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**SHOULD THE DEATH PENALTY BE ABOLISHED?
ARGUMENTS FOR AND AGAINST THE CENTURIES-OLD
PUNISHMENT**

Abstract: Despite the international trend towards the abolition of capital punishment, 23 countries still carried out executions in 2010. In many cases the death penalty is imposed after unfair trials and for non-lethal crimes, such as: drug-related offences, economic crimes, sexual relations between consenting adults and blasphemy. Nevertheless, non-abolitionist countries claim that their use of the punishment is consistent with international human rights law. Sophistry knows no limits when it comes to defending the death penalty: legal, economic, even religious and moral arguments have been used to defend what in reality is an atrocious crime. We shall take a look at the various arguments in support of the capital punishment and see if they can stand their ground upon a more thorough analysis.

Key words: death penalty, criminal law, human rights, unfair trials, abolitionism

"Ne me parlez pas de la vallée de l'ombre de la mort, j'y habite."

Abu-Jamal Mumia

*En direct couloir de la mort*¹

According to Amnesty International reports² only one country abolished the death penalty for all crimes in 2010 – Gabon, whereas 23 countries carried out executions and 67 imposed death sentences in the same year. Despite the worldwide trend towards abolition, universal abrogation is still a long way to go. In 2010 for instance, 6 countries and territories carried out executions after a hiatus and one country expanded the scope of the death penalty.³ Humanity may have flown into Space and stepped on the Moon, yet little progress has been made in the field of criminal law. *Lex talionis* is very much present in the legislation of many states, including the USA, a symbol of democracy. A total of 31 countries abolished the death penalty in law or in practice during the last 10 years, but China, Iran, Saudi Arabia, the USA and Yemen remain amongst the most frequent executioners.⁴

The right to a fair trial is often ignored and proceedings are still taking place in direct contradiction of international human rights law.⁵ Any legal system has its limitations and judicial errors are inevitable, but given the dire consequences of such errors in trials regarding crimes for which capital punishment may be imposed, additional guarantees should be offered. Unfortunately, this is not always the case and innocent people are still being wrongfully convicted and executed. Nevertheless countries in favour of the capital punishment claim that the advantages outweigh disadvantages and many more innocent lives are being saved by the enforcement of the death penalty. We wonder how this explanation could be offered with a straight face to the family of the individual wrongfully convicted. Few people realise the traumatic effect on families that are handed the death certificate of their relative, which reads "legal homicide", an oxymoron – the State's goal is to protect its citizens, the right to life being the supreme value protected by the State. Such an experience is bound to have devastating effects on the relatives of the executed person, especially when the individual in question was convicted unjustly.

Supporters of the death penalty claim that the health system is imperfect as well and people might die during surgeries, yet no one would question the utility of the health system.⁶ This is however an irrational comparison; trialled individuals never consented to proceedings and they did not *need* an intervention; their life was not threatened in any way and punishment was not enforced to save their life, on the contrary. Likewise, those in favour of capital punishment contend that many people

lose their lives daily as a result of traffic accidents, work-related injuries, sports competitions, funfairs etc. and the thought of forbidding such activities would never cross anyone's mind. In our opinion, such arguments are illogical and far-fetched. In the long run, any human activity might pose a danger to those involved. However, the death penalty is never an accident – the state *deliberately* takes the life of its citizens.

Yet brutality goes beyond that: capital punishment is sometimes enforced on underage offenders, new mothers and mentally disturbed individuals who cannot be held responsible for their actions.⁷ Furthermore, the convicted are often forced to spend a long time beyond bars awaiting the enforcement of the sentence. Such a torment is clearly against international provisions which guarantee the right to not be submitted to torture or any form of cruel, inhuman or degrading punishment.

