

MOVING TOWARDS A DEATH PENALTY-FREE WORLD

LORYBELLE C. CASTILLO

LAST 10 OCTOBER 2007, THE WORLD CELEBRATED THE World Day against the Death Penalty. On its fifth year celebration, the abolitionist advocates focused on the proposed UN General Assembly resolution for a universal moratorium on executions. There is still no official word on when the resolution will come up for a vote but supporters of the resolution are hopeful that the resolution will get passed. They believe that the resolution would be a step closer towards a worldwide abolition of capital punishment.

They have reason to be more optimistic this time around (Italy has been campaigning for 13 years for the UN General Assembly to pass a moratorium on executions) as recent developments show that more and more countries are joining the campaign. As of September 2007, Amnesty International reported that a total of 133 countries have abolished the death penalty in law and in practice. Last 27 July 2007, Rwanda was the latest country to abolish capital punishment in law. In 2006, only 25 countries carried out executions and 91% of all the known executions took place in six countries: China, Iran, Iraq, Pakistan, Sudan and the USA. Back in 1977, only 16 countries had abolished the death penalty for all crimes. Looking at all these figures, it is clear that the campaign against death penalty has gone a long way.

In this article two cases are explored. On the one hand, there is Europe rallying ahead towards abolition of death penalty and managing to make Europe the only region in the world free of death penalty. On the other hand, there is the US, standing firmly on its stand to keep the death penalty in place, not budging amidst widespread calls for its abolition.

In the early 1980s, the Council of Europe took a stand on the issue of death penalty and considered it a grave violation of human rights. Through the Parliamentary Assembly, it gradually persuaded governments to help create a Europe that is rid of the death penalty.

In 1982, the Council of Europe has adopted Protocol No. 6 to the European Convention on Human Rights. It came into force in 1 March 1985 and abolishes the death penalty in peace time. The protocol has been ratified in 46 of the 47 members of the Council, with Russia as the exception but it has made a commitment to ratification.

In 1989, abolition of death penalty became a condition of accession for all new member states. Signing and ratifying Protocol No. 6 then became a requirement when joining the organization. The Council did not stop there. Come 2002, the Council adopted Protocol No. 13 to the European Convention on Human Rights. Enforced on 1 July 2003, the protocol bans the death penalty in all circumstances, including for crimes committed in times of war and imminent threat of war. Forty-five members of the Council of Europe

have so far signed Protocol No. 13, with Russia and Azerbaijan yet to sign. Four countries – Italy, Poland, Latvia and Spain – have signed the Protocol but have not yet ratified it. France was the most recent member to ratify the protocol during the international conference held in Lisbon last 9 October 2007. As a result, there has not been any execution in any of the Council of Europe member states for 10 years. Across Europe, only Belarus still implements the capital punishment but it is not a member of the Council of Europe. The European Union has also made the abolition of the death penalty a prerequisite for membership.

ON FOCUS

“ Governments should look beyond abolition if they sincerely want to address the problem of crime and punishment. ”

EUROPE: COMING STRONG AGAINST THE DEATH PENALTY

Europe is considered today as the only death penalty-free region in the world. All the EU Member States and candidate countries and the Member States of the Council of Europe no longer enforce the death penalty. The region also emerges to be at the forefront of the campaign towards universal abolition of the death penalty.

BEYOND ITS BORDERS

Europe’s stand against the death penalty extends to the countries beyond its borders. In the Council of Europe, the Parliamentary Assembly is trying to persuade the countries enjoying observer status with the Council, such as Japan and the United States. The Council strongly criticizes the US for its continued use of the death penalty and has called

on the US to introduce a moratorium on capital punishment. Until now, the US continues to implement the death penalty in 38 of the 50 states.

Japan also still carries out executions. In 2001, the Parliamentary Assembly of the Council of Europe asked Japan to adopt a moratorium on the death penalty and to abolish it eventually. The Japanese government implemented a moratorium between 2005 and 2006 but resumed executions in 2006. It argued that the people still support death penalty, with a 2005 government poll revealing that 80% of the population was in favour of it.

Early this year, the European Parliament adopted a resolution calling for the universal abolition of the death penalty and to make it one of the fundamental objectives of the EU. Moreover, the foreign ministers of the EU are among the strong proponents of a resolution calling for the universal moratorium on the death penalty in the recent meeting of the General Assembly in the United Nations.

Apart from these, both the Council of Europe and the EU have proposed having a European Day against Death Penalty to be observed on October 10 of each year making it not only the World Day against Death Penalty but also a European day. The Council of Europe forwarded this proposal at an International Conference held at Lisbon on 9 October 2007. This just goes to show how strongly the region supports the promotion of universal abolition of the death penalty.

