unaware of the cross-fertilization which leads to a poorer appreciation of the projects (especially worldwide ones) and the strategic thinking behind them. Whilst this coalition approach is to be applauded – especially the links between well established international NGOs and local country-based NGOs – there must also be concerns that the pool risks being too small,

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<sup>15</sup> The evaluators saw a draft of the new instrument shared with NGOs in late 2006. However, they understand that there may be further changes to the status of death penalty work.

with the same group of people popping up again and again in relation to death penalty projects.

A bigger picture overview and strategic approach is needed and this cannot be provided from within the anti death penalty movement. Given the importance of EC funding and support to this sector, the consultants believe that the EC has a unique role and opportunity, through selection of projects and interaction with implementers, to ensure that good practice is spread and new blood is injected into the system. The international coalition building described above also exposes a problem at the heart of EC support in this area. Since no EC countries have the death penalty on their statute books and since most of them abolished the death penalty some time ago, there is a dearth of practical expertise amongst European lawyers on defence and general experience in death penalty cases.

There are, of course, notable exceptions (such as the lawyers at Muirhead and Burton who previously worked for many years under the PRI umbrella in the English-speaking Caribbean projects), but this might explain why such project elements as building connections between members of the Beijing Bar Association and its European counterparts to work on shared experience in this area, have not been very successful. This might also be why efforts by the American Bar Association (itself a recipient of EC funding for death penalty work) to work with Chinese lawyers in China is to be encouraged and watched with interest. In the case of China, there is certainly considerable shared experience in death penalty defence and jurisprudence which, despite differences in the legal systems, is a rich mine to seam for those working on ADP projects in both countries.

On a related issue, the consultants have been struck at the relatively small number of beneficiary organisations and individuals who have, either directly or indirectly, received EC funding for ADP projects. There are also concerns that only a few local NGOs and organisations based in countries which still have the death penalty are being funded.

#### **Recommendations:**

**Ensure that ADP remains a significant and visible part of the mandate of the new instrument due to replace EIDHR. If funding for death penalty projects is to fall under different headings then the EC is urged to use flexibility to ensure good work continues.**

**To enhance coalition-building on the death penalty, the EC should fund an annual meeting bringing together in Brussels one representative of each NGO being funded under ADP. Not only would this allow NGO representatives to meet with EuropeAid and Relex staff but it would also facilitate the establishment of an ad hoc working group who can share experience and best practice.**

**Efforts should be made to enlarge the pool of organisations and individuals working on the death penalty. Specific steps that might help increase the number of organisations seeking funding in this area include:**

- **Allow for micro-projects under the EIDHR procedure in countries where the death penalty exists.**

- **Ensure that calls for proposals are issued in local languages and that proposals (or at least preliminary proposals) can be written by applicants in their local language.**

**Larger international NGOs working in this area should be encouraged to offer support where possible to smaller country-based NGOs to apply for EC funding.<sup>16</sup>**

### **4.5.3 Linking the death penalty with other human rights issues and international instruments**

The death penalty is inextricably linked with other crucial issues, such as torture and conditions of detention. It is interesting, for example, that most actors in China regard ratification of the International Covenant on Civil and Political Rights as an essential step towards abolition of the death penalty.

In post-abolition or moratorium situations, conditions of detention for death row prisoners or those facing lengthy prison terms are clearly of concern. In some instances conditions of detention amount to torture and therefore should be taken up by the relevant EC delegation and/or Brussels. Again, it is important to stress the EC activities and project support in the area of the death penalty should not cease with abolition or moratoria.

There should be a greater integration of ADP project with other human rights projects to address the need to broaden the range of organisations working on the death penalty and the many human rights issues connected to the death penalty, including conditions of detention, the fight against impunity, and the criminal investigation process.

### **4.5.4 Research tenders as an alternative to Calls for Proposals**

The evaluators are concerned that there are huge limitations when working on a narrow thematic area like the death penalty when the EC relies entirely on calls for proposals from prospective partners. Work in this area could benefit from proactive research commissioned by the EC as well as the tendering of specific projects seen as strategically important and worthwhile. This sort of programmatic approach should be based on the premise of a more detailed and clearly thought-out strategy. This strategy would need to be developed jointly by Relex and EuropeAid. For example, proactive research or “identification studies” commissioned in the following areas, prior to developing project ideas and specific calls for proposals might be considered. In addition to pure research, such studies would also feed back into EC strategy both in terms of advocacy and in terms of possible project areas to fund.

For example, the EC could put out to tender or otherwise fund research on the following aspects of the death penalty:

- Military justice and the death penalty
- The death penalty and Shari'a law
- Refugee law: extradition and the death penalty

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<sup>16</sup> For example, PRI successfully provided support to CLADHO in Rwanda in its application for EC funding.

- The death penalty in post conflict situations
- The death penalty and sexual crimes
- The death penalty and minors
- The death penalty and abortion<sup>17</sup>
- The death penalty and sexual minorities
- The death penalty and mental illness
- The death penalty, poverty and discrimination
- The death penalty and minors<sup>18</sup>

It might also be useful to have a regional or national approach to possible areas of study. For example, military justice and the death penalty is of particular concern in the Great Lakes region. NGOs working on ADP could be encouraged to present strategic research proposals to the EC for funding.

#### **4.5.5 Support to projects in developed countries**

Despite criticisms in some quarters that the EC should not be funding projects in a rich, developed country, the evaluators see significant strategic advantages in the funding of projects in the USA and much to be praised. The projects funded are of high quality. For example, it was clear that European funding to US death penalty projects was not lost on Chinese officials and this strengthened an argument about the EC's respect of the universality of human rights norms and standards.

The same reasoning applies to Japan: although much less frequently used than in the USA, the death penalty remains in use in Japan. The legal process in Japan is secretive and controversial, with a strong reliance on confessions that may lead to miscarriages of justice. Like in the USA, the few abolitionist organisations in Japan find it difficult to obtain funding from Japan-based donors, who shy away from this issue perceived as highly sensitive. EC support for ADP projects in Japan would not only allow existing abolitionist groups to develop their activities, it would send a valuable signal to civil society as a whole that the death penalty is a legitimate concern to address.

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<sup>17</sup> See for example the case of Rwanda: abortion in Rwanda is illegal and can be punished with death (infanticide). Several women are on death row accused of aborting foetuses. In one case, not only is there evidence that the woman concerned was a child at the time of the alleged crime but also that the abortion was actually a miscarriage. Exculpatory documentation has been ignored by the courts concerned.

<sup>18</sup> Again, the example of Rwanda is relevant. There are several cases in Rwanda of individuals who are believed to have been minors when alleged crimes have been committed being given the death penalty. Problems appear to stem from confusing documentation including lack of birth certificates and the fact that parents have been known to alter ages upwards to receive increased WFP rations or to be eligible for land distribution. Even when evidence has come to light suggesting that the condemned are children it has in some cases been ignored. A related concern is that those convicted of child rape are usually given the death sentence. There are examples of boys having sex with girls (i.e. both parties being children) being accused of rape and given a death sentence.

### **China and US – the indirect approach**

Projects in both China and the US supported by the EC do not describe themselves as directly abolitionist. The GBCC project in China avoids all direct mention of abolition or moratorium but rather is aimed at improving the quality of defence for those facing the death sentence. The logic of this approach is that improving defence will lead to a decrease in those sentenced to death. Likewise, in the USA, the American Bar Association's (ABA) approach is to study in depth those US states who are retentionist in order to pinpoint weaknesses in the criminal justice system and to recommend state-wide moratoria until each of these weaknesses is addressed. This approach, which also does not directly call for abolition, allows the ABA to enjoy the support of people who may not be abolitionist but who nevertheless are concerned by unfair trial and the risk of miscarriage of justice. In the same way, the Death Penalty Information Centre (DPIC) is not avowedly abolitionist but researches and disseminates information about the use and shortcomings of the death penalty to the media, within the education system, and to other relevant constituencies.

The evaluators are strongly of the belief that these approaches are sensible and legitimate for the countries concerned. The direct propagation of abolition, or even moratoria, in both countries would be a non-starter and would risk antagonising public opinion in the US and the authorities in China.

One of the strengths of the EC's death penalty portfolio is precisely support for such pragmatic approaches.

### **4.5.6 The need for a EuropeAid focal point**

Whilst devolution of project management responsibilities to country delegations has significantly improved monitoring and ongoing dialogue with implementing partners, there has been a very serious loss of a sense of overview and general coherence to the EC's support in this thematic area. The problem of the substantive monitoring of worldwide projects has been discussed elsewhere in this report. However, the evaluators see the need for a focal point in EuropeAid, who can ensure such a sense of coherence. The role of such a person would be:

- To follow death penalty projects at country level (through the delegation) and ensure joined up thinking and that lessons are learned.
- To monitor directly all worldwide death penalty projects and ensure that delegations are informed of project activity at a country level.
- To liaise within the EC to help Relex ensure that a joined up and strategic approach is being followed. This should include ensuring that diplomatic demarches are consistent and support projects and vice versa.<sup>19</sup>
- To keep in touch with the implementing NGOs to ensure that best practice in terms of the use of indicators, etc, is being shared.

<sup>19</sup> In this regard, the evaluators believe that there is considerable space for Relex to learn from ongoing projects and use information provided to better support diplomatic undertakings. However, a note of caution: it is essential that projects are not perceived by host governments as the means to gather information that is then used in diplomatic initiatives – China is the obvious example of this danger.

**Recommendation:**

**EuropeAid should appoint a Brussels-based focal point for the ADP thematic area who will not only ensure systematic monitoring of worldwide ADP projects but also follow ADP projects managed at delegation level.**

*Abolition of the death penalty in Rwanda*

The ruling party (FPR) has sent a strong signal that they intend to abolish the death penalty – a surprising *volte face* in policy. This will require parliamentary and senate consideration and one informed respondent thought that the process would begin in January. The new penal code has other important implications for human rights in Rwanda (including the criminalisation of homosexuality and tighter abortion laws).

