

RepriveAustralia Notes

Of interest

- In March 2002 Amina Lawal was sentenced to death by stoning in Nigeria for bearing a child out of wedlock.
- The current Miss World is Nigeria's Agbani Darego and this year's Miss World pageant will be held in Abuja, Nigeria on November 30.
- The European Parliament's Committee on Women's Rights has called for participants to boycott the contest—Miss France and Miss Belgium have already done so.
- Other participants, such as Miss Sweden and Miss Italy are part of a campaign to have participants attend the contest as a more effective means of drawing attention to Amina's plight.

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President's Column

The inaugural AGM

On 8 August 2002, *RepriveAustralia* conducted its inaugural annual general meeting ("AGM"). In excess of 50 people attended the Erwin Rado Theatre in Melbourne to participate in the AGM and to watch a screening of the documentary "14 Days in May". In so far as the formalities of the AGM were concerned, I am pleased to announce the following election results:

President	Nick Harrington
Vice-President	Ashley Halphen
Secretary	Rachel Walsh
Treasurer	Susan Brennan
Committee	Pia Di Mattina
Committee	Marissa Dreher

May I also thank our retiring Secretary, Richard Bourke and Vice-President Pia Di Mattina. Richard continues to toil in New Orleans at the LCAC and Pia (newly a mother) remains on the Executive. Welcome aboard to our new members of the Executive: VP, Ash Halphen, Secretary, Rachel Walsh and Marissa Dreher.

Our Annual Report was presented at the AGM and, in summary, we have achieved much in our first 15 months and we remain solvent!

Finally, I can report that the screening of "14 Days in May" was wonderfully received. It is a truly compelling and riveting piece of documentary filmmaking which subtly and eloquently states the case against the system of state sanctioned killing in the USA. I encourage all members to view the film should you ever get the opportunity.

Membership renewals

Most members have renewed but if you have not done so yet, please get to it and become financial. We need your support.

Death sentence in Vietnam – Le My Linh

Whilst some might say that Australia is far removed from the spectre of the death penalty, recent events in Vietnam would prove otherwise. Australian citizen, Le My Linh, was sentenced to death in Vietnam on 29 August

2002. Susan Brennan writes about Le My Linh and our work on the case in this issue.

The intern program for November 2002

The intern program goes from strength to strength. I am extremely excited to announce that *RepriveAustralia* is to send 13 interns to the Southern states of the USA in November 2002. The growth of the intern program is an incredible achievement for our organization—more details are provided in this issue

The volunteer program

The volunteer program is up and running under the watchful eye of executive member, Marissa Dreher. Any member can volunteer and assist in a number of projects Reprive is currently working upon. You do not have to travel to the USA as an intern to make a difference! Marissa writes about the program in this issue.

Feminist lawyers fundraiser

On matters social, Feminist Lawyers, an organization of practicing lawyers committed to feminist ideals, has very generously arranged a fund-raising event for our organization. The gathering will take place at Hell's Kitchen at 6.30pm on Wednesday 16 October 2002 (see back page for details). Rachel Walsh will speak at the event together with a returned intern. I encourage all members to come along for a drink and chat and to support your organization. Bring a friend and get them interested in the work we do!

Calling all numerically skilled people

Finally, we are looking for an accountant or book-keeper to perform the solemn but necessary annual task of "doing the books" on an honorary basis for us. If you have this skill, or know a friendly (and generous) soul who possesses the skill, please contact us and provide this valuable assistance. Ask not what Reprive can do for you but what you can do for its books!

Nick Harrington
President

A country divided – A woman's life in the balance: Sharia Law in Nigeria

Amina Lawal is a 30 year old mother of four. She is Nigerian and comes from the northern Nigerian state of Katsina. In March 2002 Amina Lawal was convicted of bearing a child out of wedlock. Ms Lawal has been sentenced to death by stoning and the punishment will be carried out once her child has been weaned from the breast. Only a successful appeal to the Supreme Court of Nigeria or an order to commute the sentence issued by the President of Nigeria can save her from this punishment.

