

A WORLD SANS DEATH PENALTY?

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Voices of the South on Globalization is a monthly newsletter intended to inspire a meaningful North-South Dialogue by raising awareness for global interdependences and by offering a forum for voices from the South in the globalization debate. Each edition will present short analyses or commentaries from a Southern perspective on one particular issue of the globalization process.

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UN PASSES SYMBOLIC MORATORIUM

2007 was a historic year: The tide of opinion against the death penalty gathered in strength as never before, sweeping to every corner of the world. The number of abolitionist countries rose. The number of executions declined. Long in place moratoriums held and new ones came into force. And as the year drew to a close, proof of this seemingly irresistible tide of change came with the powerful vote in the UN for a global moratorium on executions.

December 18 was another victorious day for the global anti-death penalty movement. Following the lead of the UN's Third Committee in November, the UN General Assembly as a whole adopted a non-binding resolution supporting a moratorium on capital punishment. One hundred and four countries voted in favour of the draft resolution, 54 states voted against and 29 abstained.

In November 99 countries voted in favour of the resolution, 52 voted against and there were 33 abstentions. Eight countries were altogether absent from the meeting -- the Democratic Republic of Congo, Guinea-Bissau, Kiribati, Peru, Senegal, Seychelles, Somalia and Tunisia. The United States, Singapore and China joined many developing countries, notably from the Islamic world, in voting against the resolution, while abstainers included Bhutan, Cameroon, Central African Republic, Chad, Congo and Cuba.

Yvonne Terlingen, Amnesty International's representative at the United Nations, described the December vote as a "historic step". The result was expected, because the Third Committee had already voted overwhelmingly in favour. "Countries rarely change their vote between the plenary and the Third Committee, but the result was better than we had in the Third Committee," she said.

In a statement, Sergio D'Elia, general secretary of Hands Off Cain, a group opposing death penalty, said, "After 15 years of campaigning, the approval of the moratorium on death penalty by the UN General Assembly represents an historical achievement and, we believe, the beginning of the end for the 'state killer'." With this resolution, the United Nations, for the first time, declares that the death penalty is a human rights issue and its phasing out represents serious progress for the world in this field, he said.

Before General Assembly president Srgjan Kerim called upon UN member-states to vote, representatives from Antigua and Barbuda, Barbados, Nigeria and Singapore took the floor to express their opposition.

On behalf of 13 Caribbean states, the representative of Antigua and Barbuda said "given the reality of the situation in the Caribbean, the countries associated with this statement are forced to question the intended argument of the co-authors of the resolution."

Caribbean opponents of the resolution had not contravened any laws, international or domestic, by maintaining the death penalty in their domestic laws, she said. The representative of Barbados argued that any attempt by a country or a group of countries to impose its values

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NEW JERSEY OUTLAWS "STATE-ENDORSED KILLING"

By Rajiv Fernando

The U.S. state of New Jersey became the first in the union to officially reject the death penalty, when Governor Jon Corzine signed into a law a bill passed by the state legislature abolishing capital punishment and replacing it with life imprisonment.

"Today, Dec. 17, 2007, is a momentous day -- a day of progress -- for the state of New Jersey and for the millions of people across our nation and around the globe who reject the death penalty as a moral or practical response to the grievous, even heinous, crime of murder," Corzine said. While condemning the ultimate penalty, he also expressed sympathy with the victims who had lost loved ones to homicide and violence.

"While no one can imagine their pain, I will sign this law abolishing the death penalty because I and a bipartisan majority of our legislature ... believe a nonviolent sentence of life in prison without parole best captures our state's highest values and reflects our best efforts to search for true justice, rather than state-endorsed killing," said Corzine.

Brian Evans, an associate with the Programme to Abolish the Death Penalty at Amnesty International USA, said: "This is the first legislative abolition of the death penalty since 1965, when West Virginia and Iowa abolished it. In the intervening years, there have been two or three states in the northeast where the courts have ruled the death penalty unconstitutional."

