Law and International Law

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Essay no.1

The death penalty is an admission of failure and a moral bankruptcy. It is the solution of a society that thinks that some of its citizens are lost, cannot change, and cannot be reintegrated. That it is better to eliminate them than to try to give them a chance to repair their fault, an opportunity to redeem themselves. It is a society that refuses people who have made a mistake to repent and to victims, the opportunity to forgive, or sometimes just to get an explanation. For me, it is a huge moral bankruptcy at the top of society, a terrible example given to citizens (Bedau, 1998).

The death penalty is not a deterrent. It was noted at the time that all those sentenced to death had already attended execution. The death penalty does not prevent new murders, the only reason that could justify its usefulness. The state does not have to arrogate a right of life or death to its citizens. The state is the emanation of the people, rendering justice for the people. Justice, not revenge, already. And the state does justice to protect the people.

If we should justify the death penalty, it could be (among others): to scare people to prevent them from committing crimes. But criminals who kill in cold blood generally have serious mental disorders, are never afraid of anything and that is not what will persuade them. Their place is the psychiatric hospital or the prison in perpetuity. The others usually do it in rage, and we know that rabies removes fear and blocks the brain's ability to reason normally. We can put them in jail with behavioral psychological support. A healthy person only kills to defend himself. How to punish by killing a sick person? the only healthy attitude is understanding or even compassion.

To satisfy the relatives of the victims: it reinforces the culture of revenge. Citizens will then tend to take revenge against other imperfections of their own citizens, which is futile because it does not solve the problem but it aggravates it and perpetuates the vicious circle

For political reasons such as high treason: It is sometimes the Joker card of some political regimes. So it can be used when needed, to settle accounts. Therefore, it's not necessarily in the interest of the people. It is legally unfeasible. Peru ratified in 1978 the American Convention on Human Rights, which expressly prohibits countries from extending the death penalty to crimes that were not previously contemplated in their domestic legislation. Likewise, it prevents reinstatement in those cases for which it is subsequently eliminated. Let us remember that the 1979 Constitution, after the ratification date of the convention, included the application of the death penalty only for cases of treason in the case of foreign war. Applying this sanction for additional cases would entail the international responsibility of the State for violating the treaty to which it was forced (Yelderman, et.al, 2019).

There is no single report that guarantees that the death penalty is effective in fighting terrorism, as well as any other crime. Although there are no exact figures of the crimes for which the death penalty is imposed, the United Nations points out that it is applied for crimes that are not included among "the most serious crimes" included in Article 6.2 of the International Covenant on Civil and Political Rights. Among them, the most common are drug-related crimes, but according to Amnesty International in 2017 executions were also carried out for economic, sexual or "religious" crimes. There are also no figures on executions for terrorism, although according to the organization they have been carried out in several countries, mainly in the Middle East.

Various institutions have analyzed the relationship between the death penalty and criminality. The United Nations includes in its resolutions a relevant phrase: "taking into consideration that there is no conclusive evidence of the value of the death penalty as a deterrent". For the Secretary General of the United Nations "to stop crime, the objective should be to reform the justice system in order to ensure that international human rights law is complied with and is more effective and humane". It is, therefore, symptomatic that there is no scientific evidence to show that the death penalty is dissuasive. A fact that is corroborated by not applying this penalty in the safest countries in the world or the constant that in the United States and in the countries that impose the crime rate is not lower compared to those who do not (Banner, et.al. 2009).

The special rapporteur on extrajudicial, summary or arbitrary executions of the United Nations considers that in the framework of the fight against terrorism some States may have an excessive reaction using the death penalty for conduct that is not, in any case, considered criminal (Cerna, 2019). Certain countries, usually dictatorships or weak governments and lacking the capacity to tackle political and social problems within the framework of respect for international law, can be protected by the excuse of security to commit abuses. A concern that, together with opacity and the lack of guarantees in judicial proceedings, can lead to serious violations of international law.

To conclude, the death penalty is used by some governments as an element of control of political power. Yes, in some cases. The lack of transparency and information in the application of the death penalty, being in some countries a state secret, prevents knowing if human rights are being respected. It is key because it questions the use of force by some countries crossing the limited space in which the death penalty is admitted by international law.

Essay no.2

Michael Davis claims that legislatures ought to assign a more severe penalty to crime category X (e.g. manslaughter) than to crime category Y (e.g. larceny), if and only if a license to commit (once) a crime in category X would “sell” for more than a license to commit a crime in category Y. He also claims that, for the most part, existing penalty schedules in the United States reflect this rationale. It is a concrete example of this inheritance is the death penalty, an American exception in the context of developed nations. The persistence of the death penalty as a habitual form of punishment is one of the most dramatic examples of how the consequences of slavery continue to shape our society.