OTHER ISSUES

While the region seems united in its stand against the death penalty, the EU proposal to have the European Day against Death Penalty faced opposition from Poland. Warsaw insisted that the EU «should approach the subject in a broader way and debate the protection of life,» suggesting that issues such as abortion and euthanasia should also be included. It argued that a special day against the death penalty is unnecessary considering that it is outlawed in the EU. Rather, they prefer to celebrate a «Day in Defence of Life.»

With all these facts, is Europe really serious about its stance regarding the death penalty? It is fact that there are a number of countries who have signed but not yet ratified Protocol No. 6 and No. 13. It is also a fact that Poland opposed the proposed celebration of the European Day against Death Penalty. These things may perhaps be minor issues at this point but the mere existence of such hesitance and opposition weakens Europe's seemingly strong stance on the death penalty issue and their calls for universal abolition of the death penalty.

DEATH PENALTY IN THE US: A SITUATIONER

While the rest of the world has either abandoned or is moving towards abolition of death penalty, the US stands firm on its decision to keep it in place. Time and again,

some of the world's most respected leaders such as Pope John Paul II, Nelson Mandela and UN High Commissioner on Human Rights Mary Robinson have called on the US to abandon the death penalty, but the US continues to ignore these pleas.

The US is among the countries that had the most executions in 2006 along with China, Iran, Pakistan, Iraq and Sudan. It has suspended executions in 1973 but resumed them in 1977 and has since then performed a total of 1,095 executions (as of 4 September 2007).

Thirty-eight of the 50 US states implement the death penalty. Statistics reveal that majority of the executions take place in the southern region. However, looking at figures by state, Texas is on top of the list, performing the most executions compared to any other state in the country.

The capital punishment remains to be a controversial issue in the US. With the international efforts by various countries and international NGOs to rid the world of death penalty and the current proposed resolution in the UN General Assembly to be decided soon, all eyes are on the US, among other countries, to see if it will change its stand on the issue.

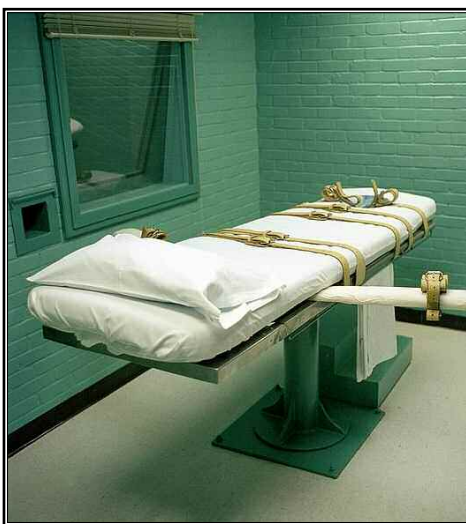
Recent reports, legal activity and public opinion polls reveal that people are increasingly losing its confidence in the death penalty. Early October 2007, it has been reported that Texas, has suspended its executions, and that the Supreme Court is set to review the legality of lethal injections. This is a welcome development as other states (e.g. Missouri, California, North Carolina) have also implemented a moratorium in their states.

In 2004, the New York statute on death penalty was declared unconstitutional. Meanwhile, in 2006, a blue-ribbon committee in New

Jersey was formed to study death penalty in the state. The committee concluded that it should be abolished.

Hundreds of citizen groups, religious organizations, legislators and lawyers have banded together to call for abolition of the death penalty. They put forth several issues. One is cost. The *Dallas Morning News* in 1992 reported that it costs Texas an average of \$3.2 million on a death penalty case, about thrice the cost of imprisoning someone in a single cell at the highest security level for forty years. In another report, this time from the *Los Angeles Times* in 2005, they said that the death penalty system in California costs taxpayers \$114 million per year beyond the costs of keeping convicts in prison for life and that taxpayers have paid more than \$250 million for each state's executions. Now, wouldn't all that money have been better spent on education, health or other social service?

Another issue is racism. Recent studies have observed a pattern of either race-of-victim or race-of-defendant discrimination or both. In a study in North Carolina, Prof. Jack Boger and Dr Isaac Unah, found that the odds of receiving a death sentence rose 3.5 times among those defendants whose



victims were white. In California, a study (Pierce & Radelet, *Santa Clara Law Review*, 2005) revealed that those who killed whites were over three times more likely to be sentenced to death than those who killed blacks and over four times more likely than those who killed Latinos.

Also of increasing concern to the people was the conviction of innocent people. A 2004 Death Penalty Information (DPIC) report focused on the issue of innocence in the death penalty debate. According to the report, there have been 116 total exonerations since 1973, proof that justice is not carried out in a lot of cases that end up with a death sentence.