"I think it's a fairly big step because it's a legislative abolition, instead of the courts, done by elected representatives. New Jersey is a large and diverse state, it's not a small state like Maine or Vermont, so it's going to have more of an impact," he said.

Rights groups, including Human Rights Watch and Amnesty International, applauded the decision.

"This is a ray of hope for the more than 3,000 men and women still on death row in the United States," David Fathi of Human Rights Watch's U.S. Programme said. "It shows that progress is possible, and brings us one step closer to the day when the United States joins all of its peer nations in rejecting the death penalty."

In a statement, Larry Cox, the executive director of Amnesty USA, said that: "Contrary to what some have said, the New Jersey vote was not taken too quickly or lightly. It was only after careful study and deliberation that legislators concluded that the death penalty does not address violent crime or make New Jerseyans any safer."

"The problems uncovered by this examination of the death penalty are not unique to New Jersey. Lawmakers across the country are realizing that capital punishment is permanently flawed, and the public is increasingly

wary of a system that holds the very real possibility of executing the innocent," Cox said.

The National Coalition to Abolish the Death Penalty (NCADP), in an overview of the death penalty, outlined a wide-ranging set of reasons why capital punishment is flawed public policy.

First, executions are carried out at staggering cost to taxpayers. The governor's office estimated that it has cost the state of New Jersey more than a quarter-billion dollars to pursue the death penalty against defendants since it was reinstated in 1982.

Scientific studies have consistently failed to demonstrate that executions deter people from committing crime any more than long prison sentences. In fact, the states that do not have the death penalty have much lower murder rates.

States also appear unable to prevent the accidental execution of innocent people. In the past two years, evidence has come to light which indicates that four men may have been wrongfully executed in recent years for crimes they did not commit.

Race ordains life and death

Race plays a prominent role in determining who lives and who dies. Since 1977, blacks and whites have been the victims of murders in almost equal numbers, yet 80 percent of the people executed in that period were convicted of murders involving white victims.

The death penalty is applied at random. Politics, quality of legal counsel and the jurisdiction where a crime is committed are more often the determining factors in a death penalty case than the facts of the crime itself.

Capital punishment goes against almost every religion. Even though isolated passages of religious scripture have been quoted in support of the death penalty, almost all religious groups in the United States regard executions as immoral.

Critics also say the U.S. is keeping company with notorious human rights abusers. The vast majority of countries in Western Europe, North America and South America -- more than 128 nations worldwide -- have abandoned capital punishment in law or in practice. Year after year, only three countries lead the U.S. in executions -- China, Iran and Saudi Arabia.

Anti-death penalty advocates also point out that millions could be diverted to help the families of murder victims. Funds now being used for the costly process of executions could be used to help families put their lives back together through counselling, restitution, crime victim hotlines, and other services addressing their needs. ☑

JAPAN STEPS TOWARDS REFORM

By Catherine Makino

When Japan's justice ministry departed from norm to name three convicts it hanged in December, many here saw it as a sign that the country was now prepared to adopt more humane policies towards capital punishment.

For the first time in the history of the country's judicial system, since World War II, the ministry disclosed the names and crimes of three convicts hanged on Dec. 7. The ministry never even acknowledged executions, until November 1998 when it began announcing that prisoners had been put to death while withholding identities and exact date of dispatch.

Amnesty International (AI) in Japan cautiously welcomed the news while condemning the executions. "We feel it's the first step toward breaking through the secrecy of Japan's execution system," said Misaki Yagishi, country head of AI. "However, we are against executions. We are sorry the number of those hanged this year made it the highest number in more than a decade." The three executions brought to nine the number of convicts hanged this year.

Ministry officials said they disclosed the names to soften criticism at home as well as overseas of being secretive, and at the request of the public and families of the victims.