Despite international prohibitions in 2010, Pakistan, Saudi Arabia, Sudan, and the United Arab Emirates imposed death sentences on individuals who were below 18 years of age at the time of the crime. It is believed that this situation could be caused at times by the difficulty to establish the exact age of a person, in countries such as Pakistan. Likewise, although most countries agree that the death penalty should not be enforced on pregnant women or new mothers, some states, such as Thailand, resort to capital punishment in the case of new mothers, no special rules being applicable to women after the birth of the child.⁸ On top of that, although the execution of the mentally insane is widely recognized among countries maintaining the death penalty, the implementation of this rule is not an easy one. If establishing that a person is underage or pregnant should not pose problems, things don't run as smoothly when assessing one's mental health. Even though individuals who were insane at the time of the crime or who became ill subsequently cannot be executed according to international provisions, mentally ill people are still being exterminated, there being a great degree of subjectivity involved in the process of assessing sanity, limited mental competence or other forms of mental disorder. Moreover, convicted individuals are often imprisoned for long periods of time pending the execution, especially in the US. There are cases in which the convicted requested the authorities to enforce the punishment sooner, in order to be delivered from the torment of the death row.

The death penalty is one of the oldest punishments used. Thus, Hammurabi's code (circa 1780 B.C.) sets this punishment for a significant number of crimes, e.g. stealing the property of Church or Court, or receiving such stolen goods; allegations of crime without proof; kidnapping a minor child etc. Beheading was a common punishment in

the past, especially among the Turks and other peoples that came in contact with them such as the Hungarians or the Greek.⁹ Beheading was usually applied to noblemen, because similarly to animal sacrifice, the loss of blood implied a “normal” death. On the contrary, hanging was considered to have terrible consequences on the individual upon entering the other world. Turks were an exception in this case as they used beheading for people of a lower social status as well. Executions took place in public most of the time – in front of the convicted person’s house, in public markets, inside the court of the castle, on the streets, upon entering the village etc.

At the end of the eighteenth century, enlightened scholars such as the Italian jurist Cesare Beccaria, started questioning the utility of the death penalty and of the cruel corporal punishments applied at the time, arguing that the capital punishment, which was uncertain and applied *uno ictu*, had less deterrent effects than prison. Gradually, prison started being perceived as a more rational punishment – its application was certain and due to its long timespan, it had the ability to make individuals ponder on the crime and enable convicts to change their behaviour in time.

In theory, humanity has abandoned torture, and cruel, inhuman and degrading punishments nowadays, yet the actions of the countries which retain the death penalty blatantly contradict these lofty ideals. If torture is forbidden, *a fortiori*, the capital punishment should be repealed. Opponents of the death penalty perceive this sanction as premeditated murder committed by the State.¹⁰

Depending on their stand on capital punishment¹¹, countries can be divided as follows:

- a. Countries that abolished the death penalty for all crimes – war crimes, as well as ordinary offences, committed in times of peace;
- b. Countries that abolished the capital punishment for ordinary offences committed during peacetime, but which retained the death penalty for exceptional circumstances, such as military offences committed in times of war, or for crimes against the state such as high treason or terrorism;
- c. States and territories that retained the death penalty in their legislation for war crimes, as well as ordinary offences. They are further divided into two categories:
 - i. Countries which have not officially repealed the death penalty, but which have not enforced it for an extended period of time, at least 10 years. These countries are *de facto* abolitionist, yet they can always begin enforcing the capital punishment if they consider it necessary.

- ii. Countries which have maintained and enforced the death penalty for war crimes, as well as common crimes, in the past 10 years.

But what exactly drives countries to perceive cold-blooded homicide as the best example to illustrate the value of human life? The most common argument in favour of the death penalty is that the abolishment of this punishment would contradict the principle of equality before the law, as well as that of proportionality between crime and punishment. Yet these people fail to realise that the *eye for an eye* policy, which characterized the legislation of ancient civilizations, would only end up making the whole world blind, as Mahatma Gandhi once said. The death penalty is but another murder – committed by the state in this case – and serves no other purpose than revenge.¹² If the security of citizens is the purported purpose of capital punishment, then this can obviously be achieved in other ways as well. Supporters of the death penalty don't see the "eye for an eye" way of thinking as wrong however; while the syntagm represents the definition of barbaric revenge for some, what it means to countries who maintain the death penalty is that the punishment should be proportional to the crime.

