

Religion in Thailand and the Death Penalty

Seminar held in Office of National Human Rights Commission

Bangkok, July 15 – 16 2008

Union for Civil Liberty (UCL), National Human Rights Commission (NHRC)

To Julia, who lived a full life 1908 – 2008
For all those condemned to an untimely death

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Introduction

Thailand remains one of the minority of countries in the world where death sentences are still handed down by the courts, despite the general conclusion that the death penalty is an ineffectual deterrent to crime, despite a growing revulsion worldwide at the barbarity of the practice, and despite a 104 to 54 majority vote in favour of a moratorium by the General Assembly of the United Nations.

Why this refusal to respect the right to life, the most fundamental of all human rights? One reason is inertia against change, the urge to leave alone what is thought to be well enough. Another is that Thailand, believing that what is good enough for arch-executioners the USA and China is good enough for Thailand, is unaware of the reversal in juridical practice throughout the world. But what is most serious is a lack of moral leadership and a lack of ethical sense among our leaders. As becomes clearer by the day in our decaying society, it is not so much that our leaders choose evil over good, but even that they do not know the difference between the two. This judgement was bluntly enunciated several times by both Buddhist monks and Muslim leaders throughout a series of seminars concerning a religious perspective on the death penalty.

This seminar of the 15th, 16th July aims to present conclusions from seminars of Buddhist monks and Muslim leaders, held in different provinces. The objective of all the seminars is to find in the major religions of Thailand a moral and ethical motivation for the value of human life and thereby enlist allies in a campaign for popular support to abolish the death penalty.

These proceedings summarise ideas we have heard and debated in the provinces. The seminar also provided an opportunity for interaction between different religious traditions. Invited speakers from abroad presented the evolution of Christian thinking in favour of abolition and also the new juridical framework which is emerging worldwide. We hope that this report may be a useful record of information and an introduction to the wellsprings of moral insight which are inherent in Thai religions.

While I was preparing these documents for printing, my mother died. Her life span had been one hundred years. With enough to eat and drink, medical care when it is needed, and a stable democratic system of government, such a life span is becoming possible for many. How can any person dare pass sentence, carry out or participate in any way in putting to death a man or woman, before their life has run its course?

Danthong Breen, UCL

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The Delegation of the European Commission
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Seminar on Religious Perspectives on the Death Penalty

15th July 2008, 8.30 to 17.00, 16th July 2008, 9.0 to 12.00

Office of the National Human Rights Commission

Organized by National Human Rights Commission (NHRC) and Union for Civil Liberty (UCL)

15th July 2008

- 08.30 – 09.00 Registration
- 09.00 – 09.05 Seminar Objective: Danthong Breen, Chairman UCL
- 09.05 – 09.25 Opening of Seminar
- 09.25 – 09.45 Address by H.E. Dr.Friedrich Hamburger
Ambassador – Head of EU Delegation
- 09.45 – 10.00 Address by Mr. Pascal La Deunff
Deputy Head of Mission, Embassy of France
- 09.45 – 10.30 A Buddhist perspective on the Death Penalty
Reverend Phra Mahanarul Kantasiro,
Mahachulalonghornrajavidyalaya University, Chiangmai
- 10.30 – 10.45 Coffee
- 10.45 – 11.30 A Muslim perspective on the Death Penalty
Mr. Sarawut Sriwannayut, Muslim Representative,
Muslim Centrof Thailand
- 11.30 – 12.30 Lunch
- 12.30 – 13.00 Report on three local seminars for religious leaders Mr. Pitak Kerdhom
- 13.00 – 13.30 Experience of a Condemned Prisoner on Death Row
Mr. Tanadech Kantachote
- 13.30 – 14.15 A Christian Perspective on the Death Penalty
Mrs Sylvie Bukhari de Pontual
President of the International Federation of
Action by Christians for the Abolition of Torture (FIACAT)
- 14.15 – 16.30 Discussion Religious Perspectives on the Death Penalty
Reverend Phra W. Wesinmethi
Mrs Sylvie Bukhari de Pontual President of FIACAT
- 16.30 – 17.00 Summary of seminar

Seminar on Religious Perspectives on the Death Penalty

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16th July 2008

08.30 – 09.00 Registration

09.15 – 10.15 International Law, the Moratorium, and the Death Penalty
Mr. Michel Forst Secretary General of the French National Consultative
Commission on Human Rights (CNCDH)

10.15 – 10.30 Coffee

10.30 – 12.00 Discussion on The Death Penalty in Thailand
Mr. Boonthan Verawongse, General Secretary, AI Thailand
Mr. Pairoj Polphet, General Secretary, UCL
Ms. Somsri Hananuntasuk, Member of Campaign for Popular Human Rights

12.00 – 12.15 Summary and Close of Seminar: Danthong Breen, Chairman, UCL

12.15 – 13.00 Lunch

Summary of Discussions in Seminar in Office of National Human Rights Commission

This seminar was planned to be a presentation of the points of view expressed in earlier seminars devoted to Buddhist and Muslim perspectives on the death penalty, and to provide a forum for discussion on the relevance of these perspectives to abolition of the death penalty in Thailand. Noteworthy speakers from the earlier seminars were invited to summarise the various religious perspectives, to be followed by a general discussion of the consequences for the movement towards abolition in Thailand. The intended audience were the donor embassies of the project, influential religious leaders in the Bangkok region, representatives of the Government ministries and agencies relating to the death penalty, the media, NGO representatives, academics, and interested members of the public.

The seminar was addressed by His Excellency Dr. Friedrich Hamburger, Ambassador of the European Union.

He began by relating that from the time he had been a student of law he had been fascinated by the rationale for the death penalty:

“The death penalty is not just a matter of western interest but one of universal human interest, a question of life and death that is worthy of frequent discussion. Our approach to the subject is based on the aspect of human dignity which exists, even in the most conspicuous criminal. In the beginning of history, capital punishment was attributed to a divine lawmaker. There followed a pivotal relegation of the matter to civil authority, except in the Muslim world, as exemplified in the words of Christ, ‘Leave to Caesar what is Caesar’s and to God what is God’s’. Over time the drafting of penal codes and ensuing punishments were left to civil society.

Punishment is justified under the headings of;

1. Deterrence
2. Rehabilitation
3. Prevention of further offence by the criminal.

In the case of Capital Punishment, the first reason, considered the most important, was ineffective, as shown by the experience of my own country, Austria, when the death penalty was still applied, but also in other countries where other religions predominated. The second aspect had very limited application, while the third might be 100% effective, but prison terms are also mostly effective.

However, application of the death penalty is always cruel and degrading, irrespective of the length of time involved in carrying out the execution. It is always degrading both to the person executed and to the executioner. The degradation extends to every participant in the process of execution, up to the person signing the death warrant.

Given human fallibility, how many mistakes have been made in wrongful execution? The act of clemency itself can appear as an arbitrary act, in light of the ability required to read through a judgment, to make a rational and human judgment. These are my personal thoughts on

this subject. Such ideas have led to the consensus of the 47 states of the Council of Europe on abolition of the death penalty.

This year we celebrate the 60th anniversary of the Universal Declaration of Human Rights which inspired the choice of the Council of Europe. We do not wish to impose this viewpoint on others but we favour and recommend it. I would like to propose a question. If in a general election a party proposed the policy of introducing the death penalty, it is likely that a majority would give support. On the other hand, a political party opposing the death penalty would be likely to lose votes. But the sentiment that abolition of the death penalty is unpopular is not proven. If it did exist one would expect an active civil society to promote the death penalty. Why are there not active demonstrations calling for the execution of the approximately 1000 people condemned to death in Thailand? Because such demonstrations would be inhuman.

A final point, those who are on death row are condemned to death, not to unending imprisonment. The matter of life and death should be considered again. This is our plea to our friends in other countries.”

M. Pascal La Deunff, representative of the Embassy of France, also addressed the seminar, recalling that the death penalty had, in practice, been used to punish crimes but also to suppress political dissent. The arguments of those who favour the death penalty claim that it is a deterrence, prevents recidivism, that it is less expensive than life imprisonment, that it is an appropriate form of punishment for certain crimes. Those opposing the death penalty counter these arguments, asserting that innocent people are executed, that the death penalty discriminates against minorities and the poor. It does not deter more than imprisonment. The death penalty is an encouragement for a culture of violence. In the words of Albert Camus, ‘Isn’t the death penalty the most premeditated murder?’

In 1829, Victor Hugo praised action opposing the death penalty. M. La Deunff pointed to the significant contribution of Robert Badinter who, in 1981 as French Minister of Justice, promoted abolition of the death penalty in France by affirming that the human passion to crime cannot be stopped by fear of death. While some of those condemned are entirely guilty, a system of justice without mistake is not possible. He recalled that the religious prohibition, ‘Thou shalt not kill’ found positive and legal expression in Article 3 of the Universal Declaration of Human Rights signed in Paris in 1948, ‘Everyone has the right to life’. But the perspective is different. He referred to the words of Sister Helen Prejean, the Catholic nun and abolition activist, who recalled that the need for a religious participation in the movement to abolish the death penalty follows from the fact that the heart of religion is about compassion, human rights, and the indivisible dignity of each human person. It is the wish of the speaker that the wisdom of Buddhist and Muslim people in Thailand will drive the Government of Thailand to reconsider the issue of the death penalty.

A Buddhist perspective on the death penalty was presented by the Reverend Phra Mahanarul Kantasiro from Wat Suan Dork, Chiangmai.

The mission of Buddhism is to promote happiness and peace among human beings. The Buddha taught that every living thing has a right to life, that even thinking of harming a living being is a mistake. In Buddhist thinking the source of evil is in harmful thought. Harmful thought leads to bad speech, and thence to bad action. Crime cannot be prevented by fear of death, but may be stopped by shame. It is otherwise impossible to stop harmful thought leading to crime.

Killing cannot be approved, execution as a legal process is no different from illegal crime. The judge himself is partner to the killing whether the sentence is imposed by word or written document. The rejection of killing by Buddhism is uncompromising.