"It is necessary to gain the understanding of bereaved families of the victims and the public over the appropriateness of executions," Justice Minister Kunio Hatoyama told the Judicial Affairs Committee of the House of Representatives. "It is painful to sign execution orders, but I understand that it must be undertaken in an orderly manner based on law. I signed knowing that it is a responsibility I cannot escape.

However, confusion and shock followed the disclosure of the names of the executed convicts among the committee members. In fact, Ritsuo Hosokawa, an opposition member of the Democratic Party of Japan, who was questioning Hatoyama, said he was "flabbergasted". It is extremely unusual for a justice minister to admit in the parliament that there had been an execution.

The Dec. 7 hangings were the first approved by Hatoyama, who created a public storm after taking office in August saying that executions should "be carried out systematically" and without involving the justice minister.

Pema Gyalpo, a professor at Toin University in Yokohama and advisor to the government described it as a political ploy by Hatoyama. "He is making a name for himself by doing something different. He is number two in seniority to be prime minister; he's frustrated and wants to get his name known. He is playing to the media, and wants to be the topic, even if his position is unpopular."

"He also wants to make trouble for Prime Minister Yasuo Fukuda on this issue. Once the names are disclosed, people will start asking why is this one being executed and this one isn't," Gyalpo said.

And there is a growing protest from international human rights groups. AI issued a statement saying: "While the names of the executed inmates were disclosed, the hangings were implemented suddenly, as usual without notifying the inmates, their families or anyone else."

"Japan has gone against the global trend to abolish the death penalty ... In the United States, the number of executions and death sentences have gradually been declining, but not in Japan," AI added in the statement.

Japan is the only member of the Group of Seven industrialised nations, other than the U.S., to maintain capital punishment. Currently there are 104 people on death row in Japan.

However, legal reform is slowly taking place in Japan. Experts say the disclosure of names could be a forerunner of planned reforms in 2009. The judges will be in charge of giving death sentences while a jury-style system will be adopted with judges and jurors having one vote each and cases decided by a majority.

Fukuda was told on the morning of Dec. 7 the decision to reveal the names of the executed prisoners. He was quoted by the media as saying he "endorsed the move because the feelings of bereaved relatives of the victims should be taken into account".

The three executed prisoners were Hiroki Fukawa, 42, Seiha Fujima, 47, both hanged at the Tokyo Detention House, and Noboru Ikemoto, 74, who was hanged at the Osaka Detention House, according to the justice ministry.

Fujima fatally stabbed five people in 1981 and 1982, including a family of three in Fujisawa, Kanagawa Prefecture. Fukawa asked for a loan from a 65-year-old woman in Tokyo in 1999, so that he could go on a date. When the woman refused, he stabbed her and her mother to death. In 1985, Ikemoto fatally shot three neighbors and injured another in Tokushima Prefecture. He thought they were harassing him by dumping their garbage in his garden.

Former Justice Minister Seiken Sugiura never signed any execution orders during his term of office from October 2005 to September 2006 saying his Buddhist faith went against the death penalty.

Hatoyama's predecessor Jinen Nagase signed orders to execute 10 convicts, the largest number since March 1993. This shows the number of executions change depending on the belief or political stance of the justice minister of the day. ☑

CHINA GOING EASY AHEAD OF OLYMPICS

By Antoaneta Bezlova

Conscious of the need to burnish its international image ahead of the 2008 Beijing Olympic Games, China has been more sparing in applying the death penalty this year -- but the country is far from abolishing capital punishment.

When the United Nations General Assembly (UNGA) human rights committee passed a draft resolution calling for an end to the death penalty on Nov. 15, China criticised the move as a "severe interference" in a country's sovereign affairs and denounced it as "inappropriate".

"To discuss a complex issue such as the death penalty in such a highly politicised setting as the UNGA would only lead to further complications," Zhang Dan, counsellor and alternative representative of the Chinese delegation to the assembly, said in a statement.