The idea of a perfect correspondence between crime and punishment is absurd. The rule cannot be applied blindly. Unlike other fields of law, criminal law does not always make sense. Criminal law does not imply a *restitutio in integrum* as in the case of civil law for instance. Granted, a thief could be fined, but there isn't necessarily a correlation between crime and punishment in most cases. If we were to follow this sophistic way of thinking all the way and apply legal principles *ad litteram*, not taking into account the spirit of the law as well, a rapist's punishment should be rape, and the punishment for insult would imply calling the culprit names; yet individuals in favour of the death penalty will most likely agree that such unthinkable practices represent cruel, inhuman and degrading punishments and that prison is an adequate punishment in such cases. But how could a 5-year prison term make up for injuring a person? Where is the logic and proportionality in that? The more serious the crime, the longer the prison term – prison is perceived as a *panacea* for almost all antisocial actions.

Another argument used by those who defend the death penalty is that abolitionists confuse the idea of justice with rehabilitation and kindness; justice, they claim, should be an end in itself, and a person who killed another one has no right to enjoy their life upon their release from prison.¹³ We beg to differ: punishment implies more than mere revenge in our time and age – the purpose of punishment is to deter the individual from committing crimes and reintegrate him/her within society. If the purpose of keeping societies safe can be achieved through other means, there is no need to kill another human being. Countries who retained the

death penalty argue that abolitionists lay greater stress on the fundamental rights and the dignity of criminals, losing sight of the rights of victims and families. They claim that the victims' families and friends cannot feel safe and overcome the trauma of the crime as long as the criminal is alive and could always break free.¹⁴ Likewise, life sentences are criticized because they do not last a lifetime in reality, many prisoners being released after a certain period has passed, if they have a good behaviour. Pro-social behaviour could be simulated and the criminal would thus be released posing a threat to society. According to supporters of the death penalty, the convict will feel protected by the society whose rules he/she broke, and a prison term will only confirm that the life of the victim was not particularly significant, unlike his/her life and well-being, which would be immoral and would contradict the very idea of justice – the life of a criminal cannot be more important than that of an innocent person. Prison term, they claim, cannot deter the criminal, especially in countries which allow parole after a few years of incarceration. According to them, an individual would not be discouraged to commit a crime if the worst thing that might happen to him/her were imprisonment for several years in a place where shelter, food, medical care, leisure activities and education is provided. Moreover, legal provisions guarantee the right of prisoners to dignity and physical and mental health, forbidding discriminations as well upon their release. The message conveyed in this manner would be that killing another person is not a very serious matter. They maintain that these people pose serious danger to guards and society if they manage to escape and there is also the possibility of relapse after release. The only certain way of stopping further violence would thus be the death penalty. They also point to confessions of criminals who claim they would not have committed the crime, had the capital punishment been in place, while others even boast about their actions and the fact the state would take care of them and feed them for the rest of their lives.

Countries in favour of the death penalty maintain that offenders could foresee the consequences of their crimes and thus, they cannot make use of the legal provisions protecting human life, rules which they themselves had broken.¹⁵ However, this reasoning is also flawed and inconsistent – an individual who submitted someone else to torture is allowed to make use of his/her right to not be submitted to torture. Likewise, a paedophile will not be surgically castrated and justice can be delivered in other ways. Humanity holds the right to life as the most important value and punishments should not be cruel, inhuman or degrading. Those who maintain the capital punishment however, contend that while the right to life is indeed the most important value, soldiers are forced to kill their enemies in times of war and no one blames them for

taking the life of another person. In the same manner, no one will ever question the right of a policeman to shoot an armed and dangerous criminal. On the contrary, they say, these people are considered heroes. Similarly, killing someone in self defence is not an action which is a morally condemned. We cannot accept any of the parallels above. What the previous examples have in common is the fact that they allow no other alternatives of stopping the wrong-doer. Self-defence implies an imminent attack and capital punishment is certainly not enforced in order to prevent an individual from committing a crime. The person can be immobilized and imprisoned, there being no need to take his/her life. If X is killed today and the brother of the victim kills the criminal the following day the subsequent crime is not committed in self-defence, but out of revenge. The act is no longer imminent and the victim's brother could have turned the criminal in. Similarly, if a policeman shoots the criminal while the offender was trying to kill someone else, the shooting is an action of self-defence.¹⁶ However, if the criminal is caught and imprisoned, he/she is immobilized; hence, the execution of the person by the state could not be interpreted as "self-defence".

