

The Fifth World Congress Against the Death Penalty, at the Royal Academy of Fine Arts of Saint Ferdinand and the Palace of Congress, Madrid, 11-16 June 2013.

Report on Selected Sessions

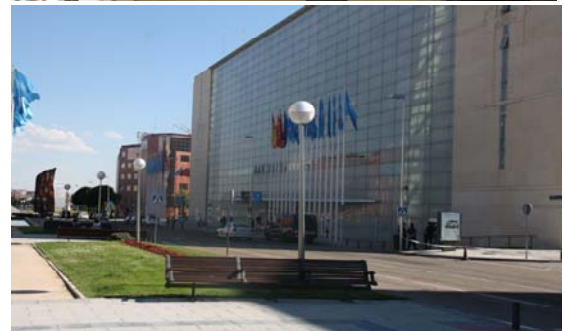
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In December 2012, the United Nations General Assembly Resolution on the Moratorium on the use of the death penalty, received 111 votes in favour, 34 abstentions, and 41 against. This vote demonstrates that world opinion is turning against the use of the death penalty, and within this political and legal evolution, the Fifth World Congress Against the Death Penalty was held in Madrid. Previous Congresses have convened in Strasbourg (2001), Montreal (2004), Paris (2007), and Geneva (2010). The participants at the Madrid Congress, which is organised by Together Against the Death Penalty, included Nobel Laureates, politicians, judges, lawyers, journalists, academics, and civil society.

Academic Session of the World Congress, held in the Royal Academy of Fine Arts of Saint Ferdinand, Madrid

In the opening session, leading death penalty scholar, Professor William Schabas, identified the important role played by academics for the abolition of the death penalty.

Since Cesare Beccaria argued for the restriction of the death penalty in the European Enlightenment, political scientists and philosophers, have been demonstrating that the sovereign should not have the right to put to death through recourse to capital punishment. Professor Federico Mayor Zaragoza, the President of the International Commission Against the Death Penalty, spoke about the importance of the strengthening of abolitionist networks and the need for the continued dissemination of knowledge at the global level. Mr. Raphaël Chenuil-Hazan, the Director General of Together Against the Death Penalty, confirmed the importance of the collaboration of the academic and civil society networks, which he affirmed his organisation plays a key role in this initiative.



Congress poster and registration in the Palace of Congress, Madrid



Mr. Raphaël Chenuil-Hazan, the Director General of Together Against the Death Penalty

In the session, “New World Order and Advances in Human Rights,” Delphine Lourteau, of the Center for International Human Rights, Northwestern University in Chicago, described the current global status of the punishment, including the epoch of 1995, as being the first time that a majority of the countries in the world abolished the punishment. She also outlined the significance of the 2007 General Assembly resolution on the moratorium on the use of the death penalty, for signalling the growing potential for global abolition.

Professor Luis Arroyo Zapatero, President of the International Society of Social Defence and Humane Criminal Policy, outlined future strategies and approaches to be taken by the Academic Network Against the Death Penalty, and launched the publication, “Francisco de Goya: Against the Cruelty of Capital Punishment,” which includes prints by Goya on execution scenes in Spain, mostly by the garrotte. Professor Fernando Vallespín, provided an overview of the political science perspective and identified the importance of global governance for the abolitionist movement. He positioned the growing rejection of the death penalty at the United Nations within the statist Westphalian model and proposed the abolition of the death penalty as a, “global public good,” to be promoted until the goal is achieved.

Professor Gabrio Forti of the Catholic University of Milan, provided an illuminating talk on “Literature and Justice,” and drew from Aristotle, Shakespeare, Dante, Kafka, and Hugo, to propose literature as a further discourse for training lawyers in capital representation. In using literature on medicine as a case study, he argued that doctors can improve their patient communication for explaining medical conditions and course of treatments, and in a comparable way, literature can be used to help increase the qualities and performance of attorneys in capital defence.

In the session, “On the Question of the Deterrent Effect of the Death Penalty”, Professor Roger Hood of Oxford University, drew on his extensive empirical work to reveal the inadequacy of the death penalty as an effective deterrent against violent crime. Professor Hood noted that most of the research on deterrence comes from the United States, so he referred to his recent important work conducted for The Death Penalty Project, on the question of public opinion and the deterrent effect of the punishment in Trinidad.