Possible reasons for abolition include:

- The transfer of Arusha (Tanzania) prisoners to Rwanda post 2008 after the International Criminal Tribunal – Rwanda (ICTR) closes. The UN would only agree to transfer prisoners if they will not face the death penalty.
- The extradition of genocide suspects from countries including New Zealand, UK, etc. to face trial in Rwanda. Again, this can only occur if death penalty is not an option.
- An effort to help with reconciliation process within Rwanda
- An acknowledgement of the status quo (moratorium)
- An effort to please the international community and present Rwanda in positive light
- To gain public support prior to upcoming parliamentary and presidential elections
- To avoid the problem and criticism which would be faced if so-called “category one” accused genocidaires (genocide planners and mass killers) are tried by Gacaca courts and found guilty (i.e. up to 70,000 people given death sentences by local traditional courts which do not meet international standards for fairness).

It should be noted that it was suggested to the consultant by more than one NGO that the government might reinstitute the death penalty once prisoners from Arusha and other countries were returned, i.e. that abolition is a ruse to ensure that the government’s enemies are returned to Rwanda.

## 5. Conclusion and Recommendations

The consultants believe that there is a global abolitionist tendency at present. This opportunity should not be missed. It is likely that well-positioned and well-designed projects will make significant contributions in coming years and positively impact on the reputation of the EU.

The death penalty is an iconic human rights issue that is (despite appearances) less contentious and less open to accusations of cultural imperialism than others fundamental human rights standards. The European position is unequivocal and transparent and not subject to accusations of hypocrisy or double standards. The EC's support to projects in countries as diverse as the USA and China are a testament to this. The evaluators see added value in working on death penalty projects, in that they permit access to more difficult but related human rights problem areas such as torture, conditions of detention and fair trials.

The consultants believe that the impact of ADP projects is unnecessarily restricted by weak internal procedures, insufficient strategic overview and a lack of cross-fertilisation amongst projects. The following recommendations are made to the EC and to implementing organisations to reinforce the effectiveness of ADP projects:

### 5.1 Recommendations to the European Commission

#### 5.1.1 Strategy

It is recommended that the EC should take into account the following two aspects in their approval process of future ADP projects:

- It does not necessarily matter whether a given project focuses only on one, or a small number of activities, provided the portfolio of ADP projects or activities in the target country or region can amount to an integrated strategy *and* that the implementing organisation is committed to, and able, to seek and maintain liaison with others working on ADP. As a result, it is appropriate for the EC to seek assurances from project applicants on any such linkages.
- Worldwide projects in particular run the risk of failing to establish linkages between their activities and those of ADP projects at country level. It is important that implementers of worldwide projects have procedures and resources in place to liaise *on an on-going basis* with national-level organisations carrying out ADP activities.

Project geographical distribution should reflect where the EC believes that it can make an impact and where there is a need. This should be considered on the occasion of the implementation of the new European Instrument. To achieve this, a truly strategic and holistic approach towards project identification and funding is needed. Micro-projects might also be used in this regard, as would the use of tendering for specific projects.

To ensure a balanced approach and with a view to seeking the support and understanding of the community of victims, the EC should consider favourably projects that address the plight of those who have suffered as a result of the most serious crimes.

### **5.1.2 Coordination with Delegation’s activities**

EC Delegations should be encouraged to look at all human rights issues, including ADP, in a regional and sub-regional context. This would facilitate strategic interventions and lead to greater impact.

In countries where extrajudicial killings might result from abolition, the EC should carefully monitor any reported incidents of extrajudicial killings or suspicious deaths in custody.

### **5.1.3 Monitoring**

The monitoring of worldwide projects should be enhanced, in particular by ensuring that EuropeAid staff visit the site of a project at least once during the project lifetime.

EuropeAid should consider altering the format of narrative reports, to highlight strategic challenges faced by projects and reduce the focus on the mere reporting on activities.

A decision should be taken as to whether paper files on each project should be kept at the Brussels level and what would constitute a complete paper file.

Guidance should be issued on what documents related to a project should be put on CRIS.

### **5.1 4 Reporting**

The EC should simplify reporting procedures and ensure that both NGOs and Delegations are provided with an up-to-date procedure manual.

Whenever new grant contract conditions are developed by the EC, which lead to simplifying the grant management procedures, the EC should consider introducing such changes in all previously signed contracts, by means for example of a contract amendment letter.

### **5.1.5 Coalition-building and sustainability**

The EC should ensure that ADP remains a significant and visible part of the mandate of the new instrument due to replace EIDHR. If funding for death penalty projects is to fall under different headings then the EC is urged to use flexibility to ensure good work continues.

To enhance coalition-building on the death penalty, the EC should fund an annual meeting bringing together in Brussels one representative of each NGO being funded under ADP. Not only would this allow NGO representatives to meet with EuropeAid

and Relex staff but it would also facilitate the establishment of an ad hoc working group who can share experience and best practice.

Efforts should be made to enlarge the pool of organisations and individuals working on the death penalty. Specific steps that might help increase the number of organisations seeking funding in this area include:

- Allowing for micro-projects under the EIDHR procedure in countries where the death penalty exists.
- Ensuring that calls for proposals are issued in local languages and that proposals (or at least concept notes) can be written by applicants in their local language.

Larger international NGOs working in the ADP area should be encouraged to offer support where possible to smaller country-based NGOs to apply for EC funding.

When project proposals on ADP are considered, prior commitment to work in this area should be taken into consideration. In the consideration of project proposals, the sustainability aspect should be given a high priority, even if the implication might be that a higher proportion of project costs than usual will be dedicated to the sustainability of the project.

### **5.1.6 Focal Point**

EuropeAid should appoint a Brussels-based Focal Point for the ADP thematic area, tasked with ensuring systematic monitoring of worldwide ADP projects, following ADP projects managed at delegation level and disseminating the learning from projects within the EC.

## **5.2 Recommendations to implementing organisations**

### **5.2.1 Strategy**

It is recommended that the NGOs planning ADP activities take account of the following key learning stemming from the analysis of past activities:

- No single approach has overwhelming superiority over the others.
- Worldwide advocacy on its own has negligible impact.
- Projects should either adopt an integrated approach, bringing together complementary types of activities, or seek to develop partnerships with other, existing and planned, projects in relation to ADP. Such linkages should be made explicitly in project proposals.

To ensure a balanced approach, project implementers should ensure that the situation and views of victims' organisations, and the issues of impunity and reparation, are not ignored in their work. The evaluators feel that the plight of victims and their families has not received enough attention and could be further integrated into work towards moratoria and abolition.

Applicants and the EC should ensure that indicators and baseline information gathering are effectively mainstreamed into projects. They should, if necessary, encourage beneficiaries to work together to develop a range of appropriate and relevant indicators.

Organisations working on the ADP projects should discuss the development of indicators of impact and methodologies to gather baseline information.

### **5.2.2 Coordination with Delegations and EuropeAid**

Implementers of worldwide projects should be requested to contact relevant EC Delegations whenever they implement activities in their country, with a view to inviting an EC representative to observe the activities. Implementers should also send to Delegations and Brussels any post-activity reports.

# Annexes

## **Annex 1: List of people met**

### **Central Asia**

Tolekan Ismailova, Director, Human Rights Center “Citizens against Corruption”,  
 Kyrgyzstan  
 Taru Kernisalo, Project Manager, EC Delegation, Kyrgyzstan  
 Anna Muratova, Bureau of Human Rights and Lawfulness, Kyrgyzstan  
 Zhemis Turmagambetova, Executive Director, Charter for Human Rights Foundation,  
 Kazakhstan  
 Tursunbay Bakir Uulu, Ombudsman of the Kyrgyz Republic  
 Yulia Vassilieva, Representative of Hands Off Cain, Kazakhstan  
 Yevgeny Zhovtis, Kazakhstan International Bureau for Global Rights

### **China**

Professor Zhao Bingzhe, Dean of Law School, Beijing Normal University  
 Dr Yin Jianfeng, Beijing Normal University  
 Nicola MacBean, Director, The Rights Practice  
 Katy Lee, Director, Great Britain China Centre (London)  
 Peter Hellmers, Coordinator, Voluntary Fund for Technical Cooperation, UN Office of  
 the High Commission for Human Rights (OHCHR)  
 Maria Rosa Sabbatelli, Attache Development and Cooperation, European Union China  
 Delegation  
 Anna-Karin Friis, Third Secretary, Political Section, European Union China Delegation  
 Lucy Hughs, Second Secretary, Political Section, British Embassy, Beijing  
 Liu Ming, Projects Manager Human Rights Programme, British Embassy, Beijing  
 Professor Mo Hongxian, Wuhan University School of Law  
 Ye Xiaoqin, Wuhan University School of Law  
 Titi Liu, Programme Officer, Ford Foundation  
 Alison Moore, Resident Representative, Asia Law Initiative, American Bar Association  
 (China)  
 Jiang Jianfeng, Deputy Division Chief, Ministry of Justice  
 Professor Chen Zhexian, Director, Centre for International Law Studies, Chinese  
 Academy of Social Sciences (CASS)  
 Yi Lingyan, Project Officer, CASS

### **Jamaica**

Nancy Anderson, Coordinator of Death Penalty Project, IJCHR  
 Dr Lloyd Barnett, Attorney  
 Hella Boussif, intern, IJCHR (from Centre for Capital Punishment Studies, London)  
 Colleen Falconer, Project Manager, EC Delegation in Kingston  
 Carla Gulotta, Death Penalty Coordinator, Amnesty International Jamaica  
 Arlene Harrison Henry, Chair, IJCHR  
 IJCHR staff  
 Fr Peter Kelly, Catholic Justice and Peace Commission  
 Major Richard Reece, Superintendent of Correctional Services, Kingston  
 Anton Thompson, Catholic Justice and Peace Commission

### **Philippines**

Romina Santa Clara, Gender Mainstreaming and Horizontal Budgetlines (Operations Section), European Union, Philippines Delegation

Maria Sindico, Contract Officer, European Union, Philippines Delegation

Maria Socorro I. Diokno, Secretary General, Free Legal Assistance Group (FLAG)

Nymia Pimentel Simbulan, Executive Director, PhilRights

Ramil Andag, Research Officer, PhilRights

Bernie Larin, Information Officer, PhilRights

Rhoda Viajak, Resource Development Officer, PhilRights

Tracy Pabico, Networking Officer, PhilRights

Maria Corazon A. De Ungria, Natural Sciences Research Institute, University of the Philippines