Related to this absolute rejection of capital punishment on Buddhist principles is the belief that any prisoner can change and reform. Thought must change from the intention to kill the criminal to an intention to develop a human being, based on a belief in the potential to develop in every person. The often repeated story of the conversion of the killer Angulimala, enshrines the Buddhist teaching that the most notorious killer is capable of reform. Angulimala had killed 999 persons in an effort to follow the perverse instruction of a religious teacher that he would attain enlightenment if he could achieve 1000 killings. His attempt to kill his own mother was frustrated by the Buddha who intervened by walking between the two. Angulimala tried to run after the Buddha to kill him too, but no matter how fast he ran he could not overtake him. He called out to the Buddha to stop and the Buddha replied, "I have already stopped, but you never stop". Angulimala understood that the Buddha was referring to his killings and was overcome with remorse, repented, and was ordained to the monkhood by the Buddha.

Buddhist belief proposes a practical programme of reform to avoid killing:

1. Develop the virtuous quotient of life, moral practice, fullness of mind, body and speech
2. Develop the professional quotient, the ability to earn a living, poverty could lead to a return to crime
3. Develop the mental quotient, right thought, right speech, and right action.
Nothing is achieved by executing the criminal, but very great value is achieved if the prisoner is developed and released.
4. Develop the intelligence quotient, delusion and not nature is the cause of evil.

The way of compassion consists in offering these four ways to the wrongdoer.

The speaker then considered the social conditions for reform of the criminal. In Thailand ordinary people do not know the law. The government has made the mistake of neglecting the task of educating them. Law must accord with morality. Law without morality is dangerous. The aim of the police is to punish, not to develop the people. Neither compassion nor loving kindness are found in the law. How can such law promote welfare, peace, wellbeing, and happiness? Law alone cannot solve problems of crime, nor can fear of death.

Religion must play a part. How can we support people in society to learn about religion

from childhood? A child must be trained. Create a peaceful mind, first in our own minds. The words of the Buddha are a means to promote peace.

The government must not just release prisoners, but support them on their release. Nevertheless, some cannot be helped and must be detained without release.

It is asked what monks are doing about it. In fact, monks try a lot. They are very often invited to teach in the jails. But in the present state of our country, criminals have become ministers and prime minister.

The message of Buddhism is that peace inside the person must combine with compassion and loving kindness outside. But what is to be done with the person who repeats crime and does not reform?

(In response to a question regarding a condemned person who resists all efforts of reform, the speaker conceded that the law should take its course.)

In summary, Buddhism combines a total prohibition on killing which implies a rejection of the death penalty to be combined with a programme of enlightenment which will lead the wrongdoer to reform.

Further Reflections on a Buddhist Perspective on the Death Penalty Luang Mae Thammananta

Further reflections on the death penalty were given by Luang Mae thammananta. It is difficult to be born, there is a Buddhist myth that a blind turtle swims once in a hundred years to the surface of a pool to deliver a human soul for birth; the rarity and improbability of the event mirrors the great value of a human life.

1. A human being makes a serious mistake which leads them to the death penalty.
Which of us has not made a mistake in life?
2. A crime occurs in a social setting, it cannot be considered as an isolated and independent act.
3. People are influenced by the acts of others and follow their example
4. In the heat of anger a person thinks that there is no other option than the act of violence.

The speaker recalled a notorious case of a man who raped and killed a kindergarten child. The case caused universal revulsion and expectation that the culprit be executed. She was curious to know how a person could have committed such a terrible crime and studied the case. It appeared that the condemned man had been a drug addict who had been jailed and who, on his release, had received no support from his family. Whether as a result of a flaw of character or because of his sad history he had no ability to relate to a woman. In desperation he had raped a child. When the child screamed he had held her head under water to stop the screaming, and had not the intention to kill the child. Yes, his action should be punished, but not by taking his life. The result was that violence had prevailed.

The problem is that in Thailand we can no longer discern between good and evil. And a life sentence in jail is not truly a life sentence. It is the duty of the government to prevent crime. Applying the death penalty is denial of responsibility by the government.

As an example of human dignity prevailing, the speaker related the story of Jay, a Thai living in the US who had been condemned to death for his part in a robbery which resulted in the death of a shop owner. Although Jay had not inflicted the death he was sentenced

on account of his refusal to identify the killer. After 16 years on death row the execution was to proceed. During his final seven days he was instructed by a meditation master who had studied meditation in a Thai temple and he met his death in peace and with serenity.

There is a difference between the Muslim and Buddhist beliefs. What is written in the Koran must not be questioned. Buddhism emphasises practice; if it works, keep it.

Mr. Sarawut Sriwannayut, Muslim Centre of Thailand

Islam is not just a religion but a way of life for humanity. The whole human family is descended from Adam. Muslims are those who follow the way of Islam as preached by Mohammad. For the Islamic way of life to flourish there is need of regulation and security in society. There are several sources to the moral teaching of Islam, the Koran itself, the practice of Mohammad and his followers, and finally the reflections of different Muslim schools of thought. Sharia is the system of law which is derived from belief. Muslim acceptance of the death penalty is based on the revealed word of Allah as recorded in the Koran which cannot be cancelled.

The death penalty is mandated for premeditated homicide, for the adultery of a married person, for abandoning religion, and for spying in time of war.

However, the requirements of evidence are strict, there must be four witnesses. Lack of intention can allow release of the prisoner and depends on the wisdom of the judge. Capital punishment is required to ensure the security of society which is essential if good people are to lead their lives. Peace originates from within the individual, spreads to the family, the country, and to the whole world.

Islam also favours the intervention of mercy, relatives of an innocent victim may pardon the killer if he is truly repentant, and accept restitution and alternative punishment.

But the death penalty is only one part of Muslim law and in Thailand Muslims form a minority. They follow the laws of the State and would not protest if the death penalty were abolished. In fact there are many faults in the administration of Thai justice; the poor and the innocent are often victims. In such a situation it were better that the death penalty be abolished. The same argument was used by Buddhist speakers in a demand that Law accord with morality.

Further Reflections on the Death Penalty by a Muslim Khun Wirachot Hayeema

No force may be applied in matters of religion. The Word of God must be accepted willingly and then the believer must act accordingly, as closely as we can to the teaching of the Koran.

In Muslim belief a punishment accepted in this life will not be inflicted in the next. Allah has given the right to man to show mercy to a person who truly repents of a crime. The speaker noted that Buddhism does not have the concept of destroying a part for the sake of the whole. The teaching of the Koran is very different. Buddhist belief is more liberal, there are layers of authority; if it works, then do it. Does the guilt of an action depend on the circumstances? In Muslim practice the investigation must be very thorough. But in fact no Muslim country follows a strictly Muslim system.

In our own country the justice system is corrupt and out of date, investigation is inadequate. Often the wrong person is accused.

Especially in the South of Thailand there is no rule of law, people are abducted and tortured into making confessions. In such a situation it is appropriate that the death penalty be abolished.

The story of Jesus and the woman accused of adultery illustrates that everyone has done evil, but also that everyone has the possibility to repent.

The speaker asked whether George Bush is a Christian. No one has a right to act towards others on the basis of their system of religious belief. The speaker also alluded to the joint statement of Bush and Prime Minister Thaksin in June 2003 as an illustration of Thai adherence to immoral standards of justice associated with the US definition of 'terrorism' and its actions on the world stage in its pursuance of the 'war against terrorism'

(The joint declaration proclaimed; 'President Bush and Prime Minister Thaksin discussed recent developments in the war on terror in Southeast Asia, welcoming the enhanced cooperation among ASEAN nations that has helped disrupt terror plots and apprehend members of the Jemaah Islamiyah (JI) terrorist network. While noting that substantial progress has been made in eliminating terrorist threats from the region, the two leaders agreed that the war on terror is far from over. The President and the Prime Minister agreed on the need to further strengthen bilateral and multilateral cooperation to combat terrorism...')

The joint statement also contains the blatantly false claim by Prime Minister Thaksin:

'Regarding recent press allegations that Thai security services carried out extrajudicial killings during a counter narcotics campaign in Thailand, Prime Minister Thaksin stated unequivocally that the Thai Government does not tolerate extrajudicial killings and assured President Bush that all allegations regarding killings are being investigated thoroughly.'

In concluding, Mr. Wirachot expressed agreement for abolition of the death penalty in circumstances where the justice system is defective

Mr. Tanadech Kantachote, lawyer

Speaking from experience of wrongful imprisonment, further reflections on the state of Thai legal practice were presented by Mr. Tanadech Kantachote who graduated in law while imprisoned in Bang Kwang prison. He related cases he had known of wrongful conviction. In one example, police were ordered to make an arrest in a case involving a bomb attack against a police station in Haadyai. Six days after the event they arrested an innocent man who had helped rescue victims of the attack - Mr. Tanadech explained that in the Thai legal system the protestation of innocence of a poor and near illiterate villager is worth little in face of police assertion of guilt. Apart from the police witness there was no other evidence, but the accused was found guilty in the first court. However, the accused had been accompanied at the time of the bombing by his nine year old daughter. The Court of Appeal dismissed the case in the absence of real evidence, by refusing to accept that a person carrying a bomb would have brought with him a nine year old daughter.

Condemned persons are permanently shackled and sleep 20 persons together in a room measuring approximately 3 metres by 4 metres. Those executed are the most unfortunate with little access to legal representation.

He pointed out that the argument favouring the death penalty as a preventive against repeating a crime ignores the fact that repetition of crime occurs in such minor crimes as small robberies, but very rarely in cases of serious crime.

Mr. Tanadech asserted his firm rejection of the death penalty and pleaded that all prisoners be given another chance in life.

