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**@MOVING TOWARDS A WORLD WITHOUT EXECUTIONS:
OBSTACLES AND HOPES**

by

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The death penalty is the most totalitarian of punishments. An execution is a proclamation by the state that its judgment is infallible and that it has the power and the right not merely to punish a crime but to destroy - completely and forever - a human life.

Because this power of life and death is so awesome and the act of killing so irrevocable it is hardly surprising that throughout history those who have ruled by terror and fear have always fervently embraced the death penalty. It is not surprising that states which use this power today to kill legally are often the same states which violate other human rights illegally.

It is not surprising that the struggle to abolish the death penalty has been closely linked to the struggle for all human rights and that recently we have seen example after example of countries where the elimination of tyranny has been followed by the elimination of the gallows and the firing squad.

It is not surprising that there is, as one looks around the world, such a strong correlation between societies with political freedoms and societies which have abolished the death penalty. What is surprising are the exceptions to this correlation.

I live in one of the exceptions, the United States - one of the few developed democratic societies where the state still kills prisoners. It is a country with strong traditions of respect for individual rights where there are, as I speak here, some 2 500 individuals housed in death rows who are waiting to be hanged, gassed, burned or poisoned to death, a country with the rule of law whose highest court has said that it is allowable to execute the retarded or those who are under 18 years of age, and a country where moves are under way to shorten or eliminate the appeals process which, if successful, would ensure the killing of many of the prisoners who now are regularly discovered to have been wrongly convicted or wrongly sentenced to death.

It is of course also a country where many people are fighting against this rush to kill - lawyers who donate their services to those on death row too poor to hire them, doctors who refuse to participate in medical procedures now used in some states to kill, social scientists who gather and disseminate the data that reveal the real nature of the death penalty, journalists who have discovered and publicized cases of innocent prisoners scheduled to die and ordinary people who write letters, circulate petitions, and vigil in protest of every execution.

Those of us working in this movement to stop official killings have had to confront some ugly truths and ask some disturbing questions. Why do our fellow citizens cling to and clamour for a practice which people in a growing number of countries have rejected as useless, inhuman and intolerable? How can people be in favour of human rights, be against torture in all cases, be genuinely shocked to learn about countries where the state attaches wires to some prisoners and applies electricity until these prisoners are in terrible pain, and yet not be shocked - find it acceptable or even desirable - that in their own country the state, in a place like Florida, puts wires on prisoners and then turns up the electricity so high that those prisoners are literally fried to death? We have been forced to ask not just why governments want to kill but why so many people want the government to kill.

I don't know if I can answer these questions even in part here today but I think it is important to try - and to keep trying - not only because the answers may be relevant to the effort to abolish the death penalty in many countries but because the answers are relevant to the effort to protect human rights in all countries. For the arguments that are used publicly in the United States to defend the legal cruelty of the death penalty are no different, in my experience, from the arguments used privately in other countries to defend the illegal cruelty of torture or political imprisonment. And in understanding the reasons - the real reasons - why people in some countries like mine loudly call for executions we begin to understand why people in other countries silently tolerate or support torture or political imprisonment.

Amnesty International opposes the death penalty on the grounds that it is the ultimate cruel, inhuman and degrading punishment and it is therefore forbidden in all cases by the Universal Declaration of Human Rights. What is interesting in working against the death penalty is that this argument is seldom contested. It is hard to argue that killing someone isn't cruel. Anyone who has witnessed an execution or who thinks seriously about how it

must feel to be told that you will be killed at a specific hour and then be held helpless until that time arrives can only confirm the obvious cruelty of the death penalty, no matter what method of killing is used.

So people usually don't waste time trying to deny the cruelty of killing someone. Instead they attempt to justify that cruelty. And they do this with arguments that have forever been used to justify the violation of human rights.

The first of these is that the death penalty may be cruel, may be even evil but it is necessary at least for the time being to protect society. We inflict cruelty on the individual for the good of everyone else. We kill prisoners convicted of killing so that the rest of us will be less likely to be killed.

In human rights terms this argument that cruelty can be allowed if it serves some useful purpose must be rejected. But even on its own terms there is an overwhelming flaw in this argument. Despite centuries of experience and despite innumerable studies there is no credible evidence that the death penalty has any special power to protect society or anyone in society from anything. Indeed there is no credible evidence that the death penalty offers any social benefit. On the contrary. Nations which adopt the death penalty do not see their rates of violent crime decline as a result and those nations which abandon the death penalty do not see their crime rates increase as a result. In the United States those states which carry out executions have significantly higher rates of homicide than those states which have abolished the death penalty. In recent years the state of Texas has with great fanfare killed more prisoners than any other state, so according to the U.S. Senate Judiciary Committee what is the state that will show the greatest increase in murders in 1991? It is the state of Texas. I could go on. All studies and statistics lead to the same conclusion: the death penalty has no special power to deter violent crime and by its brutalizing effect may even increase it. Prisons can and do incapacitate those who have already committed violent crimes and unlike the death penalty they allow for miscarriages of justice to be at least partially corrected. The death penalty, at least in the United States, does not even save money. The extra safeguards and appeals which have proven necessary to reduce the number of innocent people put to death end up costing the state more than double what it takes to put a person in prison for 40 years.

Many people don't know this and when they learn that the death penalty is useless they reject it. But support for the death penalty is only partly related to rational argument and evidence. Its strength comes from an appeal to the emotions. And the most important of these emotions is fear.