Tim Parritt, Researcher, Amnesty International (London)

### **Rwanda**

David Macrae, EU delegation, Kigali

Genevieve Dehoux, EU delegation, Kigali

Silas Sinyigaya, CLADHO (Federation of Leagues and Associations for the Defence of Human Rights in Rwanda)

Chris Huggins, Human Rights Watch

Arnaud Royer, Amnesty International (met in London)

Betty Mujawa, ADL (Association for the Defence of Individual Rights and Public Liberties)

Benoit Kaboyi, IBUKA (Association of the survivors of the genocide)

Fatima Boulnemour, PFI (Penal Reform International)

Rene Akarangwa, AVP (Association of Peace Volunteers)

Dative Makumana, KANYARWANDA (Association for the Promotion of Union by Social Justice)

Maximilien Ruzigana, AVP

Georgine Mukayiranga, ARDHO (Rwandese Association for the Defence of Human Rights)

Euthalie Niyirabega, National University of Rwanda

### **USA**

Laura Burstein, Justice Project

Richard Dieter, Death Penalty Information Center

Deborah Fleischacker, American Bar Association

Rob Freer, Death Penalty Researcher, Amnesty International (London)

Lara Flint, Counsel to Sen. Feingold

Sue Gunawardena-Vaughn, Amnesty International

Julie Katzman, Counsel, Office of Sen. Leahy

Joseph Margolies, civil rights lawyer, author of a book on Guantanamo

Diann Rust-Tierney, National Coalition against the Death Penalty

Vicki Schieber, Murder Victims' Families for Human Rights

Shari Silberstein, Equal Justice

Virgina Sloan, Constitution Project

Robert Whiteman, EC Delegation

## **Europe**

Maria Luisa Bascur, Project Consultant, IHF-HR

Piers Bannister, Death Penalty Coordinator, Amnesty International

Isabelle Brachet, FIDH

Irene Corcillo, EuropeAid

Alan Dreanic, EuropeAid

Raphael Fisera, Relex

Petar Hadji-Ristic, Editor, Death Penalty Abolition Project, Inter-Press Service

Mel James, Policy Director, Penal Reform International

Helena Lagerlof, EuropeAid

Bela Matias, EuropeAid

Outi Ojala-Seppanen, EuropeAid

Malin Stawe, EuropeAid

## **Annex 2: Evaluation questionnaire**

### **NOTE**

The European Commission (EC) has commissioned Pierre Robert and Daniel Alberman, independent evaluators, to carry out an evaluation of the projects on the abolition of the death penalty financed since 1994 under the European Initiative for Democratisation and Human Rights (EIDHR). The evaluation focuses on the overall impact of the projects and on lessons for future EIDHR work in relation to the death penalty – it is not an evaluation of each individual project, although the conduct and outcomes of the projects are an important aspect of the overall assessment.

The present questionnaire is aimed at the NGOs which have implemented EIDHR-supported projects in relation to the death penalty. The objective is to obtain an honest assessment of the projects, the management process and the relationship between implementing NGOs and the EC. The evaluators will maintain the confidentiality of the respondents: any quotes they use will be “anonymised” in the report provided to the EC.

Please kindly return the completed questionnaire to the evaluators by email, **by 24 November 2006**, at the following addresses: [danielalberman@aol.com](mailto:danielalberman@aol.com) and [pierre.robert@btconnect.com](mailto:pierre.robert@btconnect.com). Do not hesitate to contact the evaluators should you have any question.

Although we expect answers to be short (one or two sentences), please feel free to write more and/or to append any relevant documents, memos, etc. Please feel free to write your replies in English or French, and to circulate this questionnaire to other people and organisations involved in the project.

### **General**

1. Please summarise the key strategies of your organisation towards the abolition of the death penalty.
2. Please give some of the advantages and disadvantages of the approach taken by your organisation?
3. Please provide some specific examples of effective action you have taken.

### **Relationship with the EC**

4. Please describe the relationship between your organisation and the EC in the planning, implementation, and follow-up of the project(s) financed under the EIDHR. (Please distinguish between the relationship with EC country offices and headquarters/visiting consultants throughout).
5. Have EC representatives ever attended project activities, visited your organization, or otherwise been involved in the activities carried out? If so, were they from the EC country office or from headquarters?

6. How have EC officials been monitoring the project? What sort of feedback have you received from them?
7. Do you have any suggestions of improvements to the EC process of project planning, funding, monitoring and follow-up?
8. Overall, what is your view on the EIDHR approach to abolition of the death penalty?

**EIDHR project(s)**

9. To what extent was (were) the EIDHR project(s) on the abolition of the death penalty innovative in comparison to the activities your organisation was already carrying out? In other words, did the EC support types of activities your organisation was already engaged in?
10. Looking back on the project(s) your organisation carried out with EIDHR support, is there anything you would do differently?
11. Do you have any further comments which would be useful for the present evaluation?

Your name and position (optional):

## **Annex 3: Terms of reference of the evaluation**

### **SPECIFIC TERMS OF REFERENCE EIDHR Evaluation on the Abolition of Death Penalty Projects**

#### **COMMISSION FRAMEWORK CONTRACT EUROPEAID/116548/C/SV**

#### **1. BACKGROUND**

In 1998, the EU adopted guidelines for its policy towards third countries on the death penalty. These guidelines provide the basis for international action of the Union in this field, which represents one of the focus areas of the EU human rights policy. According to the guidelines, the objectives of the EU are to work towards the universal abolition of the death penalty and, where the death penalty still exists, to call for its use to be progressively restricted and to insist that it be carried out according to minimum standards. The EU actively implements the guidelines, which in addition to action in international fora, foresee inter alia general and specific demarches in third countries, statements and declarations<sup>20</sup>.

Another way for the EU to pursue this policy is through financial support under the European Initiative for Democracy and Human Rights (EIDHR)<sup>21</sup>. Established upon the initiative of the European Parliament in 1994, the main aim of the EIDHR is to promote human rights and democracy in third countries<sup>22</sup> by providing financial support for activities by civil society organisations in these areas.

Since 1994, 25 projects aiming at supporting civil society initiatives on the abolition of death penalty (ADP) for a total amount of € 9, 5 million have received financial support under the EIDHR. Eight of these projects are ongoing. In 2002, a specific call for proposals on ADP was launched and most recently 6 new ADP projects have been selected under a call for proposals for 2005-2006 (Campaign 1 “Promoting Justice and the Rule of Law”) for a total amount of € 3, 2 million.

#### **2. DESCRIPTION OF THE EVALUATION**

##### **➤ Global objectives**

The **overall objective** of this evaluation is to help the European Commission to improve the impact of EIDHR projects supporting civil society activities aiming at the abolition of death penalty, by strengthening the Commission's ability to draw on lessons learnt of past and ongoing interventions for future planning, programming and project identification. The key questions that the EC would like to have analysed are: Did the results meet the projects' purposes? What difference (positive or negative) have the EIDHR projects made in practice, both on a project level (outcome) and on an overall long term level (impact)?

<sup>20</sup> [http://ec.europa.eu/comm/external\\_relations/human\\_rights/adp/index.htm](http://ec.europa.eu/comm/external_relations/human_rights/adp/index.htm)

<sup>21</sup> EIDHR is based on Council Regulations EC No. 975/1999 and EC No. 976/1999 of the 29<sup>th</sup> April 1999 – Official Journal L 120 of 8<sup>th</sup> May 1999 p.3

<sup>22</sup> i.e. outside the European Union

The **scope** of the evaluation covers all EIDHR projects aiming at the abolition of the death penalty carried out since 1998<sup>23</sup>. A desk study, which will be the first phase of the evaluation, will define which specific projects, completed or ongoing, that will be part of the field visits.

The **users of the evaluation** will mainly be the EIDHR and other concerned parties within the Commission including its Delegations in third countries. It should also serve the NGOs that are the recipients/partners of EIDHR support and help them improve and be more effective in their work.

### ➤ **Specific objective(s)**

The main purpose of this evaluation is to assess the **effectiveness and relevance** of EIDHR funded projects in support of the implementation of the EU guidelines and policy on the death penalty.

Based on this assessment the evaluation shall analyse the **impact** of EIDHR support. The evaluation should come to a general overall judgement of the extent to which the EIDHR projects concerning this theme have contributed to the progress towards the abolition of death penalty, globally, regionally and/or in specific countries.

The evaluation's findings shall lead to set of conclusions which will lead to a set of recommendations on operational aspects (see further below under Expected results).

### ➤ **Issues to be studied**

#### **Relevance**

Verify the relevance of the design of the projects and assess to what extent the objectives stated in the projects and in the EIDHR programme respond to the policy. To what extent were the priorities of the programme adequate?

Examples of programme priorities:

- Awareness-raising amongst the public and key opinion-makers on the principal arguments against the death penalty. (CFP 2005-2006)
- Monitoring of the conditions of implementation of the death penalty and the application of minimum standards (CFP 2005-2006)
- Promotion of the signature, ratification and implementation of the *Second Optional Protocol to the International Covenant on Civil and Political Rights*. (CFP 2005-2006)
- Legal reform to limit the use of or abolish the death penalty and provisions of legal assistance in cases of particular concern (CFP 2005-2006)
- Provide information and support strategies for replacing the death penalty and involve studies on how a state's capital punishment system comports with minimum standards of due process of law and a fair trial. (CPF 2004)
- Providing direct assistance to prisoners under sentence of death penalty. (CPF 2004)

<sup>23</sup> For one organisation/NGO that has the received support, the evaluation should include projects from 1994.

### Effectiveness

Assess the degree to which the purposes/objectives of the projects and the EIDHR programme have been achieved. Did the results meet the projects' purposes? What difference (positive or negative) has the EIDHR projects made in practice?