Most violent crimes are usually a one-time event, committed under the influence of drugs or alcohol, or in a burst of anger, and the criminal might not have taken into account the punishment for a certain crime at the time. In fact, those convicted for serious crimes and to long prison terms are often the most unlikely to relapse, according to statistics.¹⁷

Those in favour of the capital punishment deny the fact that the right to life is absolute¹⁸, given the fact that every right has its limitations: prisoners are denied the freedom of movement; their work in prison is not considered forced labour; the right to personal property is "infringed" by applying fines; the freedom of speech does not involve the right to offend or discriminate against others etc. Nonetheless, we believe that the right to life cannot be placed on the same scale as other rights. While other rights might be restricted, the right to life cannot be limited, but only completely denied – the consequences of the punishment are permanent. Granted, the right to property can be "infringed" as well, but equating the person who takes one's house and the person who takes one's life seems unacceptable to us. According to the contractarian argument, the death penalty cannot be accepted either, nor can the right to life be violated, based on the fact that individuals must consent to the system of punishment, and a person would not agree to the State's power of life and death over citizens.

Paradoxically, supporters of the death penalty even resort to moral and religious arguments to justify their stance. They claim that letting the guilty live after taking the life of someone else and attempting to rehabilitate such a person would be immoral, disregarding the feelings of the victim's relatives.¹⁹

Ironically, many God-fearing Americans feel that enforcing the capital punishment means granting the wish of the Lord. G. W. Quinby²⁰ makes an interesting analysis of a Biblical phrase that supporters of the death penalty often point to – *Whoever sheds human blood, by humans shall their blood be shed* (Gen. 9: 6). Many devout Christians believe this phrase represents God's will; the agnostic/atheists make use of the same Biblical passage in order to illustrate that people have respected the value of human life from time immemorial, and the natural reaction to crime is that the person who committed the awful deed can no longer live among others.

As Quinby points out, if we were to take the phrase *ad litteram* though, the executioner should be killed as well. The individual suppressing the executioner's life would have to be murdered too and so on, this leading to a universal carnage. The only logical way of interpreting the Biblical phrase would be restricting the meaning of the word *killer*. However this text should have universal application and one cannot simply modify Biblical tenets at will. Supposing however that one were allowed to do that nonetheless, and the meaning of the term would be restricted, the next question that would arise would regard the nature of the crimes punishable by death penalty. Most of the time the capital punishment is enforced in the case of premeditated murder. As a consequence, those who support the death penalty should be consistent and seek to modify criminal law if case be, so as to enable the capital punishment for all homicides, including crimes which are not premeditated. In reality, the only logical way we can interpret this phrase is that the passage does not represent a command to kill for the sake of "justice", but rather a warning regarding the dire consequences that the deed might bring about – the person who kills will be harshly punished; what goes around comes around.

The death penalty makes no sense: the victim will not be brought to life and another person is killed as well. Committing another crime is unnecessary. Moreover, abolishment of the death penalty did not lead to an increase of crime rates on a long term.²¹ As expected, abolitionists find an explanation for this phenomenon as well – they claim that the legal system is inconsistent and does not apply the death penalty in all cases, sending the message to criminals that the application of such a punishment is unlikely, thus significantly diminishing its deterring effect.

The death penalty sets a negative example for citizens, increasing violence within society – living in an environment where violence is tolerated will enhance natural instincts towards violence.²² It's enough to take a look at the number of massacres committed in the US where possessing a lethal weapon is not forbidden by the law. The capital punishment teaches the individual that being violent when you are

treated unjustly is the right course of action. Supporters of the death penalty claim however that only illegitimate violence leads the way towards more violence.