Members of the Death Penalty Project

The inadequacy of the death penalty in providing an effective deterrence was affirmed by Professor Marcelo Aebi and Professor Eduardo Demetrio. Then Professor Hans Albrecht, Director of the Max Planck Institute for Foreign and International Criminal Law, gave a methodological review of the deterrence studies in the United States and identified correlates pointing to homicide and execution trends. The leading sociologist on the death penalty, Professor Michael Radelet, drew from his extensive work on the punishment in the United States and convincingly demonstrated that the punishment does not provide a specific deterrent effect.

In the session, “The death sentence as cruel and inhuman punishment: cruelty in international law jurisprudence and national courts,” chaired by the former Prime Minister of Spain, Jose Luis Rodriguez Zapatero, Dr. Jon Yorke, of the BCU Law School, provided a multi-disciplinary approach to the Council of Europe and the abolition of the death penalty as an issue of ECHR Article 3. He identified the key Resolutions of the Parliamentary Assembly, and the case law of the European Court of Human Rights, which have solidified the position in the region that the death penalty is an inhuman punishment.



R-L, Professor Maria Acale, Dr. Jon Yorke, Dr. Anna-Maria Getos, Mr. Jose Luis Rodriguez Zapatero, former Prime Minister of Spain, Professor Mercedes Alonso Alamo, and Professor Salomao Shecaria

Dr. Anna-Maria Getos from the University of Zagreb gave an extremely insightful sociological and criminological analysis of cruelty in punishment. Dr Getos argued that the death penalty is inherently cruel and should be abolished on this basis. Professor Salomao Shecaira from the University of Sao Paulo, provided a detailed review of certain classifications of deaths in Brazil, not initiated by the state in the imposition of capital punishment, but through homicides caused by the police. Professor Shecaria called for a more transparent review of police inflicted deaths. Prime Minister Zapatero asked the panellists, in considering that he had once held absolute power in Spain, why the death penalty should not be used by heads of state to punish violent crime. We argued that there were alternative, and more effective, punishments available to heads of state in the era of human rights. Dr. Yorke also drew from the sociologist, Max Weber, who argued that the state is recognised as the monopoly holder

of “legitimate violence.” The human rights discourse has now rendered the death penalty an, “illegitimate,” manifestation of state violence.

In the session, “International Legal Cooperation and Abolitionist Strategies,” Professor Stephano Manacorda of the University of Naples and the College of France, presented his research on mapping the progression of abolitionism. He pointed to the value of different mapping techniques for providing clear geographical information on regional positions. Professor Anabela Miranda Rodrigues provided a detailed review of extradition procedures in Portugal. She identified the shift from requiring absolute assurances against the death penalty in extradition circumstances, to the requirement of assurances against the imposition of life imprisonment without the possibility of parole (LWOP).



Professors Juan Bordes, Miguel Angel Collada Yurrita, Sandra Babcock and Luis Arroyo Zapatero

The need for scholarship on the abolition of the death penalty to effectively resolve contemporary criminal justice issues was affirmed by Professor Miguel Angel Collado Yurrita. Professor Juan Bordes of the Royal Academy described the importance of Goya’s artistic work for demonstrating the inhumanity of the garrotte in Spain. Professor Sandra Babcock of the Center for International Human Rights, Northwestern University, affirmed the importance of the need for capital representation around the world to be of the highest quality, and her website, Death Penalty Worldwide, helps maintain standards and identifies effective defence strategies.

The closing Academic Session, was “Alternatives to the Death Penalty.” The speakers discussed the difficulties of replacing the death penalty with whole life tariffs, and the vicissitudes associated with imposing life without parole as a replacement punishment. It was agreed that with the growing abolition of the death penalty, the discussions on the legitimacy of LWOP required further debate. In the session, the Spanish translation of Professor Dirk van Zyl Smit’s book, “European Prison Law and Policy,” was launched.



Presentation of Professor Dirk van Zyl Smit’s book on European Prison Law and Policy

Congress Sessions held in the Palace of Congress

Nobel Laureate Archbishop Desmond Tutu addressed the conference by video link and stressed the importance of the worldwide abolition of the death penalty for the realisation of human dignity. Then in her speech, Mairead Maguire, Nobel Peace Prize Winner in 1976 for her work in helping end conflict in Northern Ireland, stated that there is, “no greater work than to protect life,” and that the abolition of the death penalty was a crucial component of the furtherance of the right to life.