The evaluators are here expected to focus on the following issues:

- **Strategies and methods of work to promote the abolition of death penalty** - which strategies do different NGOs use to approach the abolition of death penalty? Do they focus on legal aspects, or moratoria or public awareness-raising or on other aspects? Assess to what extent the different strategies and methods chosen have been effective, taking into account the influence of the external environment.
- **Coalition building** - to what extent and how have NGOs used coalition building with other actors as a method in its work on ADP? Assess to what extent such coalition building has been effective or could have been effective to achieve the project goals.
- The effectiveness and possible added value of EU support to ADP projects in **industrialized countries** (in this case the USA)
- The extent to which the **external environment** (political, economic, security) has affected the achievement of the project objectives. Is it possible to find common denominators regionally and/or globally that affect projects aiming at the abolition of the death penalty?
- The extent to which **gender** based discrimination and **child** protection have been addressed in the projects.
- The extent to which the **expectations** of the different stakeholders (EC, civil society, target groups) have been met.
- If there are any unintended **side-effects** of the interventions, positive and negative.
- The existence and effectiveness of proposed **indicators**. Include in the recommendations examples of possible indicators (quality indicators of the project outcomes) that could be included in the EIDHR calls for proposals.
- Assess whether any of the projects have specifically addressed death penalty based on discrimination (apart from gender and age which are already mentioned above), such as race, religion and sexual orientation.

### Efficiency

Assess the day to day management by looking at:

- Whether the quality of management, reporting tools, financial management and personnel management was adequate.
- Whether there were any indicators of efficiency and if they were suitable.
- Whether management of risk was adequate, i.e. if the management was flexible and able to adapt to changing circumstances.

### Visibility

Assess the extent to which EC has achieved visibility in its support to ADP projects, both towards partners, beneficiaries and to the general public. The assessment shall include the reasons for which EC visibility has been guaranteed or not.

### Impact and sustainability

Based on the above assessments, the evaluators shall analyse [not “measure”] if and how the projects have contributed to their overall objective and that of EIDHR support in this field; *“The progressively restrictive use of the death penalty and its eventual universal abolition”*. The example of indicators included in the call for proposals 2005-2006, Campaign One, should be included in the analyses, but it should not be limited to these.

In addition the evaluators should analyse the following three issues:

- The evaluators should in its impact analyses give special attention to the Philippines, where the death penalty has recently been abolished.
- What is the impact of the different strategies chosen and of possible coalition building (see further above under Effectiveness)?
- Assess the impact of projects that have addressed gender based discrimination and child protection.
- Assess complementarity between EIDHR ADP projects and ADP projects supported by other donors, where relevant.
- Assess complementarity between EIDHR ADP projects and projects and programmes by other EC services in related fields (penal reform and reform of the justice sector for example), where relevant.

#### ➤ Expected results

The expected result is a final report that is analytical in its approach and analyses and answers the questions raised in these TOR. The evaluation should be forward-looking, providing lessons and recommendations for the continued support to civil society initiatives aiming at the abolition of death penalty. The evaluation shall present objective, credible, reliable and valid **findings** on all the issues raised above. The findings will lead to a set of **conclusions**, and related lessons, which will lead to a set of **recommendations**, which should be expressed clearly enough to be translated into operational terms by the Commission.

The second expected result is a leaflet that presents the major findings and conclusions of the evaluation in a reader-friendly text and layout in order to be distributed in a conference open to a wide audience.

#### ➤ Requested services including methodology to be applied

The evaluation process, techniques and research methods will be the following.

Steps in the process:

1. Desk-study. On the basis of the findings of the desk study, projects to be included in the field study should be selected.
2. Field study
3. Reporting
4. Feedback and Dissemination – Debriefing meeting in Brussels when the evaluators have submitted a draft of the full report to the EC. Dissemination Seminar in Brussels and/or Paris.

### **Desk study:**

In the desk study phase the consultants shall:

- Study documents/ materials of each project (interim or final reports), programming documents including the “guidelines for applicants” of the relevant calls for proposals, the contracts and the EIDHR activity reports and programming documents. It should also include EU policy documents concerning abolition of death penalty as well as the EU Annual report on Human Rights. The EuropeAid Task Managers of these operations will be available to discuss and provide further documentation on the projects.
- Interview and discuss with relevant staff in the different EC services.

### The outputs of the desk study:

- A proposal of relevant projects for site visits. This shall be discussed and decided with responsible EC task managers.
- A draft programme for the field study, including persons to be interviewed, projects to be visited and interview questions.
- A preliminary categorization of all projects will be made according to performance (satisfactory/unsatisfactory) and classification according to the objectives of the project (awareness raising, educations, developing enforcement strategies, capacity building, etc).
- Suggestions, if needed, of changes or amendments to the TOR and/or work plan.

### **Field Study:**

- Interviews with EC delegations task managers, relevant representatives from the direct and indirect project target groups and with present and former participants in the project activities.

### The output of the field visit:

- Brief reports on the missions, which will be the building blocks for the synthesis report which will be written in the reporting phase.

### **Reporting phase:**

The output of the reporting phase will be:

- An evaluation report, including an executive summary, the overall findings, conclusions and recommendations.
- A reader-friendly summary of the report which shall be printed in a leaflet format.
- A brief, reader-friendly summary of the visited projects, including project descriptions and major outcomes and possible impact to be annexed to the report.
- A ready to re-print format and a ready to put on the web format of both leaflet and the full evaluation report.

### **Feedback and Dissemination**

The evaluators will first present a draft of the leaflet including a summary of the evaluation. The EC will have three days to give comments on the leaflet. The leaflet will be distributed at the Third World Congress against the Death Penalty, taking place in Paris on 1-3 February 2007.

Secondly, a draft of the full report will be presented to the EC. Involved parties will have two weeks to comment on that. During these two weeks a debriefing seminar will

be held in Brussels with participation of the evaluators and parties involved in the evaluation, to discuss the draft report.

The evaluators shall take comments from the debriefing seminar and written comments into consideration before submitting the final report.

The evaluators shall present the report in a seminar for dissemination and discussion on the findings and recommendations of the evaluation. The seminar will take place in Brussels or in Paris in connection with the Third World Congress against the Death Penalty.

### 3. EXPERTS PROFILE

➤ **Number of requested experts per category and number of man-days per expert**

Two experts are needed for this assignment. They should be from two different categories, to be suggested by the consultant. The more experienced of the two will be team leader. They will present a proposal to the EC of how they plan to divide the work between them.

Desk study: 12 man days (6 days per expert)

Field phase: 25 working days (to be divided between the experts)

Reporting phase: 18 man days (to be divided between the experts)

Total: 55 working days

**Profile required (education, experience, references and category as appropriate)**

Requirements for the experts:

- Fluent in English
- Working level of French (for one of the experts)
- Vast evaluation experience
- Expertise in human rights issues in general and development cooperation work in the human rights field in particular (the latter for at least one of the experts).
- One of the experts shall have extensive expertise of death penalty issues.
- Insight in the operations of the European Union, preferably the EIDHR
- One of the experts shall have journalistic experience or other equivalent experience (ability to write "reader-friendly" text).

➤ **Working language(s)**

The working language of this evaluation will be English

### 4. LOCATION AND DURATION

➤ **Starting date**

A preparatory meeting will be held in Brussels on **30 October 2006**, where the EC and the experts will discuss the objectives, methodology and calendar of the assignment. The experts shall at this meeting present their interpretation of the terms of reference and how they intend to apply the indicated methodology.

➤ **Foreseen finishing date**

The 100 hard copies of the final report and everything else required in these terms of reference shall be submitted to EC no later than **15 February 2007**. However, the 500 copies of the leaflet will be submitted at an earlier date. Since the leaflet will be distributed at the Third World Congress against Death Penalty taking place in Paris 1-3 February 2007 no delays of submission of the leaflets can be accepted.

➤ **Planning**

First phase: Desk study shall start on the 30 of October 2006. Before 15 November the evaluators and EC task manager shall have met and decided on the second phase.

Second phase: Field Study shall start the 15 November.

Third phase: A draft of the leaflet shall be submitted to the EC no later than 8 January 2007. The EC services shall submit their written comments on 10 January at the latest. The printed leaflets shall be submitted to the EC no later than 26 January. (The final version must be approved by EC before printing – see further below.)

A draft of the final report shall be submitted to the EC no later than 22 January 2007. The involved parties shall submit their written comments on 5 February at the latest. The final report shall be submitted to EC on 15 February.

➤ **Location of assignment**

The location of the desk study will be Brussels and the field visits will be identified by the desk study. Field visits include both to the projects and to the partner organisations' offices in Europe and elsewhere. An estimate has been made that the field trips will include one journey to the USA, two or three journeys to the ACP region and two or three journeys to Asia.

## 5. REPORTING

The reporting will be made in two phases. First, the evaluators shall submit the reader friendly summary leaflet in 500 copies. This will be distributed at the World Conference in February. The leaflet shall include a brief introduction with background, the major findings and conclusions of the evaluation and give a few examples of positive achievements of the programme (if there are any).

Secondly, the evaluators shall submit the complete final report in 100 hard copies. The full evaluation report shall not exceed 50 pages (annexes not included).

The report shall include an executive summary, "main text" - including introduction, background, brief description of methodology and findings, conclusions and recommendations. In annex the report shall include: TOR, methodology of the evaluation, list of persons interviewed and places visited, literature and documentation consulted, the brief reader-friendly summaries of visited projects, and other relevant technical annexes.

Both the full evaluation report and the leaflet shall be submitted in two electronic versions (word and pdf format) in a ready to re-print format and in a ready to put on the web format.

➤ **Language**

The full report and the leaflet shall be submitted in English.

➤ **Date of submission**

A draft of the leaflet shall be submitted to the EC no later than 8 January 2007 and the 500 printed leaflets no later than 26 January. Due to the sensitivity of the issues, the content and layout of the leaflet must be approved by EC before printing.

A draft of the full Final report shall be submitted not later than 22 January 2007 and the final report on 15 February.

## 6. ADMINISTRATIVE INFORMATION

➤ Other costs to foresee under ‘Reimbursable’

- There will be travel costs, for travels to Brussels, for field visits and for the dissemination activity.
  - For the travels there will also be costs for daily allowances (per diems) and hotels.
  - Thirdly the budget should include costs for the printing of 100 hard copies of complete evaluation and 500 leaflets containing a summary of the report.
- The EC must receive the final invoice from the contractor before June 2007.