And there is a lot of fear in our world and certainly in my country. Violent crime in the United States has been growing for a long time and has reached alarming levels as has homelessness, drug use and the incredible proliferation of guns and other weapons among private citizens. People have good reasons to be afraid and frustrated. They desperately are demanding that something be done and what they are usually offered by their leaders and by the news media is the death penalty. And if the death penalty is all that is offered most people will take it, no matter what the facts about its failure to protect.

But there is growing evidence that if these same people are given an alternative which takes seriously their fears they will choose the alternative. When people are asked in public opinion surveys only if they favour the death penalty for murder they overwhelmingly - sometimes by as much as 79 per cent - answer yes. But when the choice is instead between the death penalty and life imprisonment without parole a majority say they prefer imprisonment. And when some form of retribution to the family of the victim is added to the imprisonment the percentage favouring the death penalty falls dramatically. In the state of Florida the percentage favouring the death penalty falls to a mere 24 per cent. Who knows what would happen to support for the death penalty in the United States if in addition to this alternative of true life imprisonment people could see serious steps being taken to address the social problems that contribute to violent crime along with measures to improve the certainty of arrest and conviction which appears to be the true deterrent factor.

The lesson seems to be this. If people are given the information on the failure of the death penalty to deter plus some alternative that seriously address their concern for protection most will turn away from the lure of more killing.

Advocates of the death penalty are becoming aware of this. Increasingly deterrence is being replaced by a new argument. It is called retribution and simply put it is the argument that people should be killed not in order to deter others or protect society but simply because they deserve to die and we want to see them die. They deserve to die because they have committed acts which have removed them from the human race. Outside the human race they can no longer claim to be protected by human rights. And the emotion which breathes life into this argument is not so much fear as anger or even hatred.

This is an argument which is as powerful as it is dangerous. It is dangerous because if we accept that there are people who can deserve to die because of acts they have committed, how can we reject the notion that there are people who deserve to be tortured or imprisoned without trial because of acts they have committed? It is a notion which goes against the very basis of human rights.

But it is an argument with real power because we all know of or can imagine crimes that would make us want to kill those responsible. One has only to think of the murder of a loved one or of a child or, God forbid, of both.

But retribution as the basis for the death penalty demands not only people who deserve to die but a criminal justice system which can fairly and accurately determine who these people are. A system which kills a few people while allowing others who have committed the same or worse crimes to live or go free is not a system of retribution but of human sacrifice. Even worse is a system that by mistake can kill those who have committed no crime at all. I cannot speak about all countries but in the United States which has many reasons to be proud of its criminal justice system, what is going on is clearly human sacrifice, the ritual sacrifice of a few convicts to appease public fear and anger.

There are some 20,000 murders committed in the United States every year and out of this vast number some 200 people are chosen to be killed. Despite all the efforts that are made to prevent this, every year we learn that some of these people have been wrongly convicted or sentenced. Judicial review of capital cases has discovered more than 40

innocent people sentenced to death since 1972. A study of the use of the death penalty since 1900 has uncovered some 23 cases of known innocent people who were actually executed. But since an execution ends the effort to investigate possible miscarriages of justice, the actual number of innocent people put to death is certainly much higher. This is not surprising. It is simply what happens when a godlike power is given to a system made up of human beings.

What about the others? What distinguishes others condemned to death from those convicted of murder who were allowed to live? Again the evidence is clear. It is not the nature of their crimes as much as their economic status, their race or the race or economic status of the person they killed. Virtually all those on death row in the United States are poor, mentally ill or retarded, or belong to minority races and those who are executed are often all of the above.

Nearly 80 per cent of all executions have taken place in those states with extensive histories of lynching black people. So it is not surprising that race plays such a key role in the debate on the death penalty in the United States. The General Accounting Office of the US Congress recently looked at 28 different studies and concluded that race is a factor in every aspect of the death penalty - charging, sentencing and carrying it out. Particularly key is the race of the victim. If you kill a white person in the state of Georgia, for example, you are seven times more likely to be sentenced to death than if you kill a black person. Last week the *New York Times* carried a story on its front page on an execution. It was front page news because in more than 50 years and in more than 1000 executions this was the first time that a white man had been put to death for killing a black. And the white man in this case had already been convicted of nine other murders, all of them of whites.

I don't believe the criminal justice system in the United states is any worse than those of other countries. Any criminal justice system made up of human beings will reflect the biases and inequalities of the society in which it operates. This is deplorable but not surprising. What is not deplorable but intolerable if not obscene is that such a system is used to decide who should live or die.

Yet the fact that the death penalty is not carried out fairly but is used selectively and primarily against those who are already seen as less than equal to the majority of the population is what enables it to be used for demagogic reasons. It is, after all, not so easy to kill other human beings, even those who have committed terrible acts. It becomes much easier for the majority to fear, hate, and eventually to kill those with whom it can less easily identify.

But then this is the challenge posed by the death penalty. Is it possible for human beings to rise above fear, anger and their own hatreds and prejudices and begin to find ways to deal with the violence of their fellow human beings other than simply by more violence? It is an open question. But every time someone joins the abolitionist movement, every time another country reduces, restricts or abolishes completely the death penalty, the human race moves towards an answer of yes. Despite all the violence and social problems this is clearly where our world and our race is now moving. In light of all the other impossible changes that have recently come about I feel confident that this battle can be won and that some day I will live in a country and we will live in a world where never again will the extermination of human beings by a government be seen as acceptable for any reason.

