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HUMAN RIGHTS

For the longest time, many countries have been carrying out death sentences and execution as a punishment for certain crimes. However, in the recent past, human right activists and organizations have been campaigning for the abolition of death penalties or sentence used by the judicial systems. Although there is no prohibition in the international law that is against the death penalty, its use by the judicial systems goes against the universal fundamental rights of human beings. The use of death penalty is also seen as being flawed, and the ruling is not applied equally to all similar offenders. According to retired Judge H. Lee Sarokin, U.S. Court of Appeals, Third Circuit, “the system is too fraught with variables to survive. Whether or not one receives the death penalty depends upon the discretion of the prosecutor who initiates the proceeding, the competence of counsel who represent the defendant, the race of the victim, the race of the defendant, the make-up of the jury, the attitude of the judge, and the attitude and make-up of the appellate courts that review the verdict”. The system seems to be biased based on race, politics, social status and certain geographical factors; apart



from the fact that death sentences go against fundamental rights, it has been observed that most of the offenders do not receive fair trials before their execution.

The Death Penalty

The death penalty is a denial to the right of life. Although there are no prohibitions in the international law that is against the death penalty, Article 6 of the International Covenant on Civil and Political Rights states that the right to life is to be protected by law. The article also prohibits states from "arbitrarily depriving persons of their lives". In addition to the violation of the basic human rights, the application of death penalties breaches other basic human rights. It breaches the prohibition against cruel, inhuman, or degrading treatment. It has also been agreed that death penalty violates the prohibition against torture that is under the international human rights laws. Examining the application of death penalty from a human rights perspective, not only does it deny individuals the most basic human rights, but when looking for its "solution," ending its use could be the ultimate way out.

According to critics, capital punishment applied in the US is "expensive, racist, arbitrary, and fallible". Although the number of people executed from death penalties has reduced, some states (approximately 34 states) are still practicing it (CCR). Most of the countries use it as punishment for suspected terrorists, especially



after major terrorist attacks. However, according to amnesty international, “there is no evidence that the death penalty has a greater deterrent effect on crime than terms of imprisonment”. The positive effects of death sentences have not been witnessed despite it being applied for decades. The system is seen as being flawed. In most cases, the application of death penalty is normally done in a discriminatory manner. It violates the principle of non-discrimination. The discrimination is usually based on race and social status. Aside from certain geographical factors, decisions on death penalties are normally politically influenced. In the recent times, the decision on the death penalty has little to do with the severity of the offense that has been committed. The determining factors are applied unequally which means there is no equal justice.

Out of the key human rights treaties ratified by the U.S. three of them condemn punishment that is meted out on discriminatory way. To a large extent, the determining factor of who gets a death penalty is the race of the murdered individual. In studies carried out concerning the issues, 82% of the studies revealed that race played a big role when it comes to the application of death penalties, with whites receiving fewer death penalties. In the United States, most people who face death penalty are normally people of color, African Americans to be precise. It is more likely for an African-American to face the death penalty if he murders a white. On the contrary, fewer whites receive death penalties for killing blacks. The existence of racism in the judicial systems is an evidence of a flawed system. In most cases, the murder or offense cases are heard by a jury full of whites. It is less likely for a



black to receive fair judgment in such situations. Most studies carried out in different states showed the presence of racial patterns when it came to sentencing. In most states, black people were more likely to receive death penalties compared to their white counterparts.

Death rows are associated with torture. The experience of most death row inmates in the U.S fits the international legal definition of torture. The torture violates the human rights that the international law tries to protect. Before execution, most prisoners undergo a lot of torture. Typically they spend a lot of time in isolated cells. Some are subjected to harsh conditions when being detained. Most of them are detained for many years before they get death penalties. According to CCR, “the average length of time on a death row is around twelve to fourteen years”. It means many years of torture. Most of them serve years in solitary (more than 23 hours a day) away from their families and inmates while others are subjected to crippling conditions. Most prisoners are subjected to torture for such a long time.

