

Dominicans for Justice and Peace, Dominican Leadership Conference, International Federation of Action by Christians for the Abolition of Torture (FIACAT), Sisters of St. Joseph, International Presentation Association: Sisters of the Presentation, Sisters of Notre Dame de Namur, Maryknoll Sisters and Maryknoll Fathers and Brothers, in conjunction with Franciscans International, are **concerned about the issue of the application and the use of the death penalty** in countries of the world. In his 2004 report to the Commission on the Question of the death penalty (E/CN.4/2004/86), the UN Secretary-General declared that **the trend toward abolition of the death penalty continues**. His report states that the number of countries that can be considered de facto abolitionist has increased from 33 to 37. The overall number of retentionist countries decreased from 71 to 66. He added that there was also a significant increase in the number of countries that have ratified international instruments providing for the abolition of the death penalty.

Our long-standing position against the death penalty is grounded in **the respect for all human life, the opposition to violence in our society and the injustice of the death penalty**. We see the death penalty as perpetuating a cycle of violence and promoting a sense of vengeance in our culture. To continue to enact the death penalty is to teach that violence and killing are acceptable ways of dealing with violence and killing. Restoration of society and the healing of victims, as well as reform and rehabilitation of the offenders, must be the goals of a criminal justice system. On this basis, a number of Dominican congregations and institutions in the United States have adopted a corporate stance advocating the abolition of the death penalty.

#### Discrimination in its application

In calling for the abolition of the death penalty worldwide, we also express our deep concern about its **unjust and unequal application**. In countries where the death penalty continues to be enacted, it is more likely to be applied in a racist manner, more likely to be applied to minorities and the under classes in general. Poor people, disabled people and young people are more often subjected to capital punishment. (1)

At its 2002 Session, the Sub-Commission on Promotion and Protection of Human Rights raised the case of **Javier Suárez Medina**, a young Mexican national who was scheduled for execution in Texas on August 14, 2002. The Sub-Commission also adopted a statement urging the United States authorities to do everything possible to stay the execution of Javier Suárez Medina and to re-examine his case, guaranteeing him his right to consular protection and to a fair trial.

Medina's case is an illustration of the ongoing discrimination in the application of the death penalty. Sentenced to death when he was only 19 years old, Javier Suarez Medina's case raised **deeply troubling questions about the fairness of his trial** and the ongoing refusal of Texas authorities to respect their binding international treaty obligations. In his case, the US authorities did not comply with their obligations pursuant to Article 36 of the 1963 Vienna Convention on Consular Relations, which guarantee consular assistance for foreign detainees.

Despite unprecedented and urgent interventions by the Sub-Commission and many others, **Javier Suárez Medina was executed by lethal injection on August 14, 2002**, in Huntsville, Texas.

Six months after Javier's execution, in February 2003, the **International Court of Justice** unanimously adopted an Order indicating provisional measures in a dispute concerning alleged violations of Articles 5 and 36 of the Vienna Convention on Consular Relations of 24 April 1963 with respect to 54 Mexican nationals who had been sentenced to death in certain States of the United States. In that Order, the Court ruled that the United States of America shall take all measures necessary to ensure **that three of the nationals are not executed** pending final judgment in these proceedings.

In a subsequent decision, on March 31, 2004, **the International Court of Justice ruled that the United States violated** the rights of 51 Mexicans on death row and ordered their cases be reviewed.

Because of the **irreversibility of the death penalty**, Javier would not be able to benefit from subsequent International Court of Justice or other decisions dealing with such cases. Furthermore, he would not be able to make appropriate reparation to the victim and his family nor to society.

In another country situation, **Pakistan**, the death penalty is the only punishment under the Blasphemy Laws. In countries where the death penalty is still in force, human rights standards require the restriction of the application of the death penalty to the most limited possible set of crimes, with stringent legal protections. This does not appear to be the case under the Blasphemy Laws of Pakistan.

In respect to capital punishment, our organizations support the moratorium called for by **Pope John Paul II** in a 1998 address, the **US Bishops' call for the abolition of the death penalty** as well as the international initiative, *Moratorium Now*, a movement organized to suspend all executions.

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- **Encourage all governments to abolish the death penalty and to ratify the Second Optional Protocol to the International Covenant on Civil and Political rights, which requires governments to put an end to capital punishment in their countries.**

- Urge the government of the United States to respect and abide by the International Court of Justice Order rulings of February 5, 2003 and March 31, 2004.

- Invite state members of the Council of Europe to ratify Protocol 13 to the European Convention on Human Rights concerning the abolition of the death penalty in all circumstances.

- **Urge governments to seek alternatives to the death penalty that reflect intelligence, civility, compassion and justice.**

(1) In her working paper, entitled “Discrimination in the criminal justice system”, Ms Lela Zerrougui makes the following statement: “All the mechanisms for the monitoring or protection of human rights denounce the abnormally high rates of victimization and detention of Afro-Americans, Aborigines, Dalits, Roma, children of indigenous peoples and migrant workers and other communities stigmatized by age-old structural injustices in several regions of the world.” (E/CN.4/Sub.2/2002/5, note 41, page 20)