"There does not exist an international consensus on the death penalty and attempting to pass a UN resolution on a moratorium would not change the difference in opinions that various countries hold on the issue," she said.

China ranks among the world's top executioners and rights activists say more people are put to death in China every year than in the rest of the world combined. Some estimates put the number of court-ordered executions as high as 10,000 a year.

Based on public reports available, in 2006 Amnesty International recorded 1,010 executions, or about two-thirds of the known total worldwide. Beijing however does not release official figures, which are designated state secrets. More than 60 types of crimes -- including economic ones like tax fraud and bribery -- are punishable by death in China.

In recent years the country has been under increasing international and domestic pressure to improve its much-criticised death penalty system. With the approach of the 2008 Olympic games, which Beijing is hosting, and the international attention focusing on China's human rights record, domestic media has been bolder exposing cases of wrongful executions, sparking national outrage.

In one of the latest examples of publicised "unjust cases", public opinion has rallied behind the 12-year-long quest of a mother to clear the name of her son who she claims was wrongfully executed for a crime he did not commit.

Nie Shuwu was executed in 1995 for a rape and murder. For ten years after the sentence was carried out, his mother challenged the authorities repeatedly to reverse the conviction with no success. But when in 2005, a serial rapist and killer was arrested and confessed to have killed Nie's alleged victim, public opinion erupted in fury over the apparent bungled dispense of justice. In January Beijing took the unusual step of reinstating a require-

ment that every death sentence must be reviewed and approved by the country's Supreme Court. Observers have stated that in the past many court-ordered executions were based on forced confessions and rushed trials that often took less than a day.

Since the review by the Supreme Court was reinstated, the country has reported fewer executions and observers say Beijing expects a 10-year low this year. With the Olympics drawing nearer, the apex court recently ordered judges to be more cautious in the imposition of the death penalty.

An order on its website in September said executions should be reserved for "an extremely small number of serious offenders", while the ultimate punishment should be withheld in certain cases of crimes of passion or some economic crimes.

But the statement was unequivocal in backing the continued use of the death penalty as a crime deterrent. "We must hand down and carry out immediate capital punishment for heinous cases with iron-clad evidence that they have resulted in serious social damage," it said.

Even as the draft UN resolution calling for a global moratorium on the death penalty was about to be presented for a committee vote, China did not balk at publicising its decision to sentence five ethnic Muslims to death for allegedly masterminding separatist activities in the country's far western region of Xinjiang.

"In order to split the nation . . . they carried out extreme religious activities and advocated holy war and established a terrorist training base," the state news agency Xinhua said on Nov 11 in its report on the sentencing.

The UN draft resolution, co-sponsored by European Union and 60 other countries, and submitted to the entire 192-member General Assembly, is non-binding but will give a moral boost to those in China campaigning for death penalty abolition.

The text calls on all states still maintaining the death sentence to respect a moratorium "with a view to abolishing the death penalty". It urges them to "progressively restrict the use of the death penalty" and calls upon the 130 states which have already abolished the ultimate penalty not to reintroduce it.

Chinese academics claim that the public continues overwhelmingly to support the use of death penalty as a crime deterrent and as an ultimate tool in settling the wrongs suffered by innocent crime victims.

"Even if the death penalty had no deterrent force whatsoever but provided only consolation to the people, it would still be necessary," argues Yang Zhizhu, a researcher with the China Youth College for Political and Legal Studies. ☑

'DEATH PENALTY SERVES INTERESTS OF DESPOTIC REGIMES'

Interview with Syrian Writer Nedal Naeiseh

Syria strongly opposed the recently passed UN resolution calling for an immediate moratorium on executions and end to capital punishment. But Syrian writer and journalist Nedal Naeiseh believes the regime is close to the day when it will join the growing number of abolitionist nations. In an interview Naeiseh says solving the Middle East conflict would remove any pretext for retaining capital punishment in his country. Some excerpts:

Q: You write regularly on abolitionist issues. Is there an active anti-death penalty movement in Syria?