## **Annex 4: Overview of ADP projects funded by the EC since 1994**

This annex gives an overview of all the projects related to the death penalty funded under the EIDHR procedure since 1994 (including the projects not covered by the evaluation). The data are taken from information on file, mainly “Annex 1” of contracts. The numbering (1 to 28) is that of the consultants.

Under each project outline, the consultants have added their views about the projects, wherever they were able to form such a view. Each entry describing the projects is structured as follows:

- ADP project number: this number has been assigned by the consultants and goes in chronological order from 1 to 28.
- EC project reference number and project title. This is the year of project approval followed by the project number that year (eg, 98/100), followed by the project title. From 2002 this numbering was replaced with the CRIS number.
- Name and country of headquarters of the organisation which received the grant. Most organisations are NGOs, although some are not (academic institutions, etc).
- Summary of the project contents.
- Project data (budget, amount requested from the EC, percentage of EC support, beneficiary country, target groups). All these data are as provided by the applicant.
- Comments: this section summarises the view formed by the evaluators about the project, if they have one, or gives any other information obtained about the project in the course of the evaluation.

### **1. 94/157 Assistance for prisoners under sentence of death in the Caribbean Penal Reform International – UK**

#### **Summary**

A project to investigate prison conditions and the previous trial processes for prisoners currently under the death sentence in the Commonwealth Caribbean and to develop legal appeals to the UK Privy Council and the UN Human Rights Committee.

Total Proposed Budget:	€ 57,000
Amount requested from the EC:	€ 35,210
Percentage of total:	61.77%
Beneficiary Countries:	Commonwealth Caribbean
Target Groups:	Prisoners

#### **Comments**

This project was formally included in the scope of the evaluation, despite the fact that it otherwise only covers projects implemented since 1998, because it was the precursor to subsequent projects in the Caribbean. However, this project was too old to be evaluated in its own right in 2007. It was the first of a series of projects in the Caribbean funded by the EC. In all these projects, although Penal Reform International was formally the grant-receiving NGO, the work was actually carried out by two London-based lawyers, in coordination with Caribbean-based lawyers and NGOs. In view of the long line of

subsequent projects spawned by this first one, it appears to have been an effective one. Its strategic approach to seek high-level court scrutiny of the legal process leading to death sentences, and of prison conditions, proved very fruitful.

## **2. 95/142 Assistance for Prisoners under Sentence of Death in the Caribbean Penal Reform International – UK**

### **Summary**

The aim of the project is to investigate the cases of 70 prisoners, to initiate constitutional appeals where prisoners are detained in intolerable conditions, to investigate miscarriages of justice and to make applications to the UNHRC where violations of the International Covenant on Civil and Political Rights are alleged.

Total Proposed Budget:	€ 57,439
Amount requested from the EC:	€ 45,906
Percentage of total:	79.92%
Beneficiary Countries:	Commonwealth Caribbean
Target Groups:	Prisoners

### **Comments**

The same remark as above (project 1) applies as to its inclusion into the scope of the evaluation. This project was the logical follow-up to the previous one, and was implemented by the same individuals and organisations. Too old to be evaluated in its own right, it is clear that, like the above, it has left a visible trace in subsequent EC-funded projects.

## **3. 95/178 Initiative against the Death Penalty in Islamic Countries**

**Hands off Cain – Italy/Belgium** (Not included in the evaluation because project is old, and was not followed-up with further EC grants).

### **Summary**

To prepare a round-table in Tunisia on the death penalty in Islamic countries, with experts on the Koran and Islamic legal systems; to translate and publish the conclusions of the round-table for presentation at the Euro-Mediterranean Ministerial Conference in Barcelona in November 1995.

Total proposed budget:	€156,000
Amount requested from EC:	€131,000
Percentage:	84%
Beneficiary countries:	worldwide
Target groups:	general public

### **Comments**

This project was not included in the evaluation. However the project does not appear to have had a noticeable impact beyond the very short-term.

**4. 96/069 10 Countries, 10 Cities, 100,000 Signatures against the Death Penalty Hands off Cain – Italy/Belgium** (Not included in the evaluation for the same reason as above project 3)

**Summary**

Support for a campaign to have 10 countries present a request for a resolution on a moratorium on the death penalty to the United Nations.

Total proposed budget:	€170,000
Amount requested from EC:	€120,000
Percentage:	71%
Beneficiary countries:	worldwide
Target group:	general public

**Comments**

This project was not included in the evaluation and was also old. However, it appears not to have achieved a noticeable impact at the time. The soundness of the project strategy is doubtful, as it is unlikely that petition-based campaigns have much chance of influencing countries' positions at the UN, least of all at the UN General Assembly on a topic as sensitive as the death penalty. In more recent years, NGOs working on the death penalty have been very wary of seeking UN General Assembly support for abolition or moratoria, because such support is not forthcoming and votes are widely believed to risk entrenching anti-abolitionist positions.

**5. 96/187 Assistance for Prisoners under Death Sentence in the Caribbean Penal Reform International – UK**

**Summary**

Provision of legal assistance to prisoners under sentence of death in the Commonwealth Caribbean. Establishing cases of miscarriage of justice and violations of domestic and international human rights law.

Total Proposed Budget:	€ 596,496
Amount requested from EC:	€ 512,952
Percentage of total:	86%
Beneficiary Countries:	Commonwealth Caribbean, other Caribbean countries, UK
Target Groups:	Prisoners sentenced to death

**Comments**

See above remarks (projects 1 and 2) about reasons for inclusion into the evaluation. This project represents a significant scaling-up of previous projects following the same approach. The scaling-up in budget was explained in part by the addition of a training dimension to the original legal support strategy, and by the fact that, as more cases were reaching the UK's Privy Council at the time, more legal resources needed to be mobilised. While this project was also too old to be evaluated in its own right, it is clear from subsequent projects that the continuity provided by the funding over several years contributed to the effectiveness of the overall strategy.

## 6. 97/227 United Nations for the Abolition of the Death Penalty

**Hands off Cain – Italy/Belgium** (Not included in the evaluation for the same reason as above, project 3)

### Summary

Documenting and disseminating the UN position against the death penalty and different actions (campaigns, reports, conferences, etc) aiming to persuade a greater number of countries to endorse the resolution against the death penalty at the UN Commission on Human Rights.

Total Proposed Budget:	€ 244,500
Amount requested from EC:	€ 167,000
Percentage of total:	69%
Beneficiary Countries:	worldwide
Target Groups:	general public

### Comments

Although this project is not included in the evaluation, it raises the issue of divisions amongst NGOs about the strategy to adopt in relation to the UN, and of the impact on the strategy of the EC as a funder. Organisations like Amnesty International have opposed the tabling of resolutions on the death penalty in UN contexts (particularly the General Assembly) out of concern that the regular rejection of such draft resolutions dampens the interest for the issue and indirectly strengthens pro-death penalty countries. By funding this project, the EC may in effect be taking a side in this delicate strategic debate.

## 7. 97/237 Assistance for Prisoners under Sentence of Death in the Caribbean Penal Reform International – UK

### Summary

Free legal assistance to prisoners condemned to death in the commonwealth Caribbean. This includes appeals to the Judicial Council of the Privy Council, the United Nations Human Rights Committee and the Inter-American Commission on Human Rights, alleging violations of human rights.

Total Proposed Budget:	€ 132,573
Amount requested from the EC:	€ 84,149
Percentage of total:	63.47%
Beneficiary Countries:	Commonwealth Caribbean
Target Groups:	Prisoners

### Comments

The project is the continuation of previous ones in the Caribbean region, and comments made above apply.

**8. 99/0341 Training programme aiming at improving conditions of detention and supporting penal reforms worldwide** (*Création d'un programme adapté de formation visant à l'amélioration des conditions de détention et à l'accompagnement de réformes pénales à travers le monde*)

**Penal Reform International – UK**

#### Summary

Worldwide judicial training project.

#### Comments

This project would appear to have no spelt-out and direct link to the death penalty. It is unclear if the death penalty is as actually mentioned at all. Additionally, it appears as if some of the target countries were already abolitionist when the project was implemented. On the basis of the information provided, the consultants would not categorize this as a death penalty project.

**9. 99/0739 Joint Programme “Abolition of the Death Penalty: Action to Foster Public Awareness”**

**Council of Europe**

#### Summary

The prime objective of this programme of awareness raising on the abolition of the death penalty was “*to ensure that Governments and Parliaments fulfil their commitment to sign and ratify Protocol N° 6 of the European Convention on Human Rights and Fundamental Freedoms, to remove the death penalty from their Statute books, and pending this, to maintain a moratorium on executions.*” In addition, the project aimed at:

- Changing national attitudes on the death penalty and raising awareness about the abhorrent nature of this sanction from a human rights point of view, as well as about its ineffectiveness as a means of tackling serious crime.
- Increasing awareness in the countries of Europe of the reasoning behind abolishing the death penalty, and why the democracies of Europe believe that capital punishment has “no legitimate place in the penal systems of modern civilised societies”.

The project targeted specific groups:

- parliamentarians and political elites
- decision-makers and persons involved in the “machinery of death” (judges, prosecutors, law enforcement officials, doctors)
- schools and universities
- non-governmental organisations
- members of the public

The project involved the elaboration of specific strategies in each of the main target countries which have yet to abolish the death penalty

Total Proposed Budget: € 669,700

Amount requested from the EC: € 334,850

Percentage of total:	50%
Beneficiary Countries:	Russian Federation, Ukraine, Turkey, Albania
Target Groups:	Politicians, legal experts, journalists, general public

### Comments

This project was assessed by the EC itself as having lacked effectiveness. The evaluators were not able to visit any of the countries covered by the project, but note that all of the countries covered by this project had *de facto* moratoria on the death penalty in place at the time of the project. The project therefore focused on the ratification of Protocol No 6 of the European Convention and on domestic legal reforms aimed at turning the *de facto* moratorium into formal abolition of the death penalty. Of the four countries, three have abolished the death penalty since 1999. The aim of achieving formal abolition in the four countries was unrealistic because of the situation in Russia. It is also to be noted that there were no synergies from the selection of the four target countries.

