

THE DEATH PENALTY: A QUESTION OF HUMAN RIGHTS

A Speech given by Larry Cox, Deputy Secretary of Amnesty International
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Since the beginning of 1984, many of us in Amnesty International have been involved in trying to confront Americans with the reality of torture as it is practised around the world. And as you know if you have been involved in that process, one of the first questions you hear in trying to do this is: "How is it possible? What kind of monsters can even dream up these kinds of acts? How can governments justify, even to themselves, this kind of incredible cruelty being inflicted on men and women? What kinds of cultures, what kinds of people, could tolerate such barbaric acts?"

Many of us, I hope all of us, have also been involved in trying to confront Americans with the ugly reality of the death penalty, not only as it is practiced around the world but as it is practised in this country. And as you know, the first set of questions you get when you try to discuss that ugly reality is slightly different from the questions you get when you talk about torture. The question is likely to be: "Why is Amnesty International concerned about the death penalty? What does the death penalty have to do with human rights? I thought you people were concerned with political dissidents? Isn't it a waste of your time and energy that could better be put to stopping torture and freeing prisoners of conscience than to be worrying about the fate of convicted murderers?"

It's striking that those two very different set of questions often come from the same people. It's apparent that many Americans, even some members of Amnesty International, are genuinely horrified at the thought that in places like Chile or South Korea prisoners are taken, strapped down, and electric shock is applied to their bodies until they are in excruciating pain, but find it acceptable, or at least less alarming, that in a place like Florida prisoners are taken, strapped down, and electric shock is applied to their bodies until they are dead. Many Americans, it is clear, are shocked and horrified that drugs are used in a place like the Soviet Union, not to cure people but to cause pain to prisoners, but find it acceptable, in fact find it humane, that in a place called Texas drugs are used not to cure prisoners, but to poison prisoners to death.

Maybe the best way to answer the first set of questions – the best way to answer the question, "Why or how do they in other countries tolerate or justify torture?" – is to ask the very important question, "How do we in this country justify or tolerate the evil that is capital punishment?"

The important truth is that the justifications are the same.

There is, however, one important difference. Torture is universally condemned even by governments which practice it. They deny it. The arguments for its use usually circulate only in private. Executions, legal executions at least, are not condemned. They are usually announced publicly. And the arguments for their use are made openly and publicly by some of the highest officials of the land. That is why the struggle against the death penalty is not an additional concern of Amnesty International. It is central to all of Amnesty International's concerns, because an execution is not simply the violation of one individual's human rights – it is the sort of open public dress rehearsal for the violation of all the human rights Amnesty International is desperately trying to stop.

And that is why the struggle against torture cannot be separated from the struggle against the death penalty. They are in fact the same struggle. Amnesty International's opposition to both torture and the death penalty are based on the same article of the Universal Declaration of Human Rights, Article 5, which states that no one, for any reason, under any circumstances, even in national emergencies, should be subjected to torture or cruel, inhuman or degrading punishment.

Amnesty International asserts that an execution, the total extinction of a human personality, is the ultimate cruel, inhuman and degrading punishment. And you know it's interesting that that particular assertion of Amnesty International is almost never challenged. It is very difficult to challenge the assertion that the death penalty is cruel, not only because anyone who has looked at an execution or really thought about an execution is stuck and often transformed by the horror of it, but because it is simply not logically possible to argue on the one hand that to kill somebody in cold blood is not cruel

while on the other hand arguing that killing somebody is so cruel that only the death penalty can be justified as a punishment for it.

So the argument that the death penalty is cruel is usually not denied. Rather the cruelty of the death penalty is justified, and it is justified in the same way that all violations of human rights are justified by those who carry them out. It is justified in the same way that the authorities tried to justify Dean Tshenuweni Simon Farisani's treatment and the treatment of others in South Africa, when they told him, as you'll recall, it is better for one man to be killed than for a whole society to be troubled; it is better for a few people to be tortured than for a whole society to be troubled; it is better for a few people to be executed – in fact it's better for the 1300 (as of May 1984) prisoners now under sentence of death in the United States to be executed – than for a whole society to be troubled. That is the justification given: it is better to sacrifice the individual for some higher cause.

Of course as you go around the world the higher cause changes for which these individuals are being sacrificed. In places like Guatemala it might be preventing revolution, in a place like Ethiopia it might be preventing counter-revolution, in the Soviet Union it might be preventing embezzlement, in Singapore it might be preventing drug traffic, in Malaysia it might be preventing arms traffic, in Nigeria it might be preventing armed robbery, and in the United States the higher cause is deterring murder.

Let me underline: the rationale is the same whatever the higher cause. The American who is horrified to hear that Kurds are being executed in Iran, or that so-called subversives are being tortured in Argentina, while at the same time demanding that convicted murderers be put to death in the United States, is not reflecting a different set of values. He is simply responding to a different kind of threat. In the United States the threat may be criminal violence that results from social disintegration, as opposed to some other country where the threat may be political unrest that results from social struggle, but in both cases the proposed solution is the same. Rather than dealing with the underlying causes of the problem, people instead simply inflict pain and death on a few selected human bodies.