Those who maintained the death penalty feel that citizens from abolitionist countries should be consulted regarding the re-introduction of this punishment; they maintain that it is highly likely that the majority of people might support this punishment. They argue that the death penalty is rejected as inhuman and degrading without analysing what the population has to say.²³ Therefore the states in question ought to be considered dictatorships rather than democracies. However, we feel that the legislative system is the result of the evolution of society, there being an ongoing effort owing to experts in different fields. Law should not represent an involution. The majority of people in a certain state might feel for instance that coercing one's spouse into forced sexual intercourse does not constitute rape. Likewise, a great number of people might think that drugs should be legalized. It is also highly likely that most citizens in a country might be against parole, yet this institution still exists. The will of people is expressed through legislators. Claiming that the state which repealed the capital punishment without a referendum is a dictatorship is irrational. Dictatorship implies a serious infringement of citizens' rights, and we don't see why stopping a crime and maintaining general security in other ways would infringe any of the citizen's rights. We do agree with the fact that no person has the right to commit murder, and that is precisely why we oppose the death penalty; abolitionists believe that the vicious circle should be broken. A democratic and civilized society is concerned with the well-being of its citizens and the rehabilitation of erring individuals. Rehabilitation is not only done for the offender's sake, but society as a whole is a beneficiary as well, through reduced recidivism rates. We believe that genuine democracies should deal with issues in a civilized manner and not give way to barbaric basic instincts.

In reality, capital punishment is most of the time favoured because it is a less expensive way of dealing with criminals than prison. For instance the number of capital punishments rose during international financial crises.²⁴ Some supporters of the death penalty go as far as to claim that taking organs from the executed person would be an acceptable practice as it would enable saving the lives of innocent people, or could at least be used for medical purposes.²⁵ It is ironic that people who come up with these monstrosities, and who view killing as an affair, are the ones who claim that justice should not be confused with rehabilitation, pity etc. as the punishment of the guilty one should be an end in itself. Leaving aside the ethical obstacles to such a practice, if one accepts the fact the punishment serves no other purpose than that of delivering "justice" (read

“retribution”), one cannot accept the idea of taking organs following the same reasoning.

If capital punishment is to be enforced, several guarantees must be respected:²⁶

- The death penalty must be used for the most serious crimes only, *id est* the most serious crimes with lethal or extremely grave consequence;
- Capital punishment may be imposed only for a crime for which the death penalty is prescribed by law at the date of its commission; if subsequent to this moment, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby;
- The punishment is not to be carried out on offenders under 18, pregnant women or new mothers, as well as people with mental illnesses. Likewise, international provisions lay a stress on the fact that individuals should not be executed if they were sane at the moment they committed the crime, but have developed a mental illness afterwards;
- States that maintain the death penalty should set an age limit for offenders who can be executed;
- Capital punishment can be applied only when there are no doubts that it was the individual trialled who committed the crime;
- The punishment may only be carried out after a final judgement rendered by a competent court. The suspected person must benefit from all possible safeguards which ensure a fair trial, at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights. In light of this provisions, anyone suspected or charged with a crime for which capital punishment may be imposed, has the right to legal assistance in all stages of the proceedings. The guarantees offered should be superior to those of a normal trial and the person in question should benefit from a special protection, having enough time to prepare his/her defence, read the file etc. (this also applies to appeal or other proceedings).