WHAT THE POLLS SAY

Recent public opinion polls reveal the eroding confidence in the death penalty. In a National Omnibus Poll conducted by RT Strategies for the DPIC in early 2007, 58% of the respondents believed it was time for a moratorium on the death penalty while the process undergoes a critical review. Meanwhile, the May 2006 Gallup Poll found out that the overall support for the death penalty was 65% (down from 80% in 1994). In that same poll, when the respondents were given a choice between life without parole as an alternative to death penalty, slightly more people (48%) chose life without parole over the death penalty (47%). This indicates that more and more people are doubting the effectiveness and use of the death penalty and are welcoming an alternative to it.

After all the debates and discussions, it is really puzzling how a country like the US, who takes pride in its concern over human rights violations in other parts of the world, fail to recognize the violation of human rights, especially in this basic human right to life, in its own backyard.



Electric chair.

A STEP FURTHER

And while everybody is busy calling for the universal abolition of the death penalty and a moratorium on executions, perhaps the legislators should also seriously think about alternatives to the death penalty that can effectively deter crime, especially the heinous ones. Part of the reason that other people favor the death penalty is because they see it as the *only* just punishment for people who have committed heinous and seemingly unforgivable crimes such as cold-blooded murders. No alternatives are clearly presented. There is this lack of widespread discussion on the possible alternatives to the death penalty. As mentioned earlier, in the May 2006 Gallup survey, when the respondents were presented with a choice between death penalty and life imprisonment without parole, the respondents were almost split, with slightly more people favoring life imprisonment without parole. This is an indication that the public is open

to alternatives to the death penalty. Thus, this aspect should be better explored.

Moreover, they should also assess and reflect on the whole system of administration of justice. Studies have, time and again, contested the argument that the death penalty deters crime. Plus, with innocent people and juveniles being convicted and sentenced to death, there is obviously a flaw in the system.

Peter Hodgkinson, Director of Centre for Capital Punishment Studies at the Westminster University Law School in London, suggests taking a holistic approach to the replacement of death penalty. He said, «Paradoxically, abolition of the death penalty itself rarely brings about the improvements that one would expect from such a radical step. Our centre has always promoted a holistic approach in preparing for abolition and its aftermath. This approach requires that attention and resources are given to improving legal services, prison and police practices, crime victims' services, humane and proportionate alternatives to the death sentence and a political philosophy that avoids reinforcing the death penalty mythology.» In the end, governments should look beyond abolition if they sincerely want to address the problem of crime and punishment.

REFERENCES

AMNESTY INTERNATIONAL (2007), *Facts and Figures on the Death Penalty*. Available at: <http://www.amnesty.org>.
 AMNESTY INTERNATIONAL (2007b), *Global Moratorium on Executions Now*. Available at: <http://www.amnesty.org>.
 APPEL, ADRIANNE (2007), *Death Penalty-US: Abolitionists See Victory in View*. Available at: <http://ipsnews.net/news.asp?idnews=36968>
 COUNCIL OF EUROPE (2004), *Death Penalty: Beyond Abolition*, Strasbourg: Council of Europe Publishing.
 DEATH PENALTY INFORMATION CENTER (DPIC) (2007), *Facts about the Death Penalty-United States*. Available at: <http://www.deathpenaltyinfo.org>.

DIETER, RICHARD (2007), *A Crisis of Confidence: Americans' Doubt about the Death Penalty*. Available at: <http://www.deathpenaltyinfo.org>.
 — (2004), *Innocence and the Crisis in the American Death Penalty*. Available at: <http://www.deathpenaltyinfo.org>.
 DUJISIN, ZOLTAN (2007), *Poland: Populism Seen behind Death Penalty Talk*. Available at: <http://www.ipsnews.net/news.asp?idnews=39505>
 INTER PRESS SERVICE NEWS AGENCY (2007.) *Q&A: «Rational Debate on Capital Punishment Lacking», Interview with Peter Hodgkinson*. Available at: <http://www.ipsnews.net/news.asp?idnews=39098>
 ROY, SRABANI (2007), *Death Penalty-US: Executions across Country on Hold*. Available at: <http://www.ipsnews.net/news.asp?idnews=39526>
 Various articles on the COUNCIL OF EUROPE website available at: http://www.coe.int/t/dc/files/themes/peine_de_mort/default_en.asp
 Various articles on the EUROPEAN COMMISSION-EXTERNAL RELATIONS website available at: http://ec.europa.eu/external_relations/human_rights/adp/index.htm ■