Nedal Naeiseh: There is no engaged, organized intellectual movement working to abolish the death penalty in our country. There are individuals who are campaigning. These, and independent groups, can only take on a small number of cases because they lack funds and the facilities to lobby.

In Syria civil society organizations, independent associations and political parties are almost non-existent. But there is an official current -- still not so obvious -- progressing towards the abolition of this barbaric punishment.

There is no doubt in my mind regarding Syria, which really intends to be part of the global movement for radical international change. This especially includes respecting the United Nations call for the abolition of the death penalty. Standing in the way of achieving this are some pressing regional problems.

Q: The Syrian penal code calls for the death penalty for anyone who belongs to the Muslim Brotherhood opposition group. Does this mean that any other opposition group would face the same sanction?

NN: You are referring to law number 49. This was introduced in 1980 after the bloody clashes that took place between the Muslim Brotherhood and the Syrian regime. There were specific circumstances that led to this law; it was to stop the bloody conflict of that period . . . We do not want such a law applied in Syria or any other part of the world.

I should say here that the law is 'semi-suspended'. All death sentences have been reduced to 12 years imprisonment or even less. But there were undoubtedly past abuses in the application of this law. The sentences are now made public and published in the media.

I really do not think that any other political organisation has faced -- or will face -- such a measure as long as constitutional rules are followed and violence is not advocated to achieve political ends.

Q: In Syria the application of the death penalty is often tied to collaboration with the 'enemy', which means Israel. Does this mean that abolition depends on finding a solution to the Syrian-Israeli conflict in particular and the Arab- Israeli conflict in general?

NN: There is certainly a solid connection between the death penalty and the on-going state of emergency in Syria and the Syrian conflict with Israel. In nearly all legal codes around the world you will find sanctions for collaborating with the enemy. It is termed 'high treason' and severely punished.

Solving the Arab-Israeli conflict would certainly lead to some radical constitutional and legal changes in Syria. Then, efforts could be focused on amending the laws now in force so they meet standards you would find in the most developed countries. Solving this conflict would remove the pretext for applying the death penalty -- or ever extending it.

Q: Criminals who commit 'revenge crimes' in Syria escape the death penalty. When the family of a murder victim takes revenge against the murderer's family or friends, in court they can argue that there were extenuating circumstances. Is this encouraging murder by letting these criminals go without full punishment?

NN: Syrian lawmakers are influenced by our customs and tribal traditions because of the moral value they have in society. But, in my view, this does not mean that the laws meet recognized legal standards and are humane. Any criminal must be punished according to modern legal norms and, of course, the death penalty is not one of these.

You are correct. What happens is unjust. It encourages more killings under the guise of taking revenge. Also, no one should be punished for a crime committed by another person. Revenge killings are absolutely illegal and should be punished by the law.

There are other crimes even more dangerous than revenge crimes. I am talking here about 'honour killings'. These are also another kind of death penalty carried out by individuals outside the law. Many women are killed when there is suspicion they have committed adultery or because of an innocent rendezvous. Many innocent girls are victims of unjust tribal and sectarian laws. I can say that there are two kinds of laws existing in our society: tribal laws -- some of which derive from Sharia law -- and modern laws. But the first group remains the more influential of the two.

Q: Under the state of emergency in Syria is there really space for abolitionist groups to work?

NN: The state of emergency and the absence of civil society organizations and suspicion of any social movement are preventing any lobbying. . [X]

CONFORMIST MEDIA BLAMED FOR PUBLIC APATHY

By Abderrahim El Ouali

Lack of media interest in reporting on death penalty issues is responsible for widespread public indifference to whether or not Morocco eventually abolishes capital punishment, according to analysts and activists.