In the United States the higher cause that is supposedly served by the death penalty has shifted as each higher cause that is proposed has been discredited. I don't have time to go into discrediting each one of them now. You know them full well. Deterrence has been shown by every study not to have a real effect on the death penalty. Others have proposed that executions demonstrate a respect for human life, but a quick glance around the globe shows that those societies which execute people and show their respect for human life are often the same societies where torture and political imprisonment are widespread. And then there is the retribution argument, that we should show respect for the victim's family. The problem with this argument is that victim's families say they are opposed to the death penalty and don't want killings done in the names of their loved ones. In addition the arbitrary, selective, discriminatory way victims are selected makes a mockery of any concept of retribution.

The real benefit of the death penalty, and this is not a benefit to society but to a few of the people who are in charge of running society, is that it gives appearance of doing something about violent crime without touching in any way the basic structures and relations in the society which might actually have a causal relation to violent crime.

But that benefit is never openly discussed. These phoney benefits are – because they have, however unjustifiedly, real emotional power. We have to be able to confront them. We have to be able to show people, with respect, why they are bankrupt. But as we do that, we have to remember that even if someone could demonstrate that there is some social benefit to be gained from executing some individuals, we would no more be in favour of executions than we would be in favour of torture if someone could demonstrate that there was some social benefit to torture being inflicted on some individuals. And that's because the underlying basis of all our work is that there are some means which no government can use to protect society, because in using those means, you destroy the very values that make that society worth protecting.

When you get done with all these justifications in the name of a higher cause, there's another rationale, another justification, that pops up to take their place which is a little more primitive, a little cruder, but more honest. And that is that we are going to kill these people simply because they deserve to die. Regardless of whether it does any good or not, they deserve to die. They deserve to die because they have committed acts which put them outside of the human race, it is foolish to talk

about their having human rights – they can't have human rights. Anyone who has worked in Amnesty International for even a little while should know that this argument, too, is a very common one. Governments are always telling us that it is not that they are torturing, or "disappearing" or locking up people; they are torturing, "disappearing" or locking up "terrorists" or "communists" or "counter-revolutionaries" or "CIA agents" people who because of their acts should no longer be treated as part of the human race. Those governments do not like to be reminded that the very meaning of human rights is that they are inalienable. Human rights are not awards given by governments for good behaviour, and they cannot be taken away from people for bad behaviour. It is difficult to kill or torture people if you regard them as being human, if you see some shared humanity; that's why, in the case of both executions and torture, the victim is often hooded so there won't be any eye contact, nothing to remind us that this person is in fact a human being just like we are. That's why in the United States we are also told that those who are about to be killed by the state are not really people, but rather "monsters" or "animals" or even "cancers" which have to be cut out of the social body. The people on death row in the United States have in fact committed – many of them, most of them – terrible acts of cruelty that ought to be condemned. It doesn't do any good – in fact, I would submit that it does a lot of harm – to romanticise who those people are, or to somehow cover up the horrible cruelties that they have committed. But it is not an objection to romanticism or sentimentality which explains the outrage which is so often directed against anyone who tries to point out that the lives of the people on death row are not summed up in one single act they have committed; that the people on death row have histories, and that those histories predate what they have done; and that those histories often show that they themselves were victims of abuse and neglect by society long before they committed the acts for which the society now proposes to kill them. The reason that line of argument is so offensive is because it reminds us that these are in fact people. It is again, very hard to kill someone when you are reminded that they are human beings.

So we have to deny that they are human beings. And that also explains why the death penalty is applied the way it is applied. It is much easier to deny the humanity of people whose humanity the whole society has already put into question. That is why the death penalty, wherever it is applied, anywhere in the world, almost always falls on minorities, be they racial, plotical, economic or social.

And that is why it is foolish to demand that the death penalty be applied fairly. Human rights violations are never applied fairly. It is, in fact, the targeting of human rights violations against unpopular groups – or groups which the state does its best to make unpopular by labelling them terrorists, or communists or CIA agents or whatever – that makes it possible for a government to get at least some toleration if not approval from the wider population for their practices. Whenever the human rights violations begin to be applied a little too fairly, a little too broadly, so that they begin to touch all sectors of society, that is when the government begins to lose legitimacy, as the Shah of Iran and General Somoza of Nicaragua learned too late.

In this country, it is the selective application of the death penalty which makes possible its demagogic use. As long as it can be applied primarily to racial minorities, to the poor, to social minorities, then who is going to care? I mean, who's going to care if every year we select out a few hundred people who have not only committed terrible crimes but are overwhelmingly poor, or belong to racial minorities, or are clearly mentally ill? Powerless groups. Who is going to protest? Who is going to care about those kinds of people?

We the answer is, for one, that we care about those kinds of people. We care about those kinds of people not because we have some romantic notion about who they are, and certainly not because we don't care about the issue of violent crime in this society. We care about those people because we understand the meaning of human rights, and because we understand that Amnesty International was set up precisely to work primarily to protect the human rights of the forgotten prisoners. And there are no prisoners anywhere who are more forgotten, or whom some want us to forget more, than the people put on death rows throughout this country.

Finally, we care because we know that not even the most vicious mass murderer poses a greater threat to this society than those who openly, publicly, advocate that the extermination of human beings can be an acceptable solution to a problem. That is the threat we are fighting against. That is why we are fighting against the death penalty. That is why Amnesty International U.S.A. is going to step up its

fight against the death penalty, and why I believe that we are some day going to win the fight against the death penalty.

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