



# **Actors, Factors and Processes on the Road to the Abolition of the Death Penalty<sup>1</sup>**

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## **Abstract**

In 2015 UN is about to review the degree of compliance with the 2007 Assembly Resolution calling for a universal moratorium of death penalty. This paper analyses and systematizes the actors in the processes of abolitions and the factors triggering them since the 1948 Universal Declaration of Human Rights, in the search for elements that can exert influence over the events.

## **1 Introduction**

In 2015, the degree of compliance with two relevant initiatives of the United Nations will be reviewed: the Millennium objectives, established in the declaration of the UN General Assembly of 2000, and UN resolution 62/149, of 2007, calling for a universal moratorium on the application of the death penalty. These are two different but very closely related matters. The Millennium objectives urge the UN member States and the

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<sup>1</sup> The text is taken from the presentation given in French at the École Normal Supérieure in October 2013, at the colloquium “*Vers l’interdiction absolue de la peine de mort. Perspectives philosophiques et juridiques*”, organized by Marc Crépon and Jean Luis Halpérin and by Stefano Manacorda of the Collège de France.

international community to prevent millions of deaths by famine and epidemics of curable illnesses. In the second initiative, the majority of the members of the General Assembly call on its Member States to end the use of death as a punishment in their justice systems, even in legal proceedings. It is in both cases the ideas of the United Nations, the product of political and academic works of people who have a leading role in the life of the United Nations as diplomats, staff members, experts, and members of non-governmental organizations that construct a cultural and political heritage of humanity<sup>2</sup>.

The question of the abolition of the death penalty was not addressed at the founding of the organization. The symbol of peace was precisely the executions of war criminals at both Nuremberg and Tokyo. The debate only began while preparing the Universal Declaration of Human Rights in 1948, but no consensus was reached and it was preferred to make no mention of the matter when proclaiming the right to life. This lack of consensus was repeated in the preparation of the International Covenant on Civil and Political Rights in 1966: article 6 enshrined the legitimacy of the death penalty, even when it was expressed in such a way that it was subjected to certain restrictions and controls for the countries that maintain that punishment in force, which has allowed notable monitoring by various United Nations bodies, especially by the UN Human Rights Council.

At the time of the adoption of the Universal Declaration of Human Rights in 1948, no more than a dozen countries had abolished the death penalty. By December 2014, more than 106 had done so, and more than a few – 39 – are countries that do not execute, even though they maintain the death penalty in their laws. At present, however, a relevant group of countries still detain and execute prisoners, some of them as important as the United States, China, and Japan.<sup>3</sup> The study of the data on the abolition in different

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<sup>2</sup> On this topic, with references, Arroyo Zapatero, L. Biglino, P. Schabas, W. (Edit.), *Hacia la abolición universal de la pena capital*. Valencia. Ed. Tirant Lo Blanch. 2010. Arroyo Zapatero, L.: *Towards a universal moratorium on the death penalty*, in Arroyo, Luis, Biglino, Paloma, Schabas, William (edit.), *Towards a universal moratorium on the death penalty*, Valencia. Tirant lo Blanch 2010, pp. 39 - 50.

<sup>3</sup> See the latest data in Hood, Roger and Hoyle, Caroline, *The death penalty. A worldwide perspective*. 5<sup>th</sup> ed. Oxford University Press 2015, p. 16.

countries should be completed with a study of the reasons and factors that have promoted the decision in favour of