Ms Lawal was convicted under the newly established Islamic law, or Sharia law, of the state of Katsina. Sharia law has in fact applied in the state and entire northern region of Nigeria since the country gained independence from the British in 1960. With a majority Muslim population in the northern states, Sharia was allowed to apply in the areas of personal and civil matters. Since the end of military rule in the country in 1999, however, Muslims in northern Nigeria have seized the freedom of civilian government to demand the expansion of the laws to include an Islamic criminal code.

Exponents of Sharia law have argued for its extension into criminal matters on the basis that it would cut down on "corruption and immorality" and bring prosperity and harmony to the region. The extension of Sharia law seems also to be linked to a political move to create a 'Shariacracy', a united Muslim front, which could counter the shift of power and wealth to the south. What has in fact been created has been an increased suspicion and heightened social and political jostling between the north and south.

In October 1999 the Government of Zamfara state in the north signed into law two bills aimed at instituting Islamic Sharia law in that state. Implementation of the law began on Jan. 22, 2000 and 12 of the 19 northern states have since followed suit.

Sharia law is Islamic law based on the Koran and the Hadith. It can be manifest in a variety of ways, but in some forms, including those being implemented in the northern Nigerian states, it imposes Islamic mores and codes of personal behaviour on the whole society.

Sharia law is characterised, and often criticised, for the harsh punishments that

are imposed for certain crimes. Some examples of crimes and punishments to which perpetrators have been sentenced in Nigeria although the sentence may not yet have been carried out are: apostasy - death; theft - amputation; consumption/sale of alcohol - public flogging; rape - death by stoning; murder - death by hanging; and adultery - death by stoning.

Norms and mores laid down by Sharia law include:

- Women must be veiled;
- Education is to be sexually segregated;
- The testimony of men has more weight than that of women;
- DNA testing is illegal;
- Gambling is illegal.

The application of Sharia law is the domain of two primary groups: the judiciary and vigilante groups. The later has an informal mandate to monitor compliance with the new Sharia criminal laws within society and 'arrest' transgressors.

The Sharia judiciary, like customary legal courts, is a historical part of northern Nigerian communities. Sharia courts have jurisdiction over cases in which both the plaintiff and defendant agree to such jurisdiction. Adherence to Sharia laws and legal institutions, however, is not always a matter of choice. In practice fear of legal costs, delays and distance to alternative venues encourages many litigants to choose Sharia courts over regular venues.

It was in a Sharia court that in March 2002 Amina Lawal was sentenced to death and in another Sharia court that on August 19 her sentence was upheld. These courts generally have been characterised by an absence of due process. Defendants are said not to always have legal representation, they are often ill-informed about procedures and about their rights. Judges and other court officials are said to lack legal training.

Having exhausted the Sharia state-based court system Ms Lawal has now launched an appeal to the Supreme Court of Nigeria. The Constitution of Nigeria provides that the Federal Government is to establish a Federal Sharia Court of Appeal yet the Government has not established such a court. Ms Lawal's appeal, therefore, will be heard by the Supreme Court which is constituted by 15 members, among them 3 judges who are specialised in Islamic law and 6 Muslim judges. The court generally has 5 judges



Amina Nawal and Wasila
Her death sentence has been stayed until Wasila is weaned.

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Less weight
The testimony of women carries less weight than that of men under Islamic Sharia law.

A country divided cont. .

sitting at any one time.

The basis of Ms Lawal's appeal will centre around the unconstitutionality of Sharia law and particularly the punishment to which she has been sentenced. Nigeria's federal government has in fact declared the application of strict Sharia law as unconstitutional yet no judicial decision has ever been made on the issue.

Nigeria's Constitution contains a vast catalogue of rights provisions including freedom of religion, freedom of expression and of association. It declares unconstitutional cruel, inhuman and degrading punishments, promotes the equality of the sexes and proscribes the creation of state religions. Each of these provisions, among others, may form the basis of Ms Lawal's appeal. It should also be noted that Nigeria, without reservation, has ratified all relevant international instruments including those relating to civil and political rights, the elimination of discrimination against women, and torture and other cruel, inhuman and degrading treatment or punishment.

