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Time to reject the culture of death

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“Violence begetting violence is not an acceptable excuse”, remarked an Arizona prosecutor on 6 November declaring his intention to seek a death sentence against Frank Roque at his upcoming trial. Yet his decision itself looks set to perpetuate a cycle of revenge. For Roque is charged with the hate killing of Balbir Singh Sodhi, a Sikh man shot dead outside his shop in Mesa on 15 September in an apparent act of reprisal for the atrocities in New York and Washington four days earlier.

Four days after the prosecutor’s announcement, President George Bush, whose strong stand against the racist backlash in the USA that followed the 11 September attacks Amnesty International has welcomed, addressed the United Nations General Assembly. One sentence in the President’s speech will have carried a particular resonance for many people: “We choose the dignity of life over a culture of death”. For this is a political leader who has routinely supported the machinery of death as a vehicle for justice. His five-year governorship of Texas saw 152 judicial killings and his initial six months in the White House saw the first two federal executions in the USA for 38 years. In many cases, international standards were violated in getting the prisoner to the execution chamber.

President Bush has made numerous references to “civilization” in recent weeks, including in his address to the United Nations. For example, in a domestic speech two days before that address he described the “war on terrorism” as “a war to save civilization itself.” Yet definitions of what constitutes “civilized” conduct varies widely. In a resolution adopted earlier this year, the Council of Europe – 43 countries with 800 million inhabitants – reaffirmed its belief that “the death penalty has no legitimate place in the penal systems of modern civilized societies”.

In contrast to the international community’s aspirations to rid the world of capital punishment – 109 countries are abolitionist in law or practice and the International Criminal Court will not authorize execution even for crimes such as genocide, crimes against humanity and war crimes – the United States clings to this anachronistic sanction, frequently violating international safeguards in so doing. For example, it leads the world in the use of the death penalty for crimes committed by children, accounting for more executions of child offenders in the last decade than the rest of the world combined. It has already carried out such an execution since 11 September, its ninth in the past four years. Pakistan, Iran and Democratic Republic of Congo are the only other countries reported to have executed child offenders in the same period, with five such killings between them.

In his 10 November address, President Bush was concerned that, “anticipating this meeting of the General Assembly, [the terrorists] denounced the United Nations”. Yet in recent years, a number of US politicians have displayed little willingness themselves to recognize the UN’s legitimacy. Some particularly acerbic words were aimed at the organization in relation to the 1997 visit to the USA by a UN Special Rapporteur to examine aspects of the country’s capital justice system. At the time, the chairman of the Senate Foreign Relations Committee asked: “Is this man confusing the United States with some other country, or is this an intentional insult to the US and our nation’s legal system?” The Senator characterized the Rapporteur’s mission as “a perfect example of why the

United Nations is looked upon with such disdain by the American people". The rapporteur's 1998 report – sharply critical of the US death penalty – has, predictably, been ignored by the government.

Times of crisis do pose particular challenges to government, yet states should heed Thomas Paine's 200-year-old warning that an "avidity to punish is always dangerous to liberty". This rang true following the 1995 Oklahoma City bombing, when the US administration hurriedly passed the Anti-Terrorism and Effective Death Penalty Act. Aimed in part at expediting executions, this unprecedented piece of legislation has been widely condemned. The above-mentioned UN Special Rapporteur concluded that by severely limiting the ability of the federal courts to remedy errors and abuses in state proceedings, the Act had "further jeopardized the right to a fair trial as provided for in the International Covenant on Civil and Political Rights and other international instruments".

An immediate example of this is the case of Howard Neal, a man with mental retardation and an IQ of between 54 and 60, who has been on Mississippi's death row for two decades. Earlier this year, a federal appeals court concluded that his legal representation at his trial had been woefully inadequate. Not only that, it said that the Mississippi Supreme Court had been wrong in finding that the failures of the defence had not altered the outcome of the case. However, the federal court ruled that, under the Anti-Terrorism and Effective Death Penalty Act, the state court's judgement had not been unreasonably wrong. So Howard Neal can be executed, the target of a government's avidity to punish regardless of international standards of decency and justice.

Since 11 September, there has been little sign that the USA intends to reevaluate its relationship with judicial killing in ways that make abolition more likely. Thirteen people have been put to death in the country's execution chambers since the attacks, joining the more than 600 men and women who have met this fate since 1990. In the uncertain economic climate that has followed the appalling crimes of 11 September, the executioner's job is one that, regrettably, seems secure. Indeed, several state legislatures have seen moves to expand the death penalty to cover "terrorist" crimes. Even legislators in Wisconsin and Iowa - states which have been abolitionist since 1853 and 1965 respectively – have expressed their wish to see the death penalty reinstated. And now, an executive order signed by President Bush on 13 November, allowing for the trial by special military tribunals of foreign nationals suspected of involvement in "international terrorism", has raised the possibility of the US government carrying out executions after unfair trials with no right of appeal.

President Bush told the UN General Assembly that "the world needs its principled leadership. It undermines the credibility of this great institution, for example, when the Commission on Human Rights offers seats to the world's most persistent violators of human rights". Last April, the USA was voted off the Commission. Harold Koh, Assistant Secretary of State for Democracy, Human Rights, and Labor under the Clinton administration, described the vote as "a wake-up call that the era of automatic global deference to US leadership on human rights is over. Our belief in our global exceptionalism has too often led us to vote alone at the commission, falsely assuming that such isolationism has no costs. In the session just past, we stood alone or nearly alone in refusing to support resolutions supporting lower-cost access to HIV/AIDS drugs, acknowledging a human right to adequate food, condemning disappearances and calling for a moratorium on the death penalty."

It is now almost a year since UN Secretary General Kofi Annan – who along with the United Nations was awarded the 2001 Nobel Peace Prize – added his own voice for such a moratorium: "Let the States that still use the death penalty stay their hand, lest in time to come they look back with remorse, knowing it is too late to redeem their grievous mistake."

In the absence of principled leadership against the death penalty at the highest levels of state and federal government in the USA, elected prosecutors will continue to pursue executions as they see fit. If an Arizona prosecutor is successful in his stated intention to obtain a death sentence against

Frank Roque, perhaps some time in the next decade Roque will be taken from his cell, strapped down and killed by government employees. Would this be justice? Or simply one more twist in a cycle of revenge? It is time for the USA to reject this culture of death.

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