### 10. 704/2000/T-99/354 Assistance for Prisoners under Sentence of Death in the Caribbean

**Leader: Penal Reform International – UK**

**Partner: Simons Muirhead and Burton – UK**

### Summary

The project is aimed at assisting prisoners under sentence of death in the Caribbean, who do not have the financial resources to challenge their convictions, or to establish violations of their human rights. Activities include: cooperating with local lawyers and NGOs to investigate miscarriages of justice; initiating domestic human rights actions; applications to international human rights bodies; and improving prison conditions. Since 1992, the project has benefited 174 prisoners who have had their capital convictions for murder quashed as miscarriages of justice, or commuted to a term of imprisonment.

Total proposed budget:	€ 596,456
Amount of EC contribution:	€ 512,952
Percentage of total:	86%
Beneficiary Countries:	Saint Vincent, UK, St Kitts and Nevis, Jamaica, Antigua and Barbuda, Trinidad and Tobago, Barbados, Bahamas, other Caribbean Countries
Target groups:	Prisoners

### Comment

This project is the first in which Simon Muirhead and Burton, a London law firm, appears formally as a partner with PRI. In fact, two of the firm's lawyers had been implementing PRI's projects in the Caribbean since 1994, so this formal partnership was a recognition of an established fact. Compared to previous years, the project was noticeably enlarged, with work undertaken in more countries in the English-speaking Caribbean and more local engagement, mostly in the form of training for lawyers and legal aid to prisoners on death row. It is to be noted that some of the work done under the project, which focused on conditions of detention, also benefitted non-death row prisoners serving long sentences.

## **11. 704/2000/t-99/094 Capital Punishment – activities informing and supporting strategies to establish alternatives to the death penalty**

**University of Westminster – UK**

### **Summary**

This project aims to increase awareness of capital punishment activities. Activities will include internships at the University of Westminster’s capital punishment studies department; the establishment of specialised databases to support US defence lawyers who represent those convicted of capital crimes and lawyers engaged in capital litigation in the Caribbean and the UK; a lecture series on capital punishment; the setting-up of a capital punishment studies library; research activities; public information/raising awareness actions.

The Centre on Capital Punishment Studies (CCPS) has established a number of initiatives to enhance knowledge and understanding of the death penalty. Its work is directed towards: the human rights and educational community; the legal and medical professions; the Churches; victims groups, NGOs and the political community through such activities as: scholarship, applied research, lecture and seminar programmes, vocational and professional training, collaboration with human rights groups and dialogue with victims groups and supporters of the death penalty. CCPS's objective is to shine a light into those areas of ignorance so informing and supporting moves to replace capital punishment with a penalty that is humane and proportionate, provides adequate security to society and is sensitive to the needs and rights of victims and those that survive them.

Total Proposed Budget:	€ 705,955
Amount of EC contribution:	€ 675,859
Percentage of total:	90.00%
Beneficiary Countries:	UK (site of the Centre and of the planned library), Philippines, Virgin Islands (US), Caribbean, Rest of the world
Target Groups:	Prisoners, legal professionals, general public

### **Comments**

Despite an impressive Annex 1 there is little detail on outputs. One problem encountered by the project has been space to house the planned specialist library. However, it is understood that the Centre is soon to move to dedicated premises which will hopefully address this problem and allow greater access to outside researchers. It is unfortunate that the lack of any monitoring of the CCPS’s work over a long period has resulted in disagreements and misunderstandings between the Centre and the EC. The project, especially the internship programme, has been praised by many of the beneficiary organisations who the consultants have met with. While the Centre’s views on death penalty abolition strategy are not always shared by others, the expertise within the Centre is widely recognised and respected.

**12. 707-2000/005 – Research, training and extension services on forensic DNA analysis  
University of the Philippines**

**Summary**

The project aims at using the existing DNA Analysis Laboratory and its staff as a proponent laboratory to spearhead the development of forensic DNA typing locally and regionally. Activities include the DNA testing of pre- and post-conviction cases, research and scientific publications; as well as training of local and international (south-East Asian) personnel. The methods are key in contributing to the gradual abolition of the death penalty in the Philippines. There are over 1,100 death row convicts in the Philippines, most of whom lack the means to hire legal assistance. Proving death row convicts innocent with DNA testing could greatly affect the current pro-death public opinion. It is an objective and non-controversial method to fight against the death penalty by exposing miscarriages of justice.

Total Proposed Budget:	€ 682,988
Amount of EC contribution:	€ 305,593
Percentage of total:	44.70%
Beneficiary countries:	Philippines
Target groups:	Law enforcement agencies, judges, lawyers, forensic scientists

**Comments**

This impressive project is apparently the first time that the EC has supported a scientific project proposal of this type. The project is closely linked to other aspects of a grand coalition of activities advocating abolition and in this way was able to focus attention on possible cases of miscarriage of justice. Using DNA tests to question paternity of rape victims who have subsequently given birth was a well judged intervention in a much larger and complex debate. The project has led to numerous beneficial consequences beyond its scope including enhancing rigorous scientific involvement in criminal law. It is also important to note that the project included activities in which other scientists linked to the judiciary in neighbouring Asian countries were involved. The potential for this project as a regional good practice model is significant.

**13. 707-2000/070 – Anti death penalty campaign of the free legal assistance group (FLAG) HR Foundation Inc.  
The free legal assistance group (FLAG) HR Foundation Inc. – Philippines**

**Summary**

Support for FLAG’s campaign to abolish the death penalty. The campaign includes a wide range of activities: access to legal assistance by convicted people and persons on death row who cannot afford private defence lawyers, the project might provide: consultation, representation, prosecution, defense to fight against human rights violations and advocacy for the abolition of death penalty.

- 1) The centrepiece of the campaign is the provision of legal services in 80 capital cases; this includes the conduct of fact investigations and forensic examinations, including DNA testing, if necessary.

- 2) Training of lawyers handling capital cases through annual workshops and the publication of a monthly newsletter.
- 3) Lobbying congress
- 4) Conduct research and disseminate information with a view to influencing public opinion.

Total proposed budget: € 320,205  
 Amount of EC contribution: € 200,205  
 Percentage of total: 62.5%  
 Beneficiary country: Philippines  
 Target groups: Law enforcement agencies, judges, lawyers, forensic scientists

### Comments

An impressive and effective project that seems to have played a major role in the recent abolition of the death penalty in the Philippines. FLAG also received interns as part of the University of Westminster project. The same named person, Ms. Diokno (Secretary General of FLAG), appears throughout project documents, correspondence and even completed the questionnaire, indicating continuity of staff, a good sign.

Elements of the project that were particularly interesting included the strategic advocacy focus on individual senators and congressmen and women seen as key in voting through abolitionist legislation. This included the preparation of 'briefing boxes' comprising questions and answers for politicians, the contents of these boxes often being used word for word by politicians. FLAG also played an essential role in the drafting of legislation which was later adopted on the issue. Despite being a coalition effort, FLAG is clearly driven by an energetic and extremely well-connected Director. It is very doubtful that this project would have achieved the success it has without the efforts of this individual.

Question over what now happens to all those on death row (over 1000!). This project also illustrates good practice in that it was closely monitored by the EC at Delegation and Headquarters levels.

## 14. B7-701-3163 2002 – 2003 UN Moratorium on Executions Hands Off Cain – Italy/Belgium

### Summary

Project aims to create the conditions (at the political and institutional level and at the level of public opinion) to have a resolution for a moratorium on executions passed by the UN General Assembly.

Total project budget: € 1.105.354  
 Amount of EC contribution: € 883.213  
 Percentage of Total: 80%  
 Beneficiary countries: Worldwide  
 Target groups: Politicians, UN representatives, prisoners on death row, general public

### Comments

One of the quantitative indicators of this project is the number of cosponsors of the successive resolutions on a moratorium at the General Assembly. These indicators should have been questioned. It would be very difficult to show a link between Hands Off Cain's work and the number of cosponsors. It should also be examined to what extent the approach of NGOs like Hand Off Cain is actually counterproductive, in that it antagonises governments and irritates their natural supporters. There is no sign of an objective evaluation of their approach or results conducted by the NGO itself or by other outsiders. There is a danger of sending a message of moral superiority (or "moral imperialism") which would not be helpful.

## **15. 2001 – 0254 Sector: Promotion and protection of Human Rights in Iran Article Z – France**

### Summary

The project aimed at addressing human rights concerns in Iran through documentary films on human rights issues. Five 30-minutes films by Iranian film-makers were to provide a "inside view" of issues such as ADP, racism, etc.

Total project budget:	?
Amount of EC contribution:	€ 300,000
Percentage:	?
Beneficiary country:	Iran
Target group:	General public

### Comments

This project was in effect itself a call for proposals aimed at Iranian film-makers. It was therefore dependent on the scenarios proposed by potential film-makers. Its connection with the death penalty was remote, which the application form itself acknowledged. In practice, one of the films did deal with the situation of people facing a death sentence, but not with the issue of the death penalty itself. There is no evidence that the films themselves had any impact in Iran, and indeed no evidence as to the audience which saw any of the films in the series. (There are also issues about ownership of the eventual material, and of rights. In particular, it is unclear to what extent the project had a commercial dimension.) Finally, neither the proposal nor subsequent documentation provided information about how any awareness-raising activities surrounding the films. This project should not have qualified as an ADP project.

## **16. ADP 07CRIS 031-160, 2002 – The Commonwealth Caribbean Death Penalty Project Penal Reform International – UK**

### Summary

The aim of this project is to further restrict the implementation of the death penalty in the Commonwealth Caribbean (Jamaica, Trinidad & Tobago, Barbados, Bahamas, St Vincent and the Grenadines, St Lucia, Dominica, Antigua & Barbuda, Belize, St Kitts & Nevis, Grenada, Guyana, Costa Rica), with a view to its eventual abolition. Those sentenced to death in the region are the immediate target group. The main activities of this project are: (i) the provision of assistance and free legal representation to those on

death row; (ii) strategic litigation at both the national level in criminal and constitutional proceedings and at the international level in individual and group applications to international human rights bodies such as the UN Human Rights Committee and the Inter-American Commission and Court of Human Rights; (iii) consultation and dialogue with governments, judges, lawyers and human rights workers in the region; and (iv) the provision of inter-active training, backed up with high level publications and to conduct criminological and legal analysis.