A Muslim majority on the court may decide to uphold Ms Lawal's sentence along religious lines as may a Christian majority fearful of the social and political repercussions of declaring Sharia law to be unconstitutional. In this case Ms Lawal would have recourse only to the President of Nigeria, President Olusegun Obasanjo, and his power to commute her sentence, a power that he has given no indication he will exercise in her case.

Entangled in issues of imperialism, tribal rivalries and economic power, Sharia law represents a powerful challenge to the new democratic institutions of Nigeria and the human rights of all Nigerians. We live, however, in a globalised world where public international condemnation can result in an acquittal of a Muslim woman convicted of adultery, as occurred earlier this year in the case of Safiya Hussein Tunga-Tudu. The potential to influence such complex internal struggles should therefore not be underestimated. No person has yet been stoned in Nigeria for adultery under Sharia law. May Amina Lawal not be the first.

Jessica Wyndham
Jessica is a RepriveAustralia member and has worked in human rights in the South Asian region for many years.

Commonwealth of Nations and the death penalty

Nigeria is one of the 54 nations that form the Commonwealth of Nations.

Of those nations, 38 maintain the death penalty for ordinary crimes, though 9 of those have not executed anybody for at least ten years.

The Commonwealth of Nations represents a grouping of countries that originally grew out of Britain's colonial past but is now a voluntary association of independent sovereign nations. Its 54 nations hold approximately 1.7 billion people, almost one third of the world's population.

At the Heads of Government meeting in Singapore in 1971 the nations of the Commonwealth issued a declaration highlighting that the Commonwealth nations hold certain principles in common and in the Harare Declaration of 1991 the same body urged member states to continue to work to ensure respect for basic human rights.

Unfortunately, in the list of human rights specifically addressed in the Declaration, the abolition of the death penalty was noticeably absent.

RepriveAustralia has developed its Commonwealth Death Penalty project to advocate for the inclusion of the abolition of the death penalty in the list of common principles that binds the Commonwealth.

Our ultimate aim is to see the Commonwealth match the European Union's commitment to the abolition of the death penalty. Abolition of the death penalty is a precondition for membership of the EU.

In April 2003 Melbourne, Australia will host the Commonwealth Laws conference and within the criminal law stream of the conference attention will be dedicated to the death penalty. *RepriveAustralia* intends to use this conference as a focus to raise awareness of the death penalty within the Commonwealth and the need to adopt a policy of abolition.

Richard Bourke

... international condemnation can result in an acquittal of a Muslim woman convicted of adultery



Nigeria is one of the 54 nations that form the Commonwealth of Nations

Volunteer Interns November 2002

The RepriveAustralia volunteer internship program has gone from strength to strength. Members will recall that in our first year the program sent 5 interns in November 2001 and another 3 interns in March 2002. The interns donated at least three months each to capital defence offices in New Orleans, Louisiana.

This year, we have expanded the program and in November 2002 we are sending 13 interns to seven offices in four states in the southern United States. Applications for internships in 2003 are still being processed but we already have more interns than it the same time last year.

Of the thirteen interns, five have completed their law degrees, six are still studying and two are in practice, one as a solicitor and one as a barrister. All 13 will meet in New Orleans where they will undergo intensive training for a week before dispersing to the offices at which they have been placed.

Four interns are being placed at the Louisiana Crisis Assistance Center, in New Orleans. The office was established in 1993 by Clive Stafford Smith and performs death penalty trial work as well as some appellate and post-conviction work. The four interns, all from Monash University, are Barnaby Johnston, Mimi Marcus, Carmela Quimbo and Natasha Stojanovich.

Final year Melbourne University student, Linda Skoblar will be placed at the Capital Appeals Project of Louisiana in New Orleans. This office is funded to handle direct appeals for all indigent persons sentenced to death in the state.

