

Terrorism and Death Penalty

Enhance Human Dignity – Abolish Death Penalty

**5th World Congress against the Death Penalty
Workshop: Terrorism and abolition**

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“The means may be likened to a seed, the end to a tree; and there is just the same inviolable connection between the means and the end as there is between the seed and the tree.”
– Mahatma Gandhi, *All Men Are Brothers*



1. Human Dignity

Disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of humankind. The peoples of the UN have joined hands to create a world where human beings shall enjoy freedom from *fear*. If human beings are not to be compelled to have recourse to rebellion against tyranny and oppression, human rights must be protected by the rule of law.

Article 1 of the UDHR reads: ‘*All human beings* are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.’ Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the core of the Charter of the UN. All human rights derive from the inherent dignity of the human being.

The Charter of Fundamental Rights of the EU as well starts with *human dignity* – emphasizing that human dignity is inviolable, and *must* be respected and protected.

The sanctity of human life is a core value of civilisation. The human person is endowed with a dignity that is unique. The human being is a person not just an individual. When an individual dies, the species remain; when a person dies, someone unique and unrepeatable is lost. The human being has rights and duties originating directly and simultaneously from her or his human nature – rights and duties which are universal, inviolable and inalienable.

The human being is a social creature. Each and everyone is both ‘self’ and ‘the other’. An indelible bond unites all human beings. Human rights make up an intertwined totality composed of everyone’s many different rights at any one time.

The right to uphold life is of a more fundamental character than other rights. All other rights are but to secure the quality of the life that is being upheld. Human life is sacred.

2. Terrorism

There is no general agreement under international law as to the definition of terrorism. The crime may nonetheless be identified as having three main target groups:

- i. random or symbolic victims serve as instrumental *targets of violence*;

- ii. other members of the same group whose sense of security is purposely undermined, are *the targets of terror*; and moreover
- iii. the purpose is either to immobilize *the targets of terror*, or to mobilize secondary *targets of demands* (e.g. governments) or *targets of attention* (such as public opinion) to change attitudes or behaviour in favour of the interests of the terrorists.

The motivation sets terrorism apart from other crimes with similar objective conditions for culpability. Terrorism has two components: the violent act and the intent to terrorize by the use of violence. Already the League of Nations *Convention for the Prevention and Punishment of Terrorism* (that never entered into force) was based on a similar understanding of the motivation. So far the UN have adopted 14 major treaties for combating terrorism where States have been able to agree on the objective conditions for culpability (for example the International Convention Against the Taking of Hostages).

A definitional impasse has prevented the adoption of a UN *Comprehensive Convention against International Terrorism*. The main reason is that both the *Arab Convention for the Suppression of Terrorism* and the *Convention of the Organization of the Islamic Conference on Combating International Terrorism* define terrorism to exclude struggle by whatever means ‘for liberation and self-determination’.

For centuries not much attention was paid to the methods and means of warfare. The main focus was on when the cause was just and when the horrors of war thus could be defended from a moral point of view – that is possible justifications for using war as a remedy.

Only over the last two centuries has the focus shifted to the rules that ought to regulate the conduct of the parties to the actual war or armed conflict. The rules for the conduct of war have developed over time – the most difficult issue has been to achieve agreement on the protection of civilians.

The overwhelming need to protect civilians from violent attacks have also been brought brutally to the fore by the horrendous suffering engendered by the magnitude and the number of terrorist attacks opening this new millennium.

The international debate on whether certain underlying root causes can legitimize the use of terrorism, has developed along similar lines of reasoning as has the debate concerning the law of war. So far the international community has ended up with the enumerative approach to terrorism whereby certain characteristic terrorist acts have been outlawed. Like in conventional warfare one has proceeded from the premise that regardless of the cause espoused by the perpetrators certain types of violence are always impermissible.

Not underestimating the values of liberation and self-determination, terrorists do not help *a just evaluation* of the claims advanced by the groups for whom they claim to act.

Terrorism may be carried out by individuals or entities not representing a State; by States; or be State-sponsored.

Terrorism is applied for political, criminal or idiosyncratic reasons. Terrorist crimes may be committed by almost any device turned into an implement of terror. Terrorism by traditional and conventional weapons is documented abundantly in the records of Nazi rule in Germany.

Terrorism is first and foremost an affront to human dignity and the sanctity of human life vis-à-vis the *targets of violence*.

Terrorism as such rejects the dignity and the worth of the human being. It constitutes a threat to international peace and security, and is contrary to the purposes and principles of the UN.

3. The Death Penalty

Europe decided to abolish the death penalty in the aftermath of the Second World War – that is when the continent had been reduced to an immense ‘Ground Zero’. Abolishment was not the result of *theoretical* principles, but a core implement one could come up with to secure a ‘Never Again’. Every State in Europe but for Belarus have agreed to abolish the death penalty.

There is a long list of good reasons for abolition. Main issues of concern in terrorist cases are:

- (i) Does the death penalty make a difference?

- (ii) Can human fallibility be excluded in death penalty cases?
- (iii) Is it permissible to take life when the terrorist is fully pacified and controlled?

In response to these questions, the International Commission against the Death Penalty states: (i), there is no conclusive statistical evidence to this effect. As to question (ii), human shortcomings can never be excluded. Most important is question (iii). It should be examined in the light of its interrelation with human dignity and the right to life.

4. The need to enhance human dignity to counteract terrorism

What the peoples desire is to enhance human dignity and affirm respect for human life. There are countries that have chosen to abolish death penalty in all geographical regions, both rich and poor countries, of all cultures, all values, all traditions and all religions.

Capital punishment undermines respect for the right to life. Article 2 of the Charter of Fundamental Rights of the EU addresses the 'Right to life'. The 1st paragraph states 'Everyone has the right to life.' In the same vein the 2nd paragraph ascertains: 'No one shall be condemned to the death penalty, or executed.' Death as punishment is perpetuating the culture of violence and death.

Terrorism and the death penalty are interrelated in the sense that together they may spiral more violence and death.

Terrorists often originate from climates conducive to violence.

Terrorism may cause vicious circles that need to be broken.

Reasons for condemning terrorism overlap in part with the reasons for abolishing the death penalty. The need to transcend a culture of violence, crime and death is urgent.

It is for us to make a better world – the one we desire and believe in. We must have the courage to embrace a culture of life and respect for the dignity for every member of the human family.

The death penalty does not meet with our understanding of self and civilization. From a position of power not to take life, is where we differ fundamentally from terrorists. Terrorists must not benefit from impunity, but must be prosecuted. We should nonetheless opt for the sanctity of life and ask for imprisonment in lieu of the death penalty.

Any assault on human dignity has repercussions on the life of everyone – as an indelible bond unites all human beings.

Violence and the taking of life brutalize the human environment – that is exactly what we want to avoid.

Recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.

We must plant the seed of the tree we want to grow – that is **enhancing human dignity by abolishing the death penalty.** That will in the end undermine terrorism and the acceptance that terrorism still has among some people.

