



Response

September 13th, 2018

Reinstatement of the Death Penalty

The death penalty was suspended in SA in February 1990, and finally abolished by the Constitutional Court in 1995. Before its suspension, SA had one of the highest rates of judicial execution in the world,¹ with over 3000 people hanged between 1959 and 1989.²

However, on 5th September this year the Inkatha Freedom Party called for a fresh discussion on the possibility of reinstating the death penalty.³ The National Freedom Party has also made a similar call in recent times.⁴ The ACDP, too, is on record as wanting to reinstate it, while the UDM has called for a referendum on the issue.⁵ All these parties have posited the reinstatement as a probable deterrence amidst the growing spiral of violent contact crimes, especially those of rape and murder.

Indeed, a glance at the country's alarming crime statistics, including the latest figures released on Tuesday, shows why these parties are arguing for a re-opening of the discussion. Murders have increased markedly, with 20 336 reported in the period 2017/18. This equates to 57 murders a day, and 3 915 of the victims were women and children. Crimes related to domestic violence showed that 67.3% (762 cases) were of a physical nature.⁶ It is commonly acknowledged that such crimes are grossly under reported to the police, hence the numbers in reality are much higher. Over a slightly longer period, while murder rates declined between 2010 and 2015, there has been a marked increase over the past three years. The number of women who experienced sexual assault increased by 53% jumping from 31 665 in 2015 to 70 813 in 2016/17. An increasing percentage of victims of theft of personal property, sexual assault and fraud were women.⁷

Clearly, these political parties are reflecting a growing public sense of frustration and futility around the increase in criminality, and are touting the reintroduction of the death penalty as a likely panacea for this evil. But there are strong voices opposing the call, too.

Amnesty International points out that many studies show that there is no evidence that execution is a greater deterrent than imprisonment.⁸ In the USA, for example, it has been argued that States which do not have the death penalty have lower murder rates than neighbouring States that do have it.⁹ AI holds that "the death penalty is a symptom of a culture of violence rather than a solution."¹⁰ They add tellingly that "the death penalty goes against the universal declaration of human rights, is open to abuse in skewed or failing justice systems, and will undoubtedly target the poor. Poor and marginalised groups have less access to the legal resources needed to defend themselves."¹¹ Material from the anti-death penalty group, Oregonians for Alternatives to the Death Penalty, quotes a study at Columbia University in which they claim that 68% of all death penalty judgements have been overturned and that poor defences was a key reason.¹² Also in the USA, since the reintroduction of

the death penalty 138 innocent people have been released from death row.¹³ It is said that the death penalty puts innocent people at risk, and that it is a ‘lethal lottery’.

At the same time as the political parties have ratcheted up their pleas for the reintroduction of the death penalty, Pope Francis has declared, building on the teaching of his predecessors, that the death penalty is wrong in all cases. This marks a definitive change in Church teaching, which hitherto accepted the death penalty if it was the only practical way to defend lives. Pope Francis now says that it is unacceptable as it is an attack on human dignity; however grave the crime that has been committed, the death penalty is inadmissible.¹⁴

He goes on to say that the modern state has many means at its disposal to ensure that criminals do no further harm to society, and that the question of finding better ways of carrying out executions is a futile discussion as there are no humane ways of killing a person.¹⁵ He has also said that the Church would work with determination to abolish capital punishment worldwide, and that the growing opposition to the death penalty is a sign of hope. He said that it does not offer justice to the victims but fosters a climate of vengeance.¹⁶ The Catechism of the Catholic Church has incorporated this change.

This call by Pope Francis should be heeded and acknowledged as a balance to the strong rhetoric of revenge and the frustration that seems to posit all its hopes for a solution to the problem of criminality and abuse in inhuman practices. This sentiment is shared by other faith leaders. Earlier this year the Sephardic Chief Rabbi of Israel, Rabbi Yitzhak Yosef, reflecting on the tradition around the death penalty in Judaism, opposed the call by the Defence Minister of Israel for the introduction of the death penalty in cases of terrorism.¹⁷ Some Muslim scholars are also calling for a new reading of Islamic law with regard to the death penalty, through the lens of mercy, and are calling for stronger stand against it.¹⁸ The faith community seems to suggest very strongly that, rather than providing a solution to what is really a problem of education, moral formation, decent policing and political will, re-introducing the death penalty would in fact increase violence and the spiral of vengeance which will exacerbate, not reduce, the levels of criminality in our society.

Peter-John Pearson
Director

¹ <http://www.sahistory.org.za/dated-event/sa-constitutional-court-abolishes-death-penalty>

² <https://businesstech.co.za/news/government/85874/should-south-africa-reinstate-the-death-penalty/>

³ <http://www.ifp.org.za/newsroom/south-africa-talk-death-penalty/>

⁴ <https://citizen.co.za/news/south-africa/1992519/nfp-echoes-ifp-calls-for-death-penalty-after-rape-victims->

⁵ <https://mg.co.za/article/2009-04-22-the-mg-election-guide-ifp-id-udm-and-acdp>

⁶ Cape Times. 12th September, 2018. P1

⁷ <https://citizen.co.za/news/south-africa/1958535/sa-is-a-nation-of-abusers-stats-show/>

⁸ <https://businesstech.co.za/news/government/85874/should-south-africa-reinstate-the-death-penalty/>

⁹ <http://oadp.org/facts/13-reasons>

¹⁰ <https://businesstech.co.za/news/government/85874/should-south-africa-reinstate-the-death-penalty/>

¹¹ <https://businesstech.co.za/news/government/85874/should-south-africa-reinstate-the-death-penalty/>

¹² <http://oadp.org/facts/13-reasons>

¹³ <http://oadp.org/facts/13-reasons>

¹⁴ <https://www.americamagazine.org/faith/2017/10/11/pope-francis-death-penalty-contrary-gospel>

¹⁵ <https://deathpenaltyinfo.org/node/6086>

¹⁶ <https://cruxnow.com/vatican/2016/06/21/pope-francis-calls-world-free-death-penalty/>

¹⁷ <http://www.israelnationalnews.com/News/News.aspx/240338>

¹⁸ <http://www.scholarofthehouse.org/depemeandisc.html>