Elaine Miller, originally from America, has completed her law degree at Monash University and will take up a placement at the Capital Post-Conviction Project of Louisiana in New Orleans. This office is funded to provide representation to indigent defendants sentenced to death whose direct appeal has been rejected.

Ashley Halphen and Nick Button each completed a volunteer internship placement in November 2001. Ashley, a barrister, and Nick, a Monash University law student, will return to the US for a second internship, this time at the Office of Capital Post-Conviction Counsel in Jackson, Mississippi. This recently established office assists indigent defendants sentenced to death whose direct appeals have been rejected. Members will

recognize Ashley as the internship program coordinator.

Lucy Rees, a Monash University law student will travel to Atlanta, Georgia with a British intern provided by Reprive (UK), Andrew Davies. Lucy will work at the Multi-County Public Defender Office, an office providing trial and appellate representation to indigent defendants facing the death penalty.

Dominic Keller, who has been traveling after deferring his law degree at Monash and Siobhan Sweeney who has just completed her 4th year at Monash will go to Houston, Texas. They will work at the Texas Defender Service, providing trial and appellate representation to the large number of indigent defendants in the US state most addicted to the death penalty.

New member of the RepriveAustralia executive and partner at Phillips Fox, Rachel Walsh, will join final year Deakin University law student, James Sullivan, in Houston Texas. The pair will work at the fledgling Gulf Region Advocacy Center, an office established in Harris County, Texas, the most prolific of the Texas counties in returning sentences of death. The office is currently working full time on the retrial of Calvin Burdine. Calvin was originally sentenced to death following a trial at which his state appointed attorney slept through the bulk of the proceedings.

We are extremely proud of the contribution that RepriveAustralia and its volunteers are making to the fight against the death penalty and to those individuals facing execution.

The internship program has been designed and is operated entirely by volunteers and its achievements would not be possible without the work of people like Ashley Halphen, Marissa Dreher and Nicholas Harrington in Melbourne. We are also indebted to the staff at Monash, Deakin and Melbourne Universities who have supported our work in recruiting candidates. Special mention must be made of the support once again provided by David Kinley, Melissa Castan and Kay Magnani from the Castan Centre For Human Rights at Monash University.

For as many interns as we are sending, we would like to send more. All members are encouraged to join the program or suggest it to those they know who may be interested.

Richard Bourke



Six interns will be placed in three offices in New Orleans, Louisiana .



Two interns will be placed in Jackson, Mississippi.



One intern will be placed in Atlanta, Georgia.



Four interns will be placed in two offices in Houston, Texas.

RepriveAustralia Volunteer Program

The Volunteer Program serves as an aid to *RepriveAustralia*, enabling its members to assist in the fight against the death penalty and provide support to those on death row.

The Program is using a band of volunteers in Australia and abroad to provide legal and other research for capital defense offices in the US. The Program is also looking at the need to develop a pen pal program in Australia or to support some of the existing schemes for writing to death row prisoners.

As the Program expands, it is anticipated that volunteers will assist in researching materials for *RepriveAustralia's* Commonwealth Death Penalty project and developing a database of information about the use of the death penalty worldwide. Volunteers will also be able to donate their services to the organization by assisting with the development of our website and this newsletter.

Volunteers have just completed legal research for Richard Bourke at the Louisiana Crisis Assistance Center. Our volunteers helped to review the application of the law in the US to the continued questioning of suspects in custody after they had asserted their right to counsel. The research related to the case of a man accused of killing and mutilating three women in New Orleans, Louisiana. The trial is pending and the work of the volunteers was included in an interlocutory writ filed in the Court of Appeal, challenging a pre-trial ruling by the trial judge.

Death Penalty in Vietnam: Le My Linh

In August an Australian citizen Le My Linh was sentenced to death by firing squad in Vietnam for drug trafficking.

RepriveAustralia was approached by the Public Interest Law Clearing House which is assisting Le My Linh's lawyers to provide legal expertise and local support.