Mairead Maguire, Nobel Peace Prize Winner, 1976



Judge Hanne Sophie Greve and Ms. Soad El Khamal

During the workshop, “Terrorism and Abolition,” Judge Hanne Sophie Greve, Vice President of the High Court in Bergen, Norway, and member of the International Commission Against the Death Penalty, spoke cogently denouncing the death penalty in terrorism cases. She persuasively argued that the state must not reject the same dignity of human beings which terrorists destroy, in putting them to death through capital punishment. Judge Greve stated that terrorism can be defeated by not killing to, “demonstrate a respect for the sanctity of life.”

There was a very moving testimony from Ms. Souad El Khamal, the President of the Morocco Association for the Victims of Terrorism, as she described how she lost both her husband and son to a terrorist bombing in Casablanca in 2003. She talked about her struggles following the deaths of her family and the strength she found through the need to help victims of terrorist crimes. She maintained that the death penalty for terrorism is not the answer to stop further terrorist attacks.



Mr. Youssef Seddik and Mr. Nasser Amin

There were two sessions on the MENA region (Middle East and North Africa). Mr. Ghassan Moukheiber, Member of the Lebanese Parliament, addressed the Congress on the importance of civil society and NGOs for abolition in the MENA region. Mr Nasser Amin, Director of the Arab Center for the Independence of the Judiciary and the Legal Profession in Egypt, spoke about the slow progress towards abolition in Egypt, and emphasised the need for a persistent call for greater judicial independence in his country. Mr. Youssef Seddik, a



philosopher and anthropologist from Tunisia, spoke about the importance of “pardon” in the Koran. Mr. Seddik stressed the need for correct exegesis of the Islamic scriptures to promote peace and mercy. In the plenary session on Asia, leading Indian lawyer, Mr. Yug Chaudhry, spoke about the execution of Ajmal Kasab in November 2012, for his part in the Mumbai terrorist attack. Mr. Chaudhry affirmed the need for continued help in India.

Key Developments at the World Congress

Mr. Raphaël Chenuil-Hazan, the Director General of Together Against the Death Penalty, announced that to achieve abolition, “a courageous political leadership, in parallel with public awareness, is the key to abolition in each country.”

In line with this, Mrs. Khadija Poussi, the Vice President of the Moroccan Parliament, spoke about the growing work and influence of the Network of Parliamentarians against the death penalty in Morocco, and Baroness Vivien Stern, Member of the House of Lords, and Chair of the British Parliamentary Commission Against the Death Penalty, revealed her visionary plans for organising a “Global Parliamentary Group Against the Death Penalty”.



Mrs. Khadija Poussi



Baroness Vivien Stern and Mr. Leonard She



Mr. Leonard She and Mrs Alice Alaso

Baroness Stern emphasised the importance of the development of this Global Group, not just for enhancing the work of the, “Parliamentarian’s for Global Action,” but for providing a much needed organisational structure for focused dialogue between parliamentarians around the world. A further positive development was seen in Uganda as Parliamentarian, Alice Alaso, informed the conference that in the latter part of 2013, a Bill will be introduced calling for the abolition of the death penalty in her country. Mr. Leonard She, a Senator from the Democratic Republic of Congo, spoke

about the mechanisms for the strengthening of the parliamentarians against the punishment in the DRC. Following the announcements of these political initiatives, Maria Donatelli, the Director of the World Coalition Against the Death Penalty, informed the congress that the World Coalition would provide information and contacts to facilitate the global dialogue of parliamentarians.

At the plenary session, “Legal representation in capital cases around the world,” Professor Sandra Babcock launched a resource for defence lawyers, “Representing Individuals Facing the Death Penalty: A Best Practices Manual.” The manual can be found on the Center of International Human Rights’ Death Penalty Worldwide website, which also provides key information on capital jurisdictions around the world, and additional resources for capital defence. The need for generating further teaching aids for lawyers, judges, politicians and civil society, was also noted by Professor Luis Arroyo Zapatero, who identified themes to be developed by the Academic Network Against Capital Punishment.

Conclusion

The Fifth World Congress Against the Death Penalty provided a multi-disciplinary platform to bring together Nobel Laureates, politicians, lawyers, social scientists, journalists, and civil society, to review the abolitionist and retentionist communities. The work of the World Coalition Against the Death Penalty, and Together Against the Death penalty, is helping solidify global efforts to de-legitimise the state right to impose the death penalty. There was an overall sense in Madrid that just as slavery and torture have been legally abolished, the death penalty will be next. One day in the not too distant future, a Congress will celebrate a world free of state sanctioned killing through a capital sentence.