The methods of execution have also been condemned as being cruel and inhumane. In the U.S. execution is done through injection of a lethal substance, electrocution, hanging and lethal gas. In some instances, the prisoners are sprayed with bullets by a firing squad. Most countries such as Nigeria, Sudan, India, Afghanistan, Iraq among others execute through hanging. Saudi Arabia is notorious for hanging criminals on a death row. Women who are found guilty of adultery are stoned to death in some instances. Most of these execution methods have been criticized for being inhumane.



Beheading and stoning for instance are considered as being very cruel with a lot of pain being inflicted on the prisoners. Death penalties do not deter any crimes or have any positive effects but all it does is subject the prisoners to a lot of torture and pain.

There are cases where mentally ill individuals receive death sentences. The U.S. Supreme Court for instance declared the execution of mentally ill persons as being unconstitutional. Decisions on execution of mentally ill persons are viewed as being unfair and violating their rights since a mentally unstable person cannot even comprehend what is going on in the courtroom, let alone defend themselves or appeal the decision of the judges. The ability of some judicial systems to prosecute such people shows how flawed some of the systems are. Some judges succumb to pressure to deliver the presumed "justice" regardless of the condition of the defendant. In addition to that, some defendants receive death penalties for offenses that they made while under the age of 18. It cannot be regarded as right decisions since young people tend to do irrational things mostly due to peer pressure and the need to prove themselves to others.

Some other factors that affect fair trials and the outcome of a capital case may include the number of attorneys assigned, their experience on death penalty matters and how much they are being paid. The funding that has been made available for the defense team also determines the chances that the defendant has in avoiding a death sentence. Criminals being represented by highly influential and



experienced lawyers are more likely to escape death sentences compared to those who are not well represented. There are cases where dangerous criminal responsible for many deaths and massive damages do not receive death penalty mainly because they are highly influential or have a lot of money. It shows that the judicial system can be highly compromised, and the chances of criminals on a death row receiving fair trials are quite minimal (CCR).

Most of the human rights activists are campaigning for the abolition of death penalties worldwide. Countries are working on reducing death sentences. For instance, the number of death penalties in the United States has reduced with some of the states completely abolishing death penalties. Some countries such as Germany, Australia, Netherlands, Norway, South Africa, Poland, United Kingdom and many more have completely abolished death penalties on all crimes. Countries such as Brazil, Israel, Peru, and Chile, allow for death penalties only for exceptional crimes. Some countries such as USA, Egypt, Thailand, Iran, Iraq and many more still retain application for death penalties for ordinary crimes. Some countries have not completely abolished death penalties though they have not executed criminals in the last ten years or so.

The best recommendation for dealing with death penalties is to abolish death sentences. Governments should abolish death sentences in their states and countries or lessen the number of crimes that would be eligible for death sentence. In countries where it is retained, high standards for proving guilt (such as DNA evidence)



should be maintained and also create a committee to approve capital prosecutions. On the other hand, the judicial system could increase the amount of time for death row inmates to file appeals.

Conclusion

Death penalty and execution are against the basic human rights that protects human life. Everyone has the right to life and the fact that death penalties cut short an individual's life, it violates the fundamental human rights. Not only does it violate human rights, but it also subjects individuals to torture, something that the international law protects all human beings from. Efforts have been made by human rights activists to try and abolish application of death sentences globally. This because most of those who get prosecuted are not subjected to a fair trial. There is no standard universal gauge as to what particular crimes are fit to receive death penalties. It makes the whole process unfair with some group of people being subjected to death sentences. Some countries have completely abolished death penalties on all crimes while others apply it for only particular crimes. Countries such as the united states have retained the use of death penalties for both petty and major crimes. However, the application of death penalties does not have any visible positive effects. The only way out is to abolish death sentences in all countries.