Cathleen Burnett, author of *Justice Denied: Clemency Appeals in Death Penalty Cases*, draws attention to the fact that not many people can afford to pay for an adequate defence, as fees applied by lawyers in such cases are extremely high. Although any democratic state will provide defence without compensation, if the trialled person cannot afford a chosen lawyer, cases are often treated superficially and are usually assigned to less qualified professionals (as proven by the great number of suspended and disbarred such

lawyers) and who are paid much less than chosen lawyers. Judicial errors can lead to the wrongful application of the capital punishment. The illusion of having a lawyer is more dangerous than the lack of defence.²⁷ The lawyers' lack of experience and professionalism is just one of the problems affecting the quality of judicial proceedings however. The pressure to solve a case may lead crime investigators and prosecutors on a wrong track, whether intentional or not. Indeed there have been cases in which investigators were proven to have distorted facts, influenced witnesses or hidden exculpatory evidence, vital to someone's defence, in order to solve the case and find a scapegoat.²⁸ Likewise, Burnett draws attention to the high number of executions among the Afro-American population and the systematic practice of leaving out black people for jury duty when people of colour are being trialled. The right to a fair trial was also infringed when the judge took part in the solving of the case in first instance, as well as in subsequent phases of the trial, or when he/she already formed his/her opinion before the end of the trial and expressed it during or outside proceedings;

- If the person suspected or charged with a crime does not understand the language of the trial, he/she has the right to be informed through translation;
- The person charged with a crime for which the death penalty was imposed has the right to appeal to a court of higher jurisdiction and the right to ask for pardon or commutation of sentence, regardless of the nature of the crime committed; the person cannot be executed as long as the appeal or petition for pardon or commutation of sentence request is pending. The UN insists that legality control by higher courts should be compulsory. Likewise, even if the person does not submit a petition of pardon or commutation of sentence it should be considered by default; officials involved in decisions to carry out an execution have to be fully informed of the status of appeals and petitions for clemency of the prisoner in question;
- The individual on death row must benefit from all the rights and guarantees written in the Standard Minimum Rules for the Treatment of Prisoners in order to minimize the suffering of the person in question;
- The application of the death penalty must inflict the minimum possible suffering.

If capital punishment is an abstract concept and one may be in favour or against the extermination of criminals, let us not forget that this implies a morbid “profession” in our civilized society – the executioner is a person paid to kill others. Just how many people would still support the death penalty if they had to take on such a job? The majority of supporters don’t ponder too much over the consequences and feel that the State assumes the responsibility for committing the murder. The State however represents the will of its people; the responsible ones are its citizens. The World Medical Association considers any implication of a medical professional in the enforcing of the capital punishment, in any way and in any phase of the proceedings, as a violation of the principles of professional ethics.²⁹

Abolitionism is not about siding with the guilty. Abolitionists recognize the atrocities of crimes and the need to apply a severe punishment. However, no person should be turned into a criminal as well, for the sake of delivering “justice”.

We cannot agree with the enforcement of capital punishment given the fact that judicial errors are always a possibility, in spite of authorities’ best efforts. Unlike any other types of punishment, the death penalty doesn’t allow the system to correct its errors in any way. An innocent life cannot be considered a mere error. As the Marquis de Lafayette once said, “I shall ask for the abolition of the death penalty until I have the infallibility of human judgment demonstrated to me.”

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¹ The text is a reference to *Psalm 23*, which speaks of the valley of the shadow of death, wherein the only hope of the individual is God.

² “The Death Penalty in 2010”, accessed October 9, 2011, <http://www.amnesty.org/en/death-penalty/death-sentences-and-executions-in-2010>.

³ “Death Penalty in 2010: Executing countries left isolated after decade of progress”, accessed October 9, 2011, <http://www.amnesty.org/en/news-and-updates/report/death-penalty-2010-executing-countries-left-isolated-after-decade-progress>.

⁴ *Ibid.*

⁵ “Capital punishment and implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty”, E/2005/3, accessed September 20, 2011, <http://www.un.org/docs/ecosoc/jump2ods.asp?symbol=E/2005/3>, English section, 3-4.

⁶ “Answers to the argument against the Death Penalty”, accessed August 31, 2011, <http://sites.google.com/site/yesdeathpenalty/chapter3>.

⁷ “Capital punishment and implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty”, E/2005/3, accessed September 20, 2011, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/V05/819/20/PDF/V0581920.pdf?OpenElement>, 20-24.