Total project budget

Amount of EC contribution: € 1,128,341

### Comments

This project is the continuation of previous ones.

## **17. CRIS 031-167 – Strengthening the defence of death penalty cases in the People’s Republic of China Great Britain China Centre – UK**

### Summary

The main aims of the project were to strengthen the capacity of defence lawyers to promote the legal rights of those accused of capital crimes. It did this through training modules for lawyers, workshops with legal aid centres, professional networking, high-level dialogue and research.

Total project budget € 628,755

Amount of EC contribution: € 487,790

Percentage: 77%

Country: People’s Republic of China

Target groups: Chinese defence lawyers, Chinese legal academics; Ministry of Justice officials and legal aid centre staff; Chinese judges; Chinese prosecutors; Chinese legislators

### Comments

The premise of the GBCC project approach is that explicit and direct focus on abolition of the death penalty is a non-starter in China. This is also the case for attempts to reduce the number of crimes regarded as capital offences. Statistics related to the death penalty are regarded as state secrets and there is considerable official sensitivity in this area. For this reason, the GBCC decided to focus its efforts on improving the legal defence for those facing capital charges. The project has chosen local partners, the majority of them academic, who share these concerns. As luck would have it the project also coincided with a growing unease in academic and legal circles in China that the death penalty was being used too liberally, that there were serious risks of miscarriage of justice and that, due to weak defence and growing discrepancies at the provincial level, there was a growing discriminatory aspect to the use of the death penalty.

This recently completed GBCC project can be regarded as an overall success. It is worth noting that the GBCC enjoys good relations with the Chinese authorities – an essential pre-requisite to being able to work in this highly sensitive area in China.

## **18. CRIS 031-186 – Informing and supporting strategies for replacing the death penalty**

**University of Westminster – Centre for Capital Punishment Studies – UK**

### **Summary**

See above, no 11.

Total project budget	€ 1,167,302
Amount of EC contribution:	€ 905,480
Percentage:	77%
Beneficiary Countries:	United Kingdom, British Caribbean Commonwealth [Jamaica and Trinidad & Tobago], Belarus, Taiwan, South Korea, United States of America, Malawi, Botswana, Philippines, Kazakhstan, Kyrgyzstan
Target groups:	Students, lawyers engaged in capita litigation, Academics, TV, press and programme producers, victims groups, The condemned and the families of the condemned, Supporters of the death penalty, Politicians, medical profession, the church, the Judiciary, the police and prison services in any country with the death penalty.

### **Comments**

See above.

## **19. CRIS 050-686 Strengthening the abolition of the death penalty. Campaign by Information Drive**

**Philippines Human rights Information Centre (PhilRights)**

### **Summary**

The project complimented and supported other ongoing lobbying and advocacy processes aimed at the abolition of the death penalty in the Philippines. Activities included a series of public forums, production of materials including posters, stickers, t-shirts, badges, media work and some legal research.

Total project budget	€ 300,000
Amount of EC contribution:	€ 300,000
Percentage:	100%
Country:	Philippines
Target groups:	Government institutions/agencies specifically the Philippine Congress, Commission on Human Rights, Media, Non-government/civil society organizations, Academe, General public.

### **Comments**

The project was less effective than the other two EC ADP funded projects in the Philippines in terms of strategic thinking and timing. However, public advocacy work may prove crucial in the long run to ensure that the death penalty is never reintroduced and in contributing to the eventual signing of the 2<sup>nd</sup> Optional Protocol. PhilRights

activities also helped broaden the anti-death penalty coalition in the Philippines. There are questions about the national scope of this project.

**20. CRIS 031-204 Soutien aux défenseurs des droits de l’Homme dans leur mobilisation en faveur de l’abolition de la peine de mort  
Federation Internationale des Ligues des Droits de l’Homme (FIDH) – France**

**Summary**

The project involved four key themes:

- Gathering of information about situations where the death penalty is used;
- Awareness-raising of public opinion and opinion leaders;
- Support to ADP activities at local and international levels;
- Legal support to people sentenced to death.

Activities:

- Three international research missions per year, each with a follow-up mission in the same country;
- One study mission per year concerning a “closed” country;
- Missions to cover the following regions: Americas, Asia and Central Asia/Europe, Africa and North Africa/Middle East;
- Work with international organisations in Geneva, New York and Brussels.

Total project budget	€ 764,000
Amount of EC contribution:	€ 611,200
Percentage:	80%
Beneficiary countries:	Worldwide, with regional focus as above
Target groups:	NGOs, Lawyers, decision makers, local media, general public and international organisations.

**Comments**

A complex project encompassing the activities of FIDH itself and those of its affiliates in relation to the death penalty. The connexion with human rights defenders is tenuous, except when these are understood as being mostly FIDH’s own affiliates, not individuals. Good work was produced, although it is sometimes difficult in the case of the missions abroad to distinguish the input of this project from that of other projects covering the same countries and financed from other sources. Partly as a result of the fact that FIDH has a presence in Brussels and that the staff managing this project were familiar with the institutions of the EU and the EIDHR procedures, FIDH experienced no particular difficulty in the relationship with the EC over project management.

**21. CRIS 031-087 A study of How States’ Death Penalty Systems Comport with Minimum Standards Designed to Protect Due Process and Fairness  
American Bar Association - USA**

**Summary**

The objectives of the project were:

- To further the goal of a nationwide moratorium on the death penalty by providing new information on target states’ death penalty systems;

- To provide state and federal policymakers with relevant information for use in advocating a moratorium;
- To increase the legal profession's participation in advocacy for a moratorium;
- To increase public awareness about the need for a moratorium;
- To strengthen the knowledge base of other organisations and networks working in target states

The project consisted in conducting a series of assessments of the legal safeguards used in the 16 target states in relation to the death penalty. These are to be used to lobby states for further studies and call for moratoria on the basis of the weakness the assessments will highlight.

Total project budget: € 1,075,198  
 Amount of EC contribution: € 860,159  
 Percentage: 80%  
 Beneficiary country: USA (16 states where the death penalty is in use)

### Comments

This very impressive and highly strategic project is contributing to a significant degree to the debate about the death penalty in the USA. In essence, the project consists in carrying out (and disseminating) very detailed studies of the legal process used in key US states where the death penalty is in use (the project originally expected to cover all such states in detail, but the cost and logistics of the study led to a decision to restrict the number of states covered). The studies (over 200 pages, 13 chapters) all follow a similar template and examine the totality of the legal process, from police criminal investigation procedures to jury selection and methods of execution. Each aspect is analysed according to a set template, which allows for comparisons between states. In each case, all the loopholes and weaknesses of the process are noted, and recommendations made for remedies to be brought.

On the basis of these and other similar reports, the ABA has taken the position that it calls for moratoria on the use of the death penalty in each state concerned, until all the identified weaknesses have been addressed. The project demonstrates, however, that it is virtually impossible to address all the weaknesses of the process – indeed, no state has been able so far to reform its legal system to meet all the concerns expressed by the ABA and other NGOs.

The detailed research templates developed by the ABA for these projects could be used in other jurisdiction, where they could form the basis of a very persuasive call for radical reform or moratoria. The project has led to the development of high-quality research and reporting. The reports issued so far have been disseminated through the ABA itself (at its conferences) and the findings have been the object of effective media work. In addition, there were conferences and debates at law faculties in the target states and elsewhere,

The project is probably too recent for its impact to be assessed fully, because some reports have yet to be published. However, in those states where the reports have been issued, there has been an increase in the visibility of the debate about the legal system

surrounding the death penalty, shown for example through the holding of state congressional hearings.

## **22. CRIS 031-093 Legal Tools for Commonwealth Africa British Institute of International Comparative Law – UK**

### **Summary**

The Project aims at strengthening the capacity of lawyers (and a wider group of decision makers) to challenge the death penalty through the use of comparative legal materials. By fostering the development of a network of death penalty litigators, collaborating with lawyers and NGOs in assembling legal materials on the application of the death penalty and providing training on strategic uses of such comparative material, the Project aims to better equip the legal profession in the target countries to make use of the law to press for the abolition of the death penalty. The Project will create the foundations for further collaboration through the establishment of a network of Commonwealth legal professionals trained in abolitionist legal strategies and armed with strategic legal tools to challenge the imposition of the death penalty.

Total project budget:	€ 519,470
Amount of EC contribution:	€ 415,576
Percentage:	80%
Beneficiary countries:	Botswana, Cameroon, Ghana, Kenya, Lesotho, Malawi, Nigeria, Sierra Leone, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe.
Target groups:	Defence Counsel; Prosecutors; Judges; Legislators; Government Officials; Human Rights officials; NGOs; Prisoners; Defendants; Women and Children.

### **Comments**

Web site set up as part of project does not appear to be functioning. Handbook is being sold for £150 pounds per copy – who benefits from its sale? According to the final report, a EuropeAid Headquarters delegate visited the project but there is no sign of mission report or note for the file.

## **23. CRIS 068-267 Laying the Groundwork for Change: A Three-Year Program of Intensive Public Education, Outreach to the Media, and Assistance to Death Penalty Organisations Death Penalty Information Centre (DPIC) – USA**

### **Summary**

Three components in the project:

- campaign to seek media coverage of death penalty issues;
- encouraging increased debate about the death penalty in the education curricula;
- provision of training and advice to local and national groups working on the death penalty.

Activities:

- report on innocence and the death penalty (updating a previous report);
- assessment of each of the 38 states where the death penalty is in force;

- report on the deterrence theory;
- report on the use of the death penalty in federal crimes;
- reports on the arbitrariness and cost of the death penalty;
- development of educational material for high schools;
- message development and media training workshops.

Total project budget: € 562,360  
 Amount of EC contribution: € 449,888  
 Percentage: 80%  
 Country: USA  
 Target group: US public; prisoners threatened with execution.

### Comments

This project supports many of the activities of the DPIC, which is widely seen as a source of objective research and information about the death penalty in the USA. Like the ABA project, the DPIC one does not purport formally to be abolitionist, because doing so would alienate the very interlocutors whom the Centre seeks to engage: people and institutions which support the death penalty (or at least have a positive view of it). The DPIC is gradually developing links with a number of relevant sectors of society, most recently the teaching community (through the development of education material that teachers can use to help foster debates amongst students about the death penalty). It is planning to address religious communities in a more structured manner in future. A key aspect of the DPIC's work is its responsiveness to the media, and its availability to testify and otherwise provide information to state legislatures.