 Michael Davis explains, Capital punishment survived the abolition of obsolete forms of corporal punishment by becoming part of the laws of slavery. That is why it is a completely racist institution, not only because it is disproportionately directed against black people and people of color, but it is also an institution inherited from slavery.

The reform of a penal system that has grown disproportionately since the hardening of sentences of the eighties and nineties is already among the priorities of both parties, with notable advances at the state level in California and Texas. Michael Davis, nevertheless, continues betting by the abolitionism of the prison system. "After decades of radical organizing and academic research, the crisis of prisons and police violence have finally become matters of public discourse," he argues. But "the consensus has developed from reforms that are presented as capable of 'fixing the system'. The abolitionists consider that it is not a matter of making minor, or even large reforms, but of dismantling the system and rebuilding criminal justice and police systems,

"The prison industrial complex," he continues, "consists of a series of relations between prisons, police, companies, media and the Government. Dismantling it requires more than laws. " For Davis, overpopulation is the consequence of a neoliberal approach focused on the benefits of the industry. "The prison industrial complex is a global phenomenon with ramifications in Africa, Latin America and Asia." The texts that are now presented in Spain are written before something unthinkable happened in the United States. In January 2009, a black man was sworn in as president of the country. For someone who was at the beginning of movements like the Black Panthers, in these seven years the presence of Barack Obama in Washington "has had a profound impact on perceptions about race and racism." "We have just embarked on a national conversation after several failed attempts, first during the Clinton presidency, then during Obama's election campaign and the first period of his presidency (Kaplan, 2019).

Unfortunately, Obama has been held back by powerful critics who equate any attempt on his part to discuss race with his personal concerns as the first black president. " Davis does not believe that racism against blacks and that suffered by Hispanics have the same deep causes, but that his reaction could be similar. "Even though the history of Latinos and blacks intersects, including the fact that a significant number of Latinos are of African descent, there are differences. Just as colonization and slavery are different, but deeply historically related, those people whose ancestors were the object of these forms of repression suffer different forms of oppression.

Bringing these two communities together in movements against racism requires, for example, a greater commitment in the black communities to support the rights of immigrants.

This is necessary because our judicial system is now seriously ill. This system only fills from time to time what should be its primary function: to protect honest people, to punish the wicked. Today, in US, it is legitimate to say that justice creates insecurity, as documented in detail a very good book recently published (Khan, & Singh, 2018). But if our justice system is so bad, the first reason is that those who administer it have lost the conviction that it is normal, that it is fair, that it is morally necessary to punish criminals for height of their crime. The idea that a criminal deserves punishment seems definitively out of fashion in the judicial circles, and what has replaced it is rather "a penal dogmatism characterized by an epidemic reticence to punish" even the worst criminals. With the consequences that we can see almost daily.

Davis address those problems as that from this point of view, the abolition of the death penalty is both the culmination and the keystone of this "penal dogmatism" which refuses to punish the wicked, because the fundamental justification of the death penalty has always been its character proportionate to certain crimes (Davis, 1984). Even if grounds for deterrence or prevention of recidivism can be advanced to defend the ultimate punishment, the most decisive reason for executing certain criminals is that only this punishment is commensurate with their crimes.

A judicial institution no longer inhabited by the conviction that justice demands that wicked suffer for their crimes be an institution that will soon be dominated by the most consistent and determined of its members, by those who will all the consequences of the refusal to punish, and thus turn their outrage against ordinary people who persist in demanding that criminals suffer for what they have done. To put it in less abstract and more terms, a judicial institution that has abandoned the idea of ​​deserved punishment is an institution that will inevitably be dominated by the ideas of the Judicial Union.

We are here today. And everything leads us to think that our situation will really improve only when the retributive conception of justice has regained its nobility. The possibility that some criminals deserve to be executed is something we need to consider again if we are to hope that one day our justice system will return to normal. Whether or not the death penalty is once again part of the judicial arsenal is secondary. The bottom line is that the principle justice is recognized: some criminals deserve to die. Should not we detail the physiological effects of the execution, for example, the blood that gushes forth, the body that shudders and continues to waver once the head is cut, and so on?

The death penalty is a terrible punishment, regardless of how it is inflicted. This is not naughty.

Why then want to talk about it? This seems all the more unjustifiable because, in France, any debate on this subject seems totally useless, if not impossible. If there is one opinion that is unanimous among the French elites, it is the one according to which the abolition of the death penalty is what separates civilization from barbarism.

From the experience of half a century of activism and academic work, Angela Davis does not believe that societies in which people are ideally blind to colors are possible. "I do not think we should fight for a society in which the race is completely absent. In fact, I do not think it is possible to reverse the development of history, to pretend that slavery had never existed, as if the colonization of the Americas, Africa or Asia had never happened. " But one can still aspire to a society "free of racial hierarchies, racial inequalities or racial violence. It is racism that we must expel from our societies.

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