⁸ “Death Penalty Database Search. Kingdom of Thailand (Thailand)”, information current as of April, 04, 2011, accessed November 19, 2011, <http://www.deathpenaltyworldwide.org/countrySearchPost.cfm?country=Thailand>.

⁹ Paul Henri Stahl, *Histoire des décapitations* (Paris: Presses Universitaires de France, 1986), 13.

¹⁰ Cathleen Burnett professor of Criminal Justice and Criminology within the University of Missouri-Kansas, refers to the death penalty as “murder” all throughout her book – *Justice Denied: Clemency Appeals in Death Penalty Cases* (Boston: Northeastern University Press, 2002).

¹¹ “Capital punishment and implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty”, 25-28.

¹² See note 9.

¹³ “Arguments for the Death Penalty”, accessed August 31 2011, <http://sites.google.com/site/yesdeathpenalty/chapter2>.

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ Despite its name, the act of self-defence refers not only to the defence of oneself and one's property; if someone witnesses an assault, he/she has the same right as the offended party himself/herself.

¹⁷ In 1972, all the existing death sentences were overturned by a Supreme Court's decision – *Furman v. Georgia*, which ruled that the death penalty constituted a cruel and unusual punishment. In 1989, Marquart and Sorenson showed that of the 558 inmates whose death sentences were commuted to life imprisonment by Furman, among which 239 inmates were released to the community, only one of those released committed a new homicide, and nearly 80% of inmates have not committed any new crime. These parolees spent an average of five years outside the bars. Source: James W. Marquart and Jonathan R. Sorenson, “A National Study of the Furman-Commuted Inmates: Assessing the Threat to Society from Capital Offenders”, in *Loyola of Los Angeles Law Review* 23, no. 5 (1989): 26-27.

¹⁸ The exception to the right of life was enshrined in international documents such as: The European Convention on Human Rights (1950), article 2, point 1, according to which *Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law* or the International Covenant on Civil and Political Rights (1966) – article 6, point 2.

¹⁹ See note 9.

²⁰ In *The Gallows, the Prison and the Poor-House: A Plea For Humanity; Showing the Demands of Christianity on Behalf of the Criminal and Perishing Classes* (Cincinnati: G. W. Quinby Publisher, 1856), 85-144.

²¹ For details, see: Michael L. Radelet and Traci L. Lacock, “Recent Developments. Do executions lower Homicide Rates? The Views of Leading Criminologists”, in *The Journal of Criminal Law and Criminology* 99, no. 2 (2009), 489-490.

²² One of the first penologists to express this view was Cesare Beccaria, whose book, *On Crimes and Punishments*, published in Italy in 1764, would forever change the criminal law system worldwide.

²³ For instance US Ambassador Stephen Minikes told the OSCE Permanent Council in Vienna on August 29, 2002, in response to interventions by the European Union and other delegations, that the death penalty was “a political issue each nation has to decide for itself [...]. In a democratic society the criminal justice system, including the punishments prescribed for the most serious crimes, should reflect the will of the people, freely expressed and appropriately implemented”. Source: “In U.S., Death Penalty is Political Issue to Be Decided Democratically, August 29, 2002”, accessed September 21, 2011, http://www.usembassy.it/file2002_08/alia/a2082905.htm.

²⁴ John F. Galliher, John Gregory Ray and Brent Cook, "Abolition and Reinstatement of Capital Punishment During the Progressive Era and Early 20th century", in *The Journal of Criminal Law and Criminology* 83, no. 3 (1992): 538.

²⁵ "Various contributions", accessed August 31, 2011, <http://sites.google.com/site/yesdeathpenalty/chapter4>.

²⁶ "Capital punishment and implementation of the safeguards guaranteeing protection of the rights of those facing the death penalty", 33-55.

²⁷ M. Mello in Cathleen Burnett, *Justice Denied*, 98.

²⁸ Cathleen Burnett, "The Police Investigation" and "The Prosecutor's Misconduct" in *Justice Denied*, 17-63.

²⁹ WMA Resolution on Physician Participation in Capital Punishment (1981). It was revised in 2000, retaining the spirit of the previous resolution.

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