An appeal has been lodged to the People's Supreme Court and is expected to be heard by December 2002. In the event that the appeal is unsuccessful, a plea for clemency will be made to the President of Vietnam.

RepriveAustralia has been active in liaising with Australian government officials to ensure that all diplomatic efforts are made on Le My Linh's behalf. She has received a number of consular visits and arrangements have been made for her two children to visit.

Thanks go to Jessica Murray Boer, Jamie Potter, Melanie Strong, Linda Skoblar, Shifrah Blustein, James Sullivan and Maree Comito for the many hours they donated in performing this research. They have reported that their participation is rewarding, challenging and provides a deeper understanding of the complexity and systemic nature of the problems surrounding the fight against the death penalty in the US.

In addition to this, returned interns Bonnie Renou and Eleni Antonopoulos have been active in performing work for the fledgling Justice in Exile project and each is hoping to raise sufficient funds to return to the US and continue their work there.

Another returned intern, Simone Leijon, has been working as a volunteer with *RepriveAustralia* on the case of Russell Moore, an Indigenous Australian sentenced to death in Florida over ten years ago, now serving a life sentence in that state.

RepriveAustralia desperately needs more volunteers to add their name to the list of those able to donate their time. Legal qualifications are not necessary as there are many tasks beyond legal research which require your assistance. Particularly, we are looking for assistance with this newsletter.

For more information on the Volunteer Scheme, please contact the Volunteer Coordinator, Marissa Dreher, at volunteer@reprive.org.au.

Given Australia's excellent bilateral relationship with Vietnam, *Reprive* expects significant efforts by the government to ensure her sentence is commuted.

The recent experience of the Danes in Laos shows the importance and success of Australian diplomatic efforts for Australians facing the death penalty in the region. Kay Dane has provided invaluable assistance to *RepriveAustralia* in its contact with consular officials.

No Australian has been executed by Vietnam but in 2000 a Canadian citizen was put to death, resulting in the withdrawal of Canada's ambassador.

Susan Brennan

Susan Brennan is the Association's Treasurer and has been active with Rachel Walsh and Richard Bourke on this case.

For more information on the Volunteer Scheme, please contact the Volunteer Coordinator, Marissa Dreher, at volunteer@reprive.org.au.



RepriveAustralia's volunteer program coordinator, Marissa Dreher, spent three months in the US last year as an intern and is now a member of our executive.

No Australian has been executed by Vietnam but in 2000 a Canadian citizen was put to death.



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PLEASE VISIT OUR
WEBSITE AT
WWW.REPRIEVE.ORG.AU

RepriveAustralia was founded in Melbourne in April 2001 by a group of Melbourne lawyers with the intention of assisting in the provision of effective legal representation and humanitarian assistance to impoverished people facing the death penalty at the hands of the state.

It is a sister organisation of *Reprive (UK)*, a UK based international human rights charity which was launched in December 1999 by Clive Stafford Smith OBE. *Reprive (US)* was also established in 2001 to assist in the placement of volunteer interns supplied by *RepriveAustralia* and *Reprive (UK)*.

RepriveAustralia's primary objective is to provide effective legal representation to impoverished people facing the death penalty at the hands of the state, by assisting a body of volunteers from Australia to travel overseas to work on death penalty cases and issues.

Feminist Lawyers Hold Reprive Fundraiser

Meet *RepriveAustralia* Interns and hear about their experiences working with clients on death row in the United States. Proceeds of the night go towards supporting funding female interns, who are travelling to the US as *RepriveAustralia* volunteers in capital offices to work with clients on death row and preparing capital offence cases.

Please come along and catch up with other members and colleagues while also listening to inspiring stories.

date

Wednesday 16 October 6.30pm - 8.30pm

venue

Hell's Kitchen - Upstairs at 20 Centre Place, City

tickets

\$30.00 (\$20.00 donation to Reprive Australia) or \$20.00 concession (\$10.00 donation to Reprive Australia)

food

Finger Food Supplied and Drinks over the Bar

rsvp

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Julie Grainger - jgrainger@slatertgordon.com.au or 9602 6802
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