The project contributed to the development of documentation for use by different audiences, such as curricula for college students, briefings for the media and state congresses, etc. The research and media work has contributed to enhancing the reputation of DPIC as a credible national resource on the death penalty.

## **24. CRIS 098-791, 2004 Advocacy for the abolition of the death penalty The Independent Jamaica Council of Human Rights Limited – Jamaica**

### Summary

The IJCHR engages in a variety of activities, including human rights education, legal aid to prisoners, human rights advocacy, advocacy for constitutional and legal reform. This project focuses on advocacy and human rights education and on support for prisoners on death row and prisoners serving life sentences.

Total project budget: € 400,000  
 Amount of EC contribution: € 320,000  
 Percentage: 80%  
 Country: Jamaica  
 Target groups: Jamaican citizens, attorneys representing clients accused of murder, persons charged with murder and inmate convicted of murder and the Government of Jamaica

### Comments

This project is being managed by the EC delegation in Kingston, with the result that the EC in Brussels seems to have little information about it despite it being on the CRIS database. The project is to some extent a follow-up to the PRI projects in Jamaica and the Caribbean, and it the first one in which a local NGO is the operator (although people from IJCHR were previously involved in advocacy and legal aid work under the PRI project). The project is having a positive impact on the situation of death row prisoners, and also on that of people serving life sentences (many of whom had their death sentence commuted as a result of the long time they spent on death row awaiting execution).

### **25. CRIS 111-488, 2004 A coordinated Civil Society campaign to abolish the death penalty in Central Asian States**

**International Helsinki Federation for Human Rights – Austria**

#### Summary

This project is aimed at cementing the abandonment of the death penalty by the Central Asian states which have already agreed a moratorium. The project focuses on Kazakhstan, Kyrgyzstan and Uzbekistan. Activities include calls for constitutional reforms to enshrine abolition and for legal reforms in relation to life imprisonment and the extraction of people to countries where they may be sentenced to death (China).

Total project budget:	€ 529,617
Amount of EC contribution:	€ 423,576
Percentage:	80%
Countries:	Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan
Target group:	Civil society, local communities, the media, academic structures, law enforcement and judicial officials and political and governmental actors.

#### Comment

An effective and complex project, implemented with a range of NGO partners in the region. The project addresses issues such as conditions of detention, police violence and complaints procedures for victims of human rights violations: these issues, although not directly linked to the death penalty, as seen by local NGOs as necessary to address in view of what is already effectively a post-death penalty situation, with prisoners serving life sentences in deplorable conditions. One concern which the project also addresses is the fact that death sentences have continued to be handed down since moratoria were put in place on executions. The question of extraditions to China of people who may be executed there is on the mind of many NGO activists, but in practice they appear to have little leeway to influence that situation.

## **26. CRIS 113-354, 2004 Campagne de plaidoyer pour l'abolition de la peine de mort au Rwanda**

### **Collectif des ligues et associations de defense des droits de l'homme au Rwanda**

#### **Summary**

This project aims at the abolition of the death penalty in Rwanda. CLADHO intends to conduct surveys of public opinion throughout Rwanda before launching a national debate aimed at targeted groups within the country, including opinion formers.

Total project budget:	€ 375,007
Amount of EC contribution	€ 300,000
Percentage:	80%
Country:	Rwanda
Target groups:	The authorities, politicians, legislators, religious leaders, genocide survivors, prisoners and their families, students, community leaders, civil society and those sentenced to death.

#### **Comments**

The CLADHO-implemented project is at an early stage. Despite strong signals that de jure abolition will occur soon, the consultant considers this project has the potential to be timely and appropriate. Nevertheless the consultant suggests that the project committee (CLADHO members<sup>24</sup>) meet together in December 2006, and, with representatives of the EU delegation, review the aims, objectives and methodologies of the project to assess whether they need to be modified. The initial two research projects which are underway and/or near completion should provide valuable information pertinent to this proposed early review exercise.

The project has got off to a slow start and the proposed review might also serve to introduce increased momentum into the project team and ensure that timelines are adhered to more strictly.

Given the recent start of the project, it is not possible at this stage to assess the effectiveness and efficiency of the project.

#### **Justification for the project to continue post-abolition**

There are important reasons why the project should continue beyond expected abolition. Firstly, the need for public debate/discussion and greater understanding of the value of abolition is vital for long term reconciliation efforts in Rwanda. NGOs play a vital role in this process. Secondly, a move in public opinion towards greater acceptance of abolition will be vital to combat pressure in the future for the re-imposition of the death penalty that is feared by several respondents.

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<sup>24</sup> CLADHO was established in 1993 and now comprises five human rights organizations – ADL, AVP, ARDHO and Kanyarwanda (all mentioned above) and LIPRODHOR, the Rwandese League for the Promotion and Defence of Human Rights.

## **27. CRIS 0980-779 Awareness raising and lobbying against the death penalty in the occupied Palestinian Territory**

**NOVIB – The Netherlands**

### **Summary**

Specific objective 1: abolition of laws

Specific Objective 2: abolition State Security Courts

Specific Objective 3: legal aid, moratorium

Specific Objective 4: extra-judicial executions

Total project budget € 374,046

Amount of EC contribution € 298,339

Percentage: 80%

Country: Occupied Palestinian Territory

Target groups: Palestinians facing the death penalty, Palestinian politicians, lawyers, civil society, youth and decision makers.

Comments: The file is not held in Brussels and there are few substantive documents held there on file. The only two documents we have are not very helpful. There must be a logframe and annex 1 of this ongoing project in headquarters. It is impossible to make any useful comment on this project without more information.

## **28. C98787, 18, 2004 Strengthening Awareness on the Abolition of the Death Penalty – A global Media and Communications Project to Promote Human Rights, Democracy and Conflict Prevention.**

**Inter Press Service International Association – IPS**

### **Summary**

Objectives:

- to produce journalistic reports about the abolition of the death penalty;
- to reach the general public in different languages;
- to produce material targeted for opinion leaders.

Activities:

- to commission, write and edit feature articles on the death penalty;
- to commission op-ed pieces;
- to translate articles into Arabic, Chinese, Japanese, Hindi, Bahasa Indonesia, Thai and Swahili;
- to distribute the stories through syndication, internet, etc;
- to produce a project website within [www.ipsnews.net](http://www.ipsnews.net);
- to produce a monthly “Crime and Justice” newsletter;
- to produce radio bulletins.

Total project budget: €393,651  
Amount of EC contribution: €314,921  
Percentage: 80%  
Beneficiary country: Worldwide  
Target group: General public in countries where the death penalty is in use

### **Comments**

This project has only started relatively recently and it is therefore too early to evaluate. The news website is very well organised and managed, and is highly informative. It is typically the kind of project that should be brought to the attention of all the organisation implementing EC-funded ADP projects because it could help publicise their activities and could, potentially, act as a forum for strategy discussion.

## Annex 5: Analysis of project approaches

Approach	Description	Comments
Training (general)	Training aimed at judicial practitioners, not specialising in death penalty issues.	Some training and advocacy activities have focused on human rights in general rather than on the death penalty itself. Their impact is impossible to assess; it may be negligible when not combined with other activities.
Training (death penalty)	Aimed at judicial practitioners and focused on the death penalty.	Some worldwide projects have comprised one-off training workshops in countries where no other project activities have taken place. This approach lacks sustainability and risks having little impact.
Legal aid	Provision of legal advice to prisoners sentenced to death (or at risk).	Legal aid can be a powerful tool to create precedents/jurisprudence that can limit the use of the death penalty.
Assistance	Aid and support (other than legal advice) to prisoners and their families.	Assistance has shone a spotlight on prison conditions which often remains an issue of concern even after a moratorium or abolition
Advocacy (worldwide)	Aimed at influencing public opinion around the world.	General advocacy (attempting to influence public opinion) achieves little impact in itself; it must be focused, strategic and combined with other activities. There is little evidence that worldwide advocacy projects have an impact on their own. Those advocating abolition must be conscious of issues such as impunity and reparation for victims and their families. Some projects have successfully incorporated these elements and highlighted the strategic importance of including the voices of victims and their families in the abolitionist cause.
Advocacy (target country)	Aimed at influencing public opinion in a country or region.	
Advocacy (to leaders)	Aimed at convincing opinion-formers on the merits of abolition or restriction.	This approach usually means work with the media: publishing articles in the opinion pages of newspapers (or persuading well-known people to sign such articles, for example). In some cases it also involves work with senior politicians, although access to those is difficult. Like other forms of advocacy, it is not effective on its own and achieves noticeable impact only in combination with research, engagement with prisoners, families, victims' groups, etc.
Scientific approaches	Study of forensic evidence, DNA techniques, etc.	The experience of the Philippines suggests that a project on scientific/forensic issues can contribute to the fight against the death penalty in conjunction with other approaches. Arguably, projects which use scientific approach to expose miscarriages of justice, or which contribute to better crime-fighting through scientific evidence-gathering, can both contribute to a reduction in the use of the death penalty. However, either of these approaches may also, <i>in isolation</i> , be construed as effectively making the death penalty acceptable for "real" criminals – hence the need for combination with other approaches, as was done in the Philippines.
Lobbying	Lobbying differs from advocacy in that it is specific - aimed at a precise piece of legal reform restricting or abolishing the death penalty, or dealing with an individual case.	To be effective, lobbying is dependent on quality legal research – the credibility of the lobbying being based on unassailable legal arguments. The research (at national and international level) needs to be backed-up by campaigning targeted to specific individuals and/or institutions.
Legal research	Studies of criminal laws, trial procedures, etc.	Lobbying for legal reform is most effective when based on thorough legal research: legislation in the target jurisdiction, legal precedents where relevant, practice in comparable jurisdictions, etc. Research can also be a 'way in' when direct lobbying is not appropriate (China)
Victims	Work with victims of crimes committed by people sentenced to death or executed.	This is a vital constituency to listen to and work with. Victims and their families who speak out in favour of abolition have a particularly powerful voice.