In the current series, no seminar was conducted on the Christian attitude to the death penalty but it was appropriate to include consideration of such an aspect in this seminar devoted to comparison of religious aspects. The speaker was:

Ms. Sylvie Bukhari de Pontual

International Federation of Action by Christians for the Abolition of Torture (FIACAT)

Ms. Sylvie related the long road followed by Christian believers to a present majority support for abolition. The Christian religion is unique in having a founder who was arrested, accused, tortured, condemned to death, and executed. By reaction, early Christians were for four centuries totally opposed to the death penalty. Finally, as Christians achieved acceptance in the State of Rome they accepted the death penalty in Roman legislation, recognizing the Old Testament approval of capital punishment. It was only in the 13th century that the first voice was raised against capital punishment by a Christian sect, which recalled the words of Jesus Christ, 'I do not want the death of a sinner...'. The outstanding theologian Thomas Aquinas favoured the death penalty for the protection of society. Rejection to the death penalty grew, and was voiced in the 17th century by George Fox, founder of the Quaker movement, 'Life is blessed by God'. In the 18th century Cesare Baccaria published an influential work on the concept of punishment, where he stated that the certainty of punishment, not the death penalty, was an effective deterrent.

From that time, beginning with the Grand Duchy of Tuscany in 1786, states began to abolish the death penalty. Today, apart from some evangelical churches who take inspiration from the Old Testament, such as the Southern Baptists in the US, almost all Christians oppose the death penalty. The World Council of Churches and the Catholic Church have made the strongest declarations against Capital Punishment. The clearest statement was made by Cardinal Martino in a speech to the UN General Assembly in 1999, 'The right to life is a right of a human being'. In Christian thinking moral education and good policing must support legal abolition of the death penalty.

The long history of the growth of Christian opposition to the death penalty illustrates the immense task involved in changing human perception and the need for great patience in its achievement.

(The full paper of the talk given by Ms. Sylvie Bukhari de Pontual is printed as an appendix)

Abolition of death penalty in international Law

M. Michel Forst

General Secretary, National Consultative Commission on Human Rights, France

Another key talk of the seminar was by M. Michel Forst on International Law relating to the death penalty and the recent vote on a Moratorium in the UNGA. His theme was that the death penalty is a breach of international human rights. He linked the increase in the number

of countries choosing abolition, to the development of human rights in the 60 years since the Universal Declaration of Human Rights. 60 years ago eight countries had abolished the death penalty, while today 133 countries have done so.

There are two fundamental human rights involved, the right to life, and the right not to be subjected to cruel, inhuman or degrading punishment. The death penalty is a premeditated killing of a prisoner for the purpose of punishment. As such it is the ultimate denial of the dignity and worth of the human person. Such is the human rights case against the death penalty. Michel Forst traced the development of human rights standards on the death penalty through a progressive restricting of the number of offences for which the penalty might be imposed. A definitive ruling is given in the International Covenant on Civil and Political Rights, 'sentence of death may be imposed only for the most serious crimes'. Further clarification has narrowed this limitation to premeditated homicide. 'Economic crimes and drug-related offences' cannot be considered as being 'most serious crimes'. It is significant that in the Statute of the Treaty of Rome the death penalty is not provided for what are arguably the most heinous crimes of all – genocide and other crimes against humanity.

Regarding the process of abolition, the speaker pointed out that the decision to abolish the death penalty has to be taken by the government and the legislators. This decision does not depend on a majority of the public being in favour of abolition. Nevertheless, statements from religious leaders and other respected public figures can create a moral climate in which legislators may dare to act without the support of majority opinion. The international dimension allows countries to learn from other countries' experience.

The majority vote by the United Nations General Assembly on 18th December of last year in favour of a worldwide moratorium on the death penalty carries considerable moral and political weight. It places an obligation on all member states to review their use of the death penalty and is an incentive to work towards abolition.

The full text of the talk given by M. Forst is included as an appendix)

Panel Discussion on Abolition of the Death Penalty in Thailand

The final programme of the seminar was a discussion of the status of the movement for abolition in Thailand. The following are topics raised by the discussion panel and by questions from the audience.

It was agreed that the defective state of the Thai justice system is both a strong argument in favour of abolition, but also reason to doubt the effectiveness of life sentencing which would replace the death sentence.

Both Buddhists and Muslims agreed on the need for a moral renewal in society as basis for a more just legal system.

It appears that there is massive support for the death penalty, in the belief that it is an effective deterrent of serious crime. Up to 84% of Bangkokians favour capital punishment. More than 80% of Buddhist monks also favour the death penalty, a figure reflecting closely the statistic for the general population. The foundations of the majority opinion appear to be an unfounded acceptance of capital punishment as an effective deterrent, a culture of authoritarianism, an expectation of vengeance, and little appreciation of mercy and forgiveness. Monks do not change their thinking on withdrawing from society. While more than 80% of

monks favour the death penalty, abbots of temples who agree are in the range of 50%. Steps towards abolition are the effort to limit the application of the death penalty. At present 47 different kinds of crime can incur capital punishment. Life imprisonment must be seen to be real and the problem of violence in society must be tackled. The religious aspect explored in the present seminars has an important role in helping change.

In reply to a question about follow up to the UNGA vote in favour of a moratorium on the death penalty Ms. Sylvie replied that the UN itself will review the response at the end of December 2009. The World Coalition against the Death Penalty is also monitoring observance. All states where the death penalty is carried out have an obligation to begin discussion of the practice.

As throughout the seminar, it was emphasised that long imprisonment of vicious prisoners must be certain.

The problem of a fundamental difference in attitude to the death penalty between secular states and an ideal Muslim state was raised. It was stressed that the reality of a pluralistic society must be respected.

Speaking from her experience of a recent visit to Nepal Ms. Somsri Hanantasuk raised the example of Nepal which has abolished the death penalty. The maximum prison sentence is for 20 years. Prisoners have the right to vote in elections with the consequence that there is increased attention by the government to prison conditions.

In concluding the discussion a wide ranging survey of the problem of abolition in Thailand was given by **Mr. Phairoj Pholphet, Secretary General of UCL.**

1. The basis for the high proportion of the public favouring the death penalty is the groundless belief that the death penalty is an effective deterrent. In some areas of the country the practice of private vengeance is still extant. The exacting of a death for a death is still considered to be a requirement of justice. Forgiveness and mercy are also valued, but to a lessening degree.

The biggest obstacle to a change in mentality lies in a respect for authoritarianism, strongest in the eras of Sarit and Thaksin.

2. Justice is not effective, one cannot trust the system. Police work for reward rather than the service of justice, judges are presented with doubtful evidence. It is the poor who are imprisoned! In flagrant disregard for justice, extra-judicial killings by the police amounted to 2,500 persons over a 3 to 4 month period. The system of justice is especially defective in the South of Thailand.

3. What is to be done?

At present 47 kinds of crime are subject to the death penalty. For drug crimes, the death penalty may be imposed for possession of 20 gms. of drugs. The first step is to limit capital punishment to cases of premeditated homicide. The present moratorium should continue.

People do not trust the system of detention where criminals can achieve early release. Life sentences should be real.

The problems of violence in society must be tackled. In promoting respect for life religion can play an important role. Mercy should be practiced at every level of society.

Feedback Opinions During Seminars

“I agree with abolition of the death penalty in Thailand as the majority are Buddhist. But it will take time. Success follows effort. Life has value and meaning, it has rights; freedom should be equal for all. In the words of the Buddha ‘No one has the right to decide on the life of others’”. Chiangmai

“Abolition of the death penalty would lead to a more peaceful society”. Chiangmai

“I am glad to observe this movement which reveals the intention to improve society and create true unity. This movement should be extended throughout the country, to emphasize the value of life, making people appreciate their own lives and the lives of others. In summary, the best way should be found to improve investigation and establish real justice” Ubon Ratchathani

“Good thinking must be further applied to develop a good society. We need to unite people having different viewpoints to create a just society. This is not achieved by the death penalty which, in fact, creates even further divisions. Thus we must join together to achieve peace in the community and in our country” Ubon Ratchathani

“Buddhism is impartial, leaning neither to left or right, it should not be involved in the death penalty. Leave it to the law of karma. Good comes to those who do good, let those who do evil suffer the consequences” Ubon Ratchathani

“Whether there is the death penalty or not should depend on the ruling of God. People who administer the law established by God should do so in a just way”
Foundation of the Islamic Centre of Thailand

“The issue of forgiveness is important for those who believe in Islam.”
Foundation of the Islamic Centre of Thailand

“People differ greatly, and are unlike each other. Therefore, they should meet and discuss with each other. But do not be disappointed or think that we are alien or a danger to each other. All of us are correct in some respects, mistaken in others. Such is the nature of humanity. I wish that through this cooperation for the good of society we can cooperate further in the future.” Foundation of the Islamic Centre of Thailand

“Buddhism does not support the death penalty; but concerning the abolition of the death penalty there must be a fixed standard which creates confidence that crime and the transgression of the human rights of others will decrease and be eliminated from world society. However there is no teaching in Buddhism which concerns the existence or non-existence of the death penalty. The important point therefore is what is acceptable to society as a suitable punishment.” Chachongsao

“This project is of great importance in promoting abolition of the death penalty; capital punishment is absolutely incapable of reducing crime. Instead ethics and moral standards should be improved.

I believe that the death penalty should be abolished, its effects are bad rather than good. The effect on relatives of the executed person is devastating, I cannot stop pitying them. I devote my life to teaching Buddhism to solve the problems, but it is a difficult task. The maximum sentence should be life imprisonment.” Chachongsao

Appedix 1

A Christian Perspective on the Death Penalty

Sylvie Bukhari-de Pontual, President of FIACT

Introduction

We are in Asia, a continent with the sad record of being the world leader in terms of the number of death penalty executions. In this year when we are celebrating the 60th anniversary of the Universal Declaration of Human Rights, and a few months after the adoption on 18th December 2007, by the General Assembly of the United Nations of a universal moratorium on the death penalty, it is important that Thailand join the great majority of countries which have today abolished the death penalty.

Moreover, on the Asian continent change is happening and hope is possible. Thus:

- the Philippines abolished capital punishment in 2006
- South Korea and Taiwan are advancing on the road to abolition
- India is observing a moratorium

Thailand could well follow these examples.