"The Moroccan media has not yet made abolition part of its agenda," said Driss Ould Kabla, editor-in-chief of the Moroccan *Al-Michal* weekly. *Al-Michal* is the only Moroccan newspaper that regularly reports on death penalty-related issues.

Despite its 15-year-long unofficial moratorium, when the time came to vote on the recent UN General Assembly resolution calling for a worldwide moratorium on executions and eventual end to the death penalty, Morocco sided with the rest of the Arab world and joined the pro-capital punishment camp.

Morocco was one of the 52 countries -- many of them Arab -- which voted against the moratorium resolution on Nov. 15. Moroccan diplomats did not even take to the floor during the two days of debate in the General Assembly's human rights committee -- unlike Egyptian and Syrian diplomats who expressed strong criticism.

The Moroccan media largely ignored the country's stand on the UN General Assembly resolution. The near-total media blackout on death penalty issues is largely due to the failure of the press to jettison its antiquated conformist mentality -- not because of official censorship, Kabla said.

"We have a long history of support for the death penalty from all quarters, political, social and religious," Kabla explained. Expressing dismay at the absence of media interest in this event, Kabla said that the press did find its voice when there were even more controversial issues to report. "The Moroccan independent press has been showing enough daring on other issues," he stressed.

This sensitive reporting involved recent coverage of the alleged extra-judicial killings during the rule of King Hassan II who died in 1999. Some human rights activists have alleged the killings could number in the hundreds. Kabla's own investigations into some of these killings -- particularly those alleged to have been carried out at a secret service villa in Rabat, the Moroccan capital -- were published in his own weekly and re-published on many websites in Arabic.

Kabla said that NGOs shared some of the blame for public apathy towards death penalty abolition: "Abolitionist NGOs are not communicating widely enough".

Ahmed Kouza, an Amnesty International activist, agreed that the Moroccan press was tame in its reporting on the death penalty. Press fail to appreciate the relationship between abolishing capital punishment and furthering democratic values, he suggested. ☑

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on other UN member states would be an infringement of national sovereignty. Singapore, which has been outspoken in support of the right to retain capital punishment, agreed that "for many delegations this is a criminal justice issue, and not purely a human rights issue, as the European Union and its allies assert. This resolution will make no difference to Singapore's policies. We will continue to implement policies that work for us and best serve the interest of our people."

Still, Terlingen stressed that "there is a worldwide trend towards abolishing the death penalty. Even if the debate doesn't reach them today, it will reach them tomorrow. You see it for example in Africa, where there is a split in votes. There are, for instance, Islamic countries in the north of Africa which have voted in favour of the resolution."

"It means that also in that bloc of countries there is a trend and that it's going to be debated. This will stimulate the debate, because next year you have the same thing that is going to happen. It's an annual resolution," she said.

According to Amnesty International, 133 countries have abolished the death penalty in law or practice. Last year, just 25 countries carried out executions, of which 91 percent took place in China, Iran, Iraq, Pakistan, Sudan and the United States. Compared to 2,148 executions in 2005 worldwide, statistics show a decrease in implementation of the death penalty, with 1,591 recorded executions in 2006.

"This [result of the voting] is being reported back to the countries and next year the secretary-general will have to report to the General Assembly on how all countries have implemented the resolution. Countries themselves will have to come up with an answer as to what they have done or why they have decided not to do something," Terlingen said.

In a statement from Algiers, where he was visiting the site of a bomb attack that killed 41 people, UN Secretary-General Ban Ki-moon said he was "particularly encouraged by the support expressed for this initiative from many diverse regions of the world." "This was further evidence of a trend towards ultimately abolishing the death penalty, he said.

Asked what the real world impact of the resolution would be, Terlingen responded, "I think it will be gradual. Don't expect an immediate change as a result of this resolution, but I think that over years to come you will see the death penalty change. This only happened because there is a trend towards abolition. It will accelerate the trend you have worldwide."

- Ramesh Jaura | Philip Rouwenhorst ☑