Thailand is one of the 50 states in the world which maintains the death penalty in law and in practice. From 1988 until 1995 a moratorium was observed and there were no executions. On 9th May 2003 the Thai Senate approved a law prohibiting the death penalty and life imprisonment for minors, a submission which had been approved on a first reading in parliament on 20th November 2002. The heaviest sentences for minors are limited to 50 years of detention. But executions were resumed and in 2003 execution by machine gun was replaced by lethal injection. The number of death sentences have increased continually since 2001 and are applied for the most part to drug traffickers.

Suspects awaiting trial are often subject to bad treatment and of torture by police. Confessions obtained under torture are regularly used in the courts despite the protests of the accused that they confessed after torture. In the high security detention centres where prisoners condemned to death are detained, conditions are very severe, and inhumane, such as permanent shackling, insufficient food, brutality of the warders...

In fact the majority of capital sentences are commuted by royal pardon. If pardon is granted, execution is commuted to life imprisonment. When execution is carried out, the order is generally delivered in the morning, and execution takes place in the afternoon. A pregnant woman may not be executed until the child is born.

Since the beginning of time the supreme punishment has been death. The law of the talion, which matches an offence with the same punishment was integrated into Babylonian law in the 18th century B.C. It is only recently in the history of humanity that the horror of capital punishment has been realised.

In the West we observe that punishment changed from a reflex of vengeance to a rational and scientific setting of the scale of sanction. The path of change was inspired by an intention to punish only actions which were in intolerable conflict with the moral and social values recognized by society. Throughout, political and religious aspects were closely combined. It is interesting to investigate how the Christian religion comprehends the question of the death penalty and to show that, not only has the perspective evolved over time, but that, even today, there are differences of attitude.

Plan

I. Evolution of Christian positions on the death penalty

II. The Christian arguments against the death penalty

III.Strategy for achieving abolition of the death penalty

I.Evolution of Christian positions

History of Christian positions

Until the 4th century A.D. The Church was completely opposed to the death penalty. But after its integration into the Roman state, the Church progressively replaced its condemnation by recognition of the right of the State to pronounce and carry out the death penalty.

In effect, Christianity inherited the Jewish tradition on the legitimacy of the death penalty on finding its daily practice in the Roman empire, the first area of Christian expansion. The rulers exercised divine power over men, that of taking life:

- "A life for a life, an eye for an eye, a tooth for a tooth, a hand for a hand" (Exodus 21, 23-25)
- "The avenger of blood will himself kill the assassin; when he meets him he will take his life" (Numbers 25, 19).

In spite of the law of the Church "Thou shalt not kill" (Exodus 20, 13), the Old and New Testaments envisage the death penalty for a certain number of crimes: "Whoever has spilled the blood of man, his own blood shall be spilled" (Genesis 9, 1-6).

The renaissance of Roman law in the 12th century discovered the legislative texts of the Christian emperors and suggested that in addition to reasons of State, there were also reasons of the Church. The Pope affirmed in the decree *Vergentis in senium* of 1199 that if "criminals of lese-majeste were condemned to death,, all the more should those who offend Christ be punished, because it is much more serious to offend the eternal majesty than the temporal

majesty". In the Middle Ages, the Church delivered the condemned to the lay power which was obliged to inflict the penalty. The interdependence of religion and politics led to heresy being a political crime, punishable by death.

All the jurists of the Middle Ages, lay or ecclesiastic, shared this concept. In the 13th century, St. Thomas Aquinas wrote:

"If an individual becomes dangerous for society and his sin be contagious for others, it is praiseworthy and salutary to put him to death for the sake of the common good (Summa Theologica)

"If someone should voluntarily kill his like, it is an assassination. There exist, nevertheless, cases where the death penalty can be carried out without sin, such as when a soldier kills an enemy, or when a judge pronounces the death penalty against the author of a crime (On Free Will)"

The same teaching is found in all the theology and practice of the Church, as, for instance, at the time of the Reformation. Once the Catholic Church was officially recognised by the State, the suppression of crime by the lay power was legalised and could extend to the shedding of blood.

With the emergence of absolute monarchy, the responsibility for public order was entrusted to one sovereign, the nobility and urban authorities were deprived of the right of life and death. Heresy, before the responsibility of Church justice, became a royal responsibility. But the principles which guided the legislature and the courts were unchanged. The idea of the reform of criminals is totally absent. Such practice of the death penalty is not unique to France, practice in Russia, Spain, and Germany was the same.

George Fox (1624 -1691), founder of the Quakers, was imprisoned for his religious convictions in British prisons. He protested to the judges about the conditions of detention and the death penalty: thus the Quakers were one of the first Christian communities to take a position against the death penalty in the 17th century.

In 1764, the publication of the work of the Italian jurist, Cesare Beccaria, "Crime and Punishment" which questioned the concept of punishment in European countries had immense influence. During the 18th century the cause of abolition made gains in several intellectual circles. Abolition of the death penalty became an issue of dispute and of an ideology of social progress. One consequence was the official abolition of the death penalty for the first time in

the Duchy of Tuscany (Italy). Nevertheless, executions continued in Europe throughout the 19th and 20th centuries.

In the New World, the pragmatism of several governments led to total disappearance of the death penalty, judged to be ineffective or barbarous, sometimes in the 19th century (essentially in Latin America, then in Canada), or partially (such as in certain States of the US).

Those in favour or against the death penalty were divided by their concept of the role of the death penalty in society:

- for the former, the penalty serves uniquely to safeguard juridical order and to maintain moral order in society.
- for the latter, one of the functions of every punishment was reform of the criminal. The death penalty appeared absurd as it definitively excluded a person from society, making correction impossible.

B. Actual Positions of Christian Churches

After having gained ground largely in Protestant theologies, the extension in the profane world of the abolitionist movement caused, little by little, the evolution of Catholics. The Second Vatican Council promoted among Catholics an understanding of the men of their time and of the values most relevant to them. Meanwhile certain of the Orthodox Churches are still far from participating in the abolitionist movement. One may thus observe, in surprise or in sadness, that it has taken centuries for the Church of Christ to liberate itself and then only partially, from political influence and to return to a more humanist vision.

1. The Protestant Churches

The world reformed Alliance affirmed its position in 1989: "Where the death penalty prevails, the redemptive and reconciliatory love of God is violated"

In March 1990 the Ecumenical Council of Churches, created in 1948 and grouping together most of the Protestant and Orthodox Churches, adopted a declaration, proclaiming unconditional opposition to the death penalty:

"Recognising that all created human beings are created in the image of God, the State, in taking a human life, usurps the will of God". It declared "its unconditional opposition to Capital Punishment, and demands that it be abolished by all states." It urges governments to quickly sign and ratify the second optional protocol relating to abolition of the death penalty of the International Covenant on Social and Political Rights." It "demands that member churches, as far as possible in cooperation with persons of other creeds and non government organizations;

- a) to advocate abolition of the death penalty in countries where it remains legal
- b) to oppose efforts to re-establish the death penalty in States which have already abolished it
- c) to support international efforts in favour of a universal abolition of the death penalty
- d) to develop theological and biblical arguments for their own members and for others, as part of their efforts to abolish this punishment, and to refute the biblical and theological

arguments advanced by the numerous proponents of the death penalty
 e) to encourage and rely on each other in sharing these ideas, their resources and solidarity.”
 Nevertheless, while in the United States one observes that the Churches of the Reform, the “classical” Protestant churches, are resolutely opposed to the death penalty, certain, but not all, churches identified as evangelical, such as, for example, the Convention of Southern Baptists, are militant supporters for maintenance of the death penalty, relying particularly on the Old Testament law of the talion.

2.The Roman Catholic Church

In 1969 the Vatican State suppressed the death penalty for all crimes. But, actually, the Roman Catholic Church continues to recognise the right of civil authorities to pronounce and carry out the death penalty. In reality, one should know that the Vatican, while against the death penalty in principle, does not exclude it completely.

In effect, the new Catechism of the Catholic Church of 1992, which appeared in 1993, drawn up under the responsibility of Cardinal Joseph Ratzinger, who became Pope Benedict XVI in 2005, does not exclude, “in cases of extreme gravity” recourse by the public authority, to the death penalty. It considers that the death penalty may only be inflicted on rare occasions, almost “nonexistent”, reads the text – against an aggressor” who would continue to be a threat to lives, a position which makes the moral question equivalent to a matter of legitimate defence.

In the edition of 1997, the Catholic Catechism, evolves a little in affirming that “traditional Church teaching does not exclude that when the identity and responsibility of the guilty person have been fully verified, the death penalty may be the only method practicable to protect human lives from the unjust aggressor. But if non lethal methods suffice to defend and to protect the security of persons against the aggressor, the authority should employ such means, which better correspond to the common good and are more conformed to the human person. Today, in effect, given the possibilities available to the state to effectively repress crimes, without definitively removing the possibility of repentance, the cases of an absolute necessity to execute the guilty are so rare that they are practically non-existent.”

It is time that for such declarations which remain ambiguous, all hesitancy be removed in line with papal statements which have unequivocally supported abolition of the death penalty.

On 2nd November 1999 a programme accompanying the abolition of the death penalty was proposed in a speech given to the United Nations General Assembly by the permanent delegate to the Assembly:

“Effective punishment is required by criminal activity. But there is no definitive evidence to encourage the belief that the death penalty reduces the probability of new crimes of extreme gravity. A populist exploitation of fear or insecurity, cannot replace hard evidence. Crime will be overcome significantly by a policy of moral education, of effective police work, and by addressing the roots of criminality. The punishment must be certain and proportional to the crime, but it should also allow the criminal, insofar as that is possible, to become a constructive member of society.”

From this date, the position of the Catholic Church has been constant: it is always against the death penalty. The declarations in this sense by the Pope have been repeated in different

words by assemblies of bishops throughout the world: "The death penalty is a tragic illusion that life may be defended by taking it" (Conference of American bishops, 2nd April 1999).

3.The Orthodox Churches

Up to the present the Orthodox Churches which are independent of each other, have no unified position.

Nicholas Berdiev, an orthodox theologian of the first part of the 20th century wrote: "No one person can be an incarnation or a personification of evil. Each one bears only a part of evil so that it is impossible to make a definitive judgement on any person. It is this fact which puts a limit to the principle of punishment. A man may well commit a crime, but a man cannot be completely criminal and one may not treat him as the incarnation of crime; he remains a person, and carries in himself the image of God." (cf "Of the slavery and the liberty of man".)

In May 1998, Alexis II, patriarch of Moscow, declared; "Capital Punishment is premeditated homicide and violates the biblical commandment forbidding the killing of another". However, historically the Orthodox Russian Church has been closely bound to authoritarian and centralised political power and in recent years has been influenced by the security aspects of the campaign against terrorism. Even though Russia observes a moratorium on the death penalty, the Orthodox Church supports the war in Tchetchene, referring to it as a holy war and a patriotic struggle. Today the Russian Orthodox Church is not totally against the death penalty. It considers it legitimised again by the present state of criminality.

It appears therefore that even though the majority of Christians are against the death penalty, there remain certain groups especially among evangelical and fundamentalist Christians as well as some Orthodox Churches which continue to support the death penalty for the punishment of the most grave crimes. For this reason it may be interesting to recall the arguments of Christian abolitionists against the death penalty.

Christian Arguments against the Death Penalty

A.The death penalty does not respect the right to life

The death penalty denies the most fundamental right of man, the right to life, such as is announced in the Universal Declaration of the Rights of Man, and which should be respected above all by the State. It is the ultimate form of cruel, inhumane, and degrading treatment. The years passed on death row are a form of torture and as such forbidden by the Convention against torture of 1984.

The right to life is an inviolable right, the foundation of all other rights and by its nature, universal. This concept is in accord with the Christian concept that life is a gift of God. Man is created in the image of God. The dignity of the person is the core of our convictions. A person condemned to death is first of all a suffering being. It is not forgotten that he may be a murderer, guilty, judged, and condemned legally. But a visitor could verify who that person is, that he has an education, and a history. The Gospel uses the word 'visit': 'I was in prison and you visited me' (Matthew 25). For every person created by God there is always the possibility of renewal.

The death of a criminal does not heal the sorrow of those who have brutally been deprived of one of their own. No one, whether individual, group, State, or nation has the right to take a life, as recalled in both the Old and New Testaments.

‘The Lord has placed a sign on Cain so that no person who meets him may strike him’
Genesis 4,15

‘You have heard it said: an eye for an eye, a tooth for a tooth, but I tell you do not resist the evildoer. You have heard it said, love your neighbour. But I tell you, love your enemy...’

The Churches have the mission to humanise our societies, to announce a culture of life.

B.The death penalty does not permit the guilty to reform

The death penalty is irreversible. It interrupts all healing and reinsertion into society. To kill a human being is to suppress, not to punish them.

The life of men in society requires laws and sanctions. But the proclamation by Jesus that mercy is a source of happiness should inspire jurists and politicians to search other sanctions than death.

Scripture confirms confidence in the capacity of a human being to modify his life. Time brings change. A person being executed is not the same person who, before, killed another. An individual cannot be identified with an act performed in the past.

C.The death penalty: a moral choice

The Catholic Church believes that the only efficacious antidote to a developing culture of death is the promotion of a culture of life, which puts in place more effective social protection, a process of social reinsertion, what one might call a culture of repair. A state of public protection depending on the death penalty would choose vengeance as a system of social relation. Rather than a system of punishment such a system would be a system of ‘one life for another’. When other solutions are available to provide justice and to protect society there is no moral legitimacy for the choice of the death penalty. While a State may establish its own law of capital punishment it thereby sacrifices all moral authority. Its action can no longer be considered as a defence of human life.

There can be no restriction or reserve on the right to life. Capital punishment may not be justified by the weakness of victims or the supposed greater risk they might incur: all victims are pitiable and all deserve compassion. No man is totally responsible, nor is any system of justice completely infallible, the death penalty is morally unacceptable. For abolitionists a penalty of death anywhere in the world is intolerable. Every execution offends our conscience and distorts our humanity.

The world proclaims the rights of man as universal and indivisible. The task is to restore to each their rights in the human community. Society is founded on values opposed to those which society condemns, the first of these values being a respect for the human person, for life and human integrity.

The campaign against the death penalty is not limited to within any national frontiers nor to any time scale. It must continue as long as any single state persists in killing. Why? Because, the abolition of the death penalty will affirm that the rights of man proceed from a single voice that forbids death. Because the abolition of the death penalty is an affirmation that we all partake of the same humanity: “I do not know how anyone dare claim the right to suppress life. In Auschwitz too, an appeal was made to authority. The reasoning is the same: one

eliminates the sub-humans. For me a sub-human does not exist. Even in those who commit the most frightful crimes, humanity is still there, however hidden", (Sister Helen Prejean, American abolitionist in 1999).

The same teaching is in the words of the Buddha 'You shall not kill', words which should make capital punishment unacceptable to all Buddhists. The opposition of Buddhism to every form of violence is also shown in the great Buddhist virtues of compassion, patience, equanimity, wisdom, etc. The Buddhist understands that to inflict violence to another is to inflict violence on oneself.

III Strategy to abolish the death penalty

There are lessons to be learned from the slow and difficult evolution of thinking about the death penalty in the Christian religion. On reflecting on Thailand one may make suggestions for actions to promote abolition:

- identify the obstacles, whether in fact or in law, to abolition of the death penalty; problems whether they be political, religious, or cultural, the number of crimes subject to the death penalty, cost of the death penalty, reality of deterrence effect, frequency of unsafe convictions, existence of judicial errors, alternatives to the death penalty.
- Identify the key actors in Thai society who would support a movement in favour of abolition, religious and political figures, human rights organizations, trade unions, professional associations of magistrates, lawyers, police and prison personnel, celebrities, families of victims, and sensitise them to the scandal of the death penalty
- Promote exchanges among such groups providing them with arguments and material on the issue.
- Create a national network to elaborate a common strategy which will connect with the world coalition
- On the basis of the appeal of the UN General Assembly for a universal moratorium, promote an actual moratorium
- Refer to the example of the Philippines which with the support of religious groups abolished the death penalty in 2006
- Support the action of abolitionists
- Encourage a public stance by all those who oppose the death penalty in opposition to arguments that the death penalty must be maintained in deference to the fierce support of public opinion.
- What else is the role as leader, guide, educator of politicians, religious figures, civil society, if they do not act with courage and determination, if they are hesitant in speaking out in public. (In France, for example, Robert Badinter, future minister of justice succeeded in convincing Francois Mitterand, in 1981 when he was candidate for the Presidency to become an abolitionist in the face of a majority public opinion in favour of the death penalty)
- Achieve a reduction in law of the number of crimes subject to the death penalty
- Study alternative punishments to the death penalty
- Adopt a law for abolition of the death penalty, and ratify the relevant international juridical instruments such as:
2nd Protocol to ICCP
Statute of the International Criminal Court which prohibits recourse to the death penalty
And see that they are incorporated in Thai law

Conclusion

This overview of Christian history reveals that in earlier times the interdependence of politics and religion prevented a humanist reflection on the death penalty. However, the modern age has seen the emergence of a rejection of executions both from a political and from a religious perspective, a point of view which is closer to the values defined in the Christian scriptures. The initiative of the catholic community of Sant'Egidio in promoting a campaign at international level for a moratorium on the death penalty is a vivid example. The campaign won the support of the Anglican Archbishop Carey, the Swedish Lutheran Church, the Evangelical Churches of Bavaria and Saxony, of the world Methodist Council, numerous Catholic bishops and cardinals, and numerous non-governmental organisations such as FIACAT. What became an inter-religious campaign won the support of President Wahid of Indonesia, Japanese Shintoists, Korean Buddhists, the Union of Jewish communities of Italy and a wide spectrum of political figures.

This solidarity between political representatives and the religions is a sign of optimism which shows that it is possible to work together at world level for abolition of the death penalty. A further proof is the recent resolution of the UN General Assembly for a universal moratorium..

We can only hope that Thailand will follow this path, however long it may be, leading to abolition of the death penalty. In particular, we heartily encourage religious authorities to take on the responsibility of leadership.

One must not forget that from the viewpoint of the Universal Declaration of Human Rights, the death penalty is an aberration. It is inhumane and degrading. It pertains to vengeance and not to prevention. It kills rather than healing. It has no dissuasive effect. It perpetuates violence. It does not provide justice but denies it. The death penalty is a brutal, absolute, and irreversible violation of the rights of man.

The death penalty remains today, in whatever context a cruel and unjust punishment which violates in an unacceptable manner the fundamental rights and dignity of man. Its legal mask makes it even more intolerable. It is inadmissible that in certain countries, justice still claims the right to kill, and to abuse the physical and moral integrity of an individual to the extent of depriving him of life.

For Christians it is against the thinking of the Churches to promote the return of the death penalty. It is also against the Gospel.

More than ever it is necessary that the inalienable dignity of human life be universally respected. The Papacy has engaged to continue to work for the abolition of the death penalty and to defend human life at all stages of development in the face of every support for a culture of death.

Where the death penalty is a sign of despair, civil society is invited to have faith in a hope which is threatened by the ills which invade our world. The universal abolition of the death penalty would affirm, in a courageous manner, the conviction that humanity can succeed in solving the problem of criminality. Our refusal to succumb to despair in the face of such forces will give birth to new in our humanity.

Appendix 2

Abolition of death penalty in international Law

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Introduction

I would like to thank the organisers for the kind invitation to share with you some views on how the question of the abolition of the death penalty is dealt in the framework of International Law. I have also been asked to briefly inform on the recent moratorium which has now been endorsed by the UN General Assembly, although some member states have refused to vote in favour of the resolution tabled.

I would like to apologize, as I have not been able to attend the entire seminar, I shall probably repeat things or figures that have already been said by others. My presentation is based on different sources of information and publications from a wide range of specialists that I shall of course quote in the written document that I intend to edit in the coming weeks.

I will do my presentation in a very simple approach, with two parts and will hopefully leave enough time and space for a general discussion, as I do believe that there is a need for discussion on such a critical matter, precisely on this very year of the sixtieth anniversary of the Universal Declaration on Human Rights.

Of course I do not intend to intervene and to discuss the position of Thailand on death penalty but just to give some food for thoughts.

In the first part, I intend to show why and how death penalty is a breach of international human rights.

In a second part I will focus on some international or regional statements as well as on some international and regional instruments, mainly the second optional protocol to the International Covenant on Civil and Political Rights and try to answer some of the main questions raised by the second Protocol.

Sixty years after the adoption of the Universal Declaration of Human Rights, the trend towards worldwide abolition of the death penalty is unmistakable. When the Declaration was adopted in 1948, eight countries had abolished the death penalty for all crimes; now the situation has dramatically improved, you probably have all the figures in your folder:

133 countries have abolished the death penalty in law or practice. Only 25 countries actually carried out executions in 2007.

In 2007, 91% of all known executions took place in China, Iran, Iraq, Pakistan, Sudan and the USA.

In the Americas only the USA has carried out executions since 2003.

Europe is almost a death penalty free zone the main exception being Belarus.

In Africa only six states carried out executions in 2007.

AI's statistics also show an overall decline in the number of executions 2006: AI recorded 1591 executions compared to 2,148 in 2005.

What do these matters have to do with human rights? And how far should the death penalty be understood as a human rights violation?

UNDERSTANDING THE DEATH PENALTY AS A HUMAN RIGHTS VIOLATION

The international community largely opposes the death penalty as a violation of fundamental human rights - the right to life and the right not to be subjected to cruel, inhuman or degrading punishment. Both of these rights are enshrined and recognized in the Universal Declaration of Human Rights, other international and regional human rights instruments and national constitutions and laws.

Defence of life and defence of the state may be held to justify, in some cases, the taking of life by state officials; for example, when law-enforcement officials must act immediately to save their own lives or those of others or when a country is engaged in armed conflict. Even in such situations the use of lethal force is surrounded by international standards of human rights and humanitarian law to inhibit abuse.

The death penalty, however, is not an act of defence against an immediate threat to life. It is the premeditated killing of a prisoner for the purpose of punishment - a purpose which can be met by other means.

The cruelty of torture is evident. Like torture, an execution is an extreme physical and mental assault on a person already rendered helpless by government authorities.

The cruelty of the death penalty is manifest not only in the execution but in the time spent under sentence of death, during which the prisoner is constantly contemplating his or her own death at the hands of the state. This cruelty cannot be justified, no matter how cruel the crime of which the prisoner has been convicted.

If it is impermissible to cause grievous physical and mental harm to a prisoner by subjecting him or her to electric shocks and mock executions, how can it be permissible for public officials to attack not only the body or the mind, but the prisoner's very life?

Threatening to kill a prisoner can be one of the most fearsome forms of torture. As torture, it is prohibited. How can it be permissible to subject a prisoner to the same threat in the form of a death sentence, passed by a court of law and due to be carried out by the prison authorities?

The cruelty of the death penalty extends beyond the prisoner to the prisoner's family, to the prison guards and to the officials who have to carry out an execution. Information from various parts of the world shows that the role of an executioner can be deeply disturbing, even traumatic. Judges, prosecutors and other officials may also experience difficult moral dilemmas if the roles they are required to play in administering the death penalty conflict with their own ethical views.

The right to life and the right not to be subjected to cruel, inhuman or degrading punishment are the two human rights most often cited in debates about the death penalty. But the death penalty also attacks other rights.

As indicated by the annual reports of the UN Special Rapporteur on extrajudicial, summary

or arbitrary executions and by several human rights organisations information, in many cases prisoners are sentenced to death in trials which do not conform to international norms for a fair trial. Prisoners facing a possible death sentence are often represented by inexperienced lawyers, and sometimes by no lawyer at all. The defendants may not understand the charges or the evidence against them, especially if they are not used to the language used in court. Facilities for interpretation and translation of court documents are often inadequate. In some cases prisoners are unable to exercise their right to appeal to a court of higher jurisdiction and the right to petition for clemency or commutation of the death sentence. In some jurisdictions, capital cases are heard before special or military courts using summary procedures. Such practices undermine the right to a fair trial and are in violation of standards recognized in international human rights instruments.

The death penalty is often used against members of disadvantaged social groups, and thus in a discriminatory fashion, contrary to Articles 2 and 7 of the Universal Declaration of Human Rights. It is the ultimate denial of the dignity and worth of the human person, affirmed in the preamble to the Universal Declaration of Human Rights.

RESTRICTION THROUGH INTERNATIONAL STANDARDS

International human rights standards have developed in a way that favours ever tighter restrictions on the scope of the death penalty. This progressive narrowing of the death penalty is mirrored by actual practice in most states, which still use the capital punishment.

Progressive restriction as a goal

In a resolution on capital punishment, the UN General Assembly in 1971 affirmed that “in order fully to guarantee the right to life, provided for in article 3 of the Universal Declaration of Human Rights, the main objective to be pursued is that of progressively restricting the number of offences for which capital punishment may be imposed, with a view to the desirability of abolishing this punishment in all countries¹. The goal of progressive restriction of capital offences was reiterated by the General Assembly in 1977², by the UN Commission on Human Rights in resolutions every year since April 1997³ and April 1998⁴, and by the European Union in the Guidelines to EU Policy towards Third Countries on the Death Penalty, adopted in 1998 and recently evaluated.

In resolution 727 of 22 April 1980, the Parliamentary Assembly of the Council of Europe stated that “capital punishment is inhuman” and appealed to the parliaments of member states which retained the death penalty for peacetime offences to abolish it. It widened the appeal in resolution 1044 (1994) of 4 October 1994, calling “upon all the parliaments in the world which have not yet abolished the death penalty, to do so promptly following the example of the majority of Council of Europe member states”. It stated that it “considers that the death penalty has no legitimate place in the penal systems of modern civilized societies, and that its application may well be compared with torture and be seen as inhuman and degrading punishment within the meaning of Article 3 of the European Convention on Human Rights” (recommendation 1246 (1994)).

The EU Guidelines, cited above, state that “abolition of the death penalty contributes to

the enhancement of human dignity and the progressive development of human rights". The Guidelines establish as an EU objective "to work towards universal abolition of the death penalty as a strongly held policy view agreed by all EU member states".

Restriction to the most serious offences

The International Covenant on Civil and Political Rights (ICCPR), adopted by the UN General Assembly in 1966, states in Article 6(2): "In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes".

In a general comment on Article 6 of the ICCPR, the Human Rights Committee⁵ established under that treaty stated "the expression 'most serious crimes' must be read restrictively to mean that the death penalty should be a quite exceptional measure".

In the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, adopted in 1984 the UN Economic and Social Council (ECOSOC) repeated that the death penalty should be imposed only for the most serious crimes and stated that the scope of these crimes should not go beyond intentional crimes with lethal or other extremely grave consequences.

There have been various specific standards and statements about the crimes for which the death penalty should not be used. Article 4(4) of the American Convention on Human Rights (ACHR) states that the death penalty shall not be inflicted “for political offences or related common crimes.” The Human Rights Committee has stated that “the imposition ... of the death penalty for offences which cannot be characterized as the most serious, including apostasy, committing a homosexual act, illicit sex, embezzlement by officials, and theft by force, is incompatible with article 6 of the Covenant”¹. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions has stated that the death penalty “should be eliminated for crimes such as economic crimes and drug-related offences”².

The international standard of restricting the death penalty to the most serious crimes, in particular to those with lethal consequences, is broadly reflected in practice. Most states which continue to carry out executions today do so only for murder, although they may retain the death penalty in law for other crimes. Moreover, the rate of executions in most such countries has declined to a point where it represents only a tiny fraction of the number of reported murders. (The most outstanding exception is China, which carries out more executions than all other countries combined, and continues to execute prisoners for non-violent offences including theft and embezzlement.)

A further development in the restriction of capital offences is the adoption by the international conference in Rome in July 1998 of the Statute of the International Criminal Court, in which the death penalty is not provided for what are arguably the most heinous crimes of all - genocide, other crimes against humanity and war crimes. Similarly, the UN Security Council excluded the death penalty for these grave crimes in 1993 and 1994 when it established the International Criminal Tribunals for the former Yugoslavia and for Rwanda. If these decisions are read together with the well-established standard that the death penalty should be used only for the most serious crimes in countries which have not abolished it, the implication is that the death penalty should not be used at all. If the use of the death penalty is excluded for the most serious international crimes, it can hardly be applied for lesser crimes.

Restriction of applicable offenders

International standards have also developed in such a way as to exclude more and more categories of people from those against whom the death penalty might be used in countries which have not abolished it.

The exclusion of juvenile offenders - those under 18 years old at the time of the offence - is so widely accepted in law and practice that it is approaching the status of a norm of customary international law. The prohibition of sentencing juvenile offenders to death has been set forth in the International Covenant on Civil and Political Rights¹ the African Commission on Human and Peoples Rights,² the ECOSOC Safeguards, the Fourth Geneva Convention of 1949 relative to the Protection of Civilian Persons in Time of War and the two Additional Protocols of 1977 to the Geneva Conventions of 1949 and - also- in the Convention on the Rights of the Child³ which has been ratified by all but two UN member states. The prohibition is widely observed in practice. Since 1990, juvenile offenders are known to have been executed in only seven countries: China, Democratic Republic of Congo, Iran, Pakistan, Yemen, Nigeria, Saudi Arabia, and the United States. Half of the executions were carried out in just one country, the United States of America.

The exclusion of pregnant women, new mothers, and people over 70 years old, set forth in the ICCPR, the ACHR and the ECOSOC Safeguards are also widely observed in practice.

The ECOSOC Safeguards also state that executions shall not be carried out on "persons who have become insane", and in resolution⁴, adopted on 24 May 1989, ECOSOC recommended that UN member states eliminate the death penalty "for persons suffering from mental retardation or extremely limited mental competence, whether at the stage of sentence or execution" These exclusions are less widely observed. Amnesty International and other human rights organisations have documented many cases of prisoners sentenced to death and - sometimes - executed, particularly in the USA, who were of extremely limited mental ability.

Procedural safeguards

Procedural safeguards to be followed in all death penalty cases have been set forth in Article 6 of the ICCPR and Article 4 of the ACHR and reiterated and elaborated upon in the ECOSOC Safeguards and other UN resolutions. They include all international norms

for a fair trial, including the right to appeal to a higher court, and the right to petition for clemency. In General Assembly resolution 1 of 26 November 1968 and successive resolutions, the UN has repeatedly stated its wish to ensure the most careful legal procedures and the greatest possible safeguards for those accused in capital cases in countries where the death penalty has not been abolished. The need to respect minimum standards in death penalty cases is also reflected in the EU Guidelines.

Although the safeguards exist in principle in many countries which retain the death penalty, they are often not fully observed in practice, and even where an effort is made to observe them, the use of the death penalty often remains arbitrary. Factors such as inadequate legal aid and prosecutorial discretion result in some defendants being sentenced to death and executed while others convicted of similar crimes are not. The safeguards have failed to prevent the arbitrary use of the death penalty or to preclude its use against people innocent of the crimes of which they were convicted.

Let us move now to the second part of my presentation, which will be shorter and mainly focus on the most recent international treaties.

International abolitionist treaties

The community of nations has adopted three international treaties providing for the abolition of the death penalty. One is of worldwide scope; the other two are regional. In order of adoption, they are Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty, adopted by the Council of Europe in 1982; the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, adopted by the UN General Assembly in 1989; and the Protocol to the American Convention on Human Rights to Abolish the Death Penalty, adopted by the General Assembly of the Organization of American States in 1990.

Protocol No. 6 to the European Convention on Human Rights provides for the abolition of the death penalty in peacetime; the other two treaties provide for the total abolition of the death penalty but allow states parties to retain the death penalty in time of war if they make a declaration to that effect at the time of ratification or accession.

Protocol No. 6 is the most widely ratified of the three in comparison to the number of states parties to the parent treaty; as of today it had been ratified by 46 states and signed by another one. The Second Optional Protocol to the ICCPR had been ratified by 66 states as of the same date and signed by another eight, while the Protocol to the American Convention on Human Rights to Abolish the Death Penalty had been ratified by eight states and signed by two. The numbers of signatories and states parties continue to grow year after year.

THE PATH TO ABOLITION

The pace of abolition has accelerated in the second half of the 20th century, and especially in the past 20 years.

Alongside the countries which have abolished the death penalty for all crimes or for ordinary crimes only, there are 34 which can be considered abolitionist de facto, in that they retain the death penalty in law but have not carried out any executions for the past 10 years, or have made an international commitment not to do so. And so the death penalty in these countries has a far greater symbolic than practical significance.

The trend to abolition seems inexorable, yet the battle has to be fought over and over again. Each country has to go through a process which is often long and painful, examining for itself the arguments for and against, before finally - we hope - rejecting the death penalty.

Even after abolition, there may be calls to bring the death penalty back. If the calls are serious enough, the arguments have to be gone through again.

The decision to abolish the death penalty has to be taken by the government and the legislators. This decision can be taken even though the majority of the public favour the death penalty. Historically, this has probably almost always been the case. Yet when the death penalty is abolished, usually there is no great public outcry; and once abolished, it almost always stays abolished.

This must mean that although a majority of the public favours the death penalty in a given country, it is also the case that a majority of the public is willing to accept abolition. This is a feature of public opinion which is not usually revealed by polls asking respondents to state their position on the death penalty. If the questions were more sophisticated, the polls would probably give a better sense of the complexities of public opinion and the extent to which it is based on an accurate understanding of the actual situation of criminality in the country, its causes and the means available for combating it.

The assertion that the death penalty deters crime more effectively than other punishments is now largely discredited by the lack of scientific evidence despite the many studies that have been made. Yet many members of the public believe that it does. Their belief flies in the face of the scientific evidence. In other words, the public does not have a scientific understanding of the deterrent effect of the death penalty.

As the UN Secretariat suggested as long ago as 1980, governments should take on the task of educating the public on the uncertainty of the deterrent effect of capital punishment. A better public understanding of crime prevention and criminal justice would produce more support for anti-crime measures which are genuine and not merely palliative. At the very least, politicians should not make demagogic calls for the death penalty, misleading the public and obscuring the need for genuine anti-crime measures.

For many abolitionists, the human rights argument is paramount. But in practice, it is only one of several powerful arguments against the death penalty which need to be part of the national debate.

While Amnesty International is making the human rights argument, others need to make the other arguments. Statements from religious leaders, other respected public figures, influential organizations and the news media can create a moral climate in which the legislators will be more willing to vote in a way which they know will be unpopular with many of their constituents.

Often the national debate on the death penalty is conducted in purely national terms. The international dimension needs to be brought in. Countries can learn from other countries' experience.

Over the centuries, laws and public attitudes relating to torture have evolved. It is no longer permissible to use thumbscrews or the rack as legally sanctioned means of interrogation and punishment. Attitudes toward the death penalty are also changing, and as more and more countries abolish capital punishment, the guillotine, the garrotte and the noose are being relegated to the museums, alongside the medieval instruments of torture.

Bringing about abolition requires courageous political leadership, leadership which will be exercised in the defence of human rights. The requirement of respect for human rights has to include the abolition of the death penalty. It is not possible for a government to respect human rights and retain the death penalty at the same time.

Bas du formulaire

Statements by both the UN Secretary-General and the High Commissioner for Human Rights have supported the "trend in international law and in national practice towards a phasing out of the death penalty." And the world welcomed China's recent Supreme Court review for all death sentences and its statement before the UN Human Rights.

Council on 12 March 2007 that it was developing a policy which would reduce the implementation of the death penalty, ultimately leading to its abolition.

Before we move to the conclusion and the moratorium adopted by the UN on executions as a step towards abolition of the death penalty, let us highlight some of the characteristics of the recently adopted standards to limit the application of the death penalty and safeguards to protect the rights of those facing the death penalty, namely the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. 66 states have now ratified this Protocol and a further 6 are signatures to it.

What this Protocol is about in a few words?

Quite simply, it says that the State parties undertake not to pass the death penalty or to execute it. The first paragraph of Article 1 is directed at the State parties as they must take all the necessary steps to abolish the death penalty in their legislation. The second paragraph grants individuals the right not to be executed.

When did the international community first start to see the death penalty as a human rights issue?

This issue was actually first examined in the 1950s when the International Covenant on Civil and Political Rights, adopted in 1966, was being prepared. The creators of this Covenant did not go so far as abolishing the death penalty, but in paragraph 2 of Article 6 they made application of this punishment subject to serious non-retroactive legal and procedural conditions in conformity with the provisions of the Covenant and the Convention on Genocide. Further, they encouraged States not to perform the death penalty (in paragraph 4), they excluded those under 18 and pregnant women from this punishment (in paragraph 5) and they recommended that it be abolished by stipulating (in paragraph 6) that none of the provisions in paragraph 6 may be invoked to delay or prevent abolition of capital punishment.

Similarly, the Human Rights Committee noted in its general observations with regard to Article 6, adopted on 27 July 1982, that abolition is referred to in terms which unambiguously suggest that abolition is desirable. The Committee concluded that “all steps taken to abolish the death penalty must be viewed as progress towards the enjoyment of the right to life”. Some States contested the usefulness of this Protocol because they considered that all States could abolish the death penalty without becoming party to such a Protocol, which is indeed true.

This text has two main aims: from a political point of view, it is a rallying point for all those who are against the death penalty, enabling them to campaign for abolition, making the objective clearer and specifying how it can be achieved. Legally speaking, the State parties undertake both not to apply capital punishment and not to restore it.

The definitive nature of abolition posed some problems, particularly in France where the Constitution needed to be revised following a decision made by the Constitutional Council on 13 October 2005.

The Federal Republic of Germany played a leading role because it took the initiative, along with other nations from Europe and Latin America, to move towards abolition very early on. The context was very interesting because the text was adopted in December 1989 when all the changes in Eastern Europe had just begun. The Soviet Union and its allies had supported capital punishment, so this issue was used to demonstrate changes within the framework of the perestroika.

When the General Assembly voted, an intensive campaign by the Federal Republic of Germany was required because many States which could have opposed the Protocol or supported a request to delay the vote abstained. In a way there were a number of coincidental changes: ten years earlier it would have been very difficult because the Communist countries would not have supported the project; a few years later the Americans might have campaigned more intensively to prevent its entry into force, including procedurally.

Of the 66 States which are party to the Second Protocol today, only two (Azerbaijan and Greece) issued reservations which are still in force. Originally, the reservations had two objectives. On the one hand, at the time when the Protocol was being prepared, capital punishment had still not been excluded at European level during times of war for military crimes. It therefore appeared difficult, even idealistic, to propose a universal instrument which went further than the conventional state of affairs in Europe at that time.

On the other hand, the reservations were there to provide some flexibility with regard to what was imposed to reject any absolutism and make it easier to sign up to the Protocol.

Today, hardly any States use these reservations and I would be tempted to say that this is a welcome development - it proves that, in the end, the disadvantages of accepting the possibility of making such reservations are very tenuous.

Now the last question that I would like to address, before I conclude this presentation is whether universal abolition of the death penalty possible? And if so, how can the States which retain the death penalty be convinced?

My strong belief, based on the experience of the past years is that it can only be a progressive process. We must ensure that those who have not signed up to the Second Protocol feel increasingly isolated so that States which support human rights are ill at ease about not supporting the Protocol. Perhaps we should set our sights on the United States, the only large Western country which has still not signed up to the Protocol.

When the Protocol was adopted in 1989, most States still retained the death penalty and now, almost 20 years later, we have progressively reached a situation where a large majority has abolished it. Great progress has therefore been made and that is surely to be welcomed.

The moratorium

Let us end with a brief overview on the moratorium decided by the UN on 18th of December last year.

The idea came from Italy, with a strong lobby from an Italian NGO called “Hands off Cain”. After a wide consultation amongst member states of the UN, because Italy and the EU wanted to make sure that a resolution on death penalty would not be defeated at the UN, which would have been a very severe shock against the cause of abolition, in June 2007 the European Union (EU) Council of Ministers decided to table a resolution against the death penalty at the UN General Assembly (UNGA) 62nd session. The EU had decided to launch this initiative with an alliance of states from other regions. The resolution was expected to call for a global moratorium on executions as a step towards worldwide abolition of the death penalty. This initiative has been of course supported by a wide range of NGOs and National Institutions and making sure that this initiative would enjoy cross-regional ownership and would not be seen as solely EU-led.

A pronouncement in the UNGA, the universal body representing the entire UN membership, that the death penalty is a violation of the right to life has been an important international milestone in the campaign to abolish the death penalty worldwide.

We, within National Institutions, were amongst those who believe that the call for a moratorium on executions should be open-ended. We knew that it will take time for states to review their laws on the death penalty and then to take the necessary measures for its abolition. And in the same time we were aware that, some states may only agree to a time bound moratorium. In those cases, the fixed term of the moratorium had to be of sufficient length to allow a full review of the issue and the introduction of legislation to abolish or at the very minimum significantly restrict application of the death penalty.

We also thought that the UN Secretary-General should keep the moratorium under regular review and report to the UNGA on progress made. The UN Office of the High Commissioner for Human Rights could also provide guidance to states as they review their laws to abolish the death penalty.

I remember that I saw the emails coming from the French permanent mission to the UN in New York, explaining that the moratorium had been adopted by a strong majority of 104 against 54 and that even member states who retain the death penalty in their domestic legislation decided to vote in favor of the moratorium or not to oppose and abstained.

Although not legally binding, the UN moratorium on executions carries considerable moral and political weight. The resolution is a reminder of member states’ commitment to work towards abolition of the death penalty. It is also an important tool to encourage retentionist countries to review their use of the death penalty.

This landmark resolution is a major step towards ending this cruel and inhuman punishment and an important contribution to protecting human rights. A death penalty free world is increasingly becoming a real possibility but to achieve that goal there must be strong political leadership and a well-crafted strategy to create global support.

Thank you.

Appendix 3

The Death Penalty and Thai Religions: Article published in Bangkok Post on 1st October 2008

“Buddhism considers it wrong to kill even a mosquito, how can we accept it right to execute a human being”. These words were part of an uncompromising rejection of capital punishment addressed to a gathering in Wat Suan Dok, Chiangmai, by a senior monk. He enlarged on the theme in even stronger words: “According to the teaching of the Buddha, every living being has a right to life; even to think of harming any creature is a mistake.” He explained that in Buddhist thinking, harmful thoughts lead to bad speech, and hence to bad action. It is impossible to prevent harmful thoughts from resulting in crime. The inevitable outcome of crime from bad thoughts cannot be prevented by fear of death. But, shame can disable the harmful intention, change thought and develop a human being. Every prisoner can change his nature to become pure.

In recent months, seminars have been taking place in several locations throughout Thailand to examine religious perspectives on the death penalty. Three seminars were devoted to a Buddhist perspective, in Chiangmai, in Ubon Ratchathani, and in Ayutthiya provinces with a total audience of up to 150 monks. A seminar in a Muslim Centre considered capital punishment from a Muslim perspective. Finally, the perspectives of Buddhism, Islam, and Christianity were presented together in a seminar held at the Office of the National Human Rights Commission in Bangkok.

This year is the 60th anniversary of the Universal Declaration of Human Rights, the agreed formulation of basic human rights held by all members of the United Nations. There are 30 articles to the declaration and the foundation of all other rights is that stated in the 3rd article, “Everyone has the right to life”. These six simple words rejected the monstrous murder of innocents known as the Holocaust, but extended to all killing everywhere, and at every time. When the declaration was being composed there were some who wished to include an exception to justify judicial execution, but after months of debate, the instinct to prohibit all killing prevailed. The war trials at Nuremberg which established for the first time in history the category of crimes against humanity had just ended with the execution of 10 of the defendants. It was as if accounts had to be settled before anger and the need for vengeance could be exhausted. The six words had to wait for future generations to fulfil their promise.

At the time when the Universal Declaration was drafted, only eight countries in the world had renounced the death penalty. Today, that number has grown to 133. From the rate of growth in recent years in the number of abolitionist countries, one can estimate the day and hour when the barbaric practice of judicial execution is likely to go the way of slavery and end for ever. On 18th December of 2007 the General Assembly of the United Nations took up again the issue of the right to life and by a majority vote of 104 to 54 declared in favour of a Moratorium on the Death Penalty. The motion was bitterly opposed by some member countries, and the decision is not mandatory. But a majority vote of the General Assembly carries immense authority. At the least, all members of the UN are mandated to consider their practice of the death penalty and to take account of a world opinion that increasingly favours abolition. Thailand was one of the minority countries opposing the Moratorium. The Thai delegate had earlier explained his stance by asserting that there are worthless people who do not deserve to live! His sentiment cannot be justified by the religious beliefs of the people of Thailand.

The monk in Chiangmai continued his discourse, "Execution is a legal crime that is not different from illegal crime. A judge who orders execution by word or document is also guilty according to Buddhism. There is no exception"

The seminars have been organized by the Union for Civil Liberty in cooperation with the National Human Rights Commission, with funding provided by the European Union, the Netherlands, and France. The death penalty is an issue of ethics and morality, areas of primary interest in religion and in the humanism which goes hand in hand with religion. Religions have grappled with the issue of the death penalty throughout their history. All religions value the life of the individual, and affirm the human potential for reform of a wrongdoer. On the part of the injured, they teach mercy and forgiveness as the only exit from pain and the wrong done. It is perhaps only in China which carries out 80% of all executions in the world that the condemned person is considered a pest to be eliminated as expeditiously as possible.

Traditionally, religions have lived with the death penalty by separating themselves from actual executions. Buddhist monks attending the seminars who accept the death penalty, defined their objective as teaching people how to be good. Those who listen to the teaching do not incur the death penalty. If they ignore the teaching and commit serious crime then the death penalty is their fate. There was an old rule in the monkhood that a monk must make a detour to avoid walking through a place where executions were carried out, emphasizing the separation of monks from justified secular punishment. A similar practice in the past allowed Christian courts to find a person guilty of a capital crime, but the condemned criminal had to be handed over to secular authority to be executed. Can guilt be so delegated? And what if an innocent person is condemned, with whom does responsibility lie?

From an Islamic perspective the death penalty for certain crimes is commanded by Allah as recorded in the Koran. At first sight this might appear an end to the discussion. But Islam is a highly developed and nuanced religion. Muslim speakers emphasized that Islam is part of the human heritage belonging to the whole human race, not just to Muslims. It contains an immense font of wisdom. The full expression of Muslim law, Sharia, is found only in a majority Muslim society where peace and security reign. The first condition of judgement is a strict requirement of evidence which all but eliminates the possibility of wrongful conviction. The defining quality of Allah is that He is merciful. Repentance and the forgiveness of the wrongdoer are always possible. Even as an executioner raises a sword to carry out sentence, he looks to the relatives of the victim. If they give a sign that they accept repentance and offer forgiveness the sentence of death is suspended, to be substituted for by restitution and a lesser penalty. Allah will reward them for their gesture of mercy. A story is told from the life of Muhammed where he tried again and again to extend pardon to a woman who had committed adultery but who herself insisted on execution. The Prophet continued to question her executioners, fearing that they had perhaps ignored some sign of repentance.

However, there is a contrast between practice in a Muslim state where peace and prosperity reign, and the imperfect situation elsewhere. In Thailand, Muslims are a minority who obey and respect the law of the country. But recognising the shortcomings of a prevailing imperfect system of justice, they are ready to agree that a suspension of the death penalty is to be preferred.

There is much to be learned from the value placed by Islam on forgiveness, which aims to undo the harm due to wrongdoing. In several cultures, a crime is seen, not just as the harm done by one individual to another, but as a harm which involves a community. Can the death

penalty heal a community? Can it reconstruct damaged relationships? Can it bring back those whose lives were lost? On the contrary, if forgiveness is extended to a culprit who genuinely repents, a community can implement 'correction', not just in the sense of punishment, but in working to make things right.

A speaker on the Christian perspective towards the death penalty, recalled the unique experience of Christianity whose Founder was condemned and executed. Based on this memory, Christians strongly rejected the death penalty in the first four hundred years. They accepted the death penalty as part of Roman law, only when they were given citizenship in the Roman state. Many centuries passed before the majority of Christians could return to their first belief. Today, the majority of Christians strongly oppose the death penalty and support the movement for abolition. A long and tortuous history of progressing from an acceptance of the death penalty to its rejection, in spite of the clear example and teaching of their Founder, illustrates the difficulty in changing perception and waking to the implications of religious belief.

The seminars have strongly presented to religious believers in Thailand the dilemma of holding to beliefs on the unique value of human life, on the primacy of mercy and forgiveness, and at the same time assenting to the taking of life in their name by a process of justice rejected by the highest authority on earth, the UN General Assembly. It is time to weigh the arguments which suggest that the death penalty is not a solution to crime, that it does not deter more than the punishment of long imprisonment, and that the life of any human being has a value which cannot be taken away.

Danthong Breen, Chairman of Union for Civil Liberty



Opening Ceremony



Buddhist Viewpoint



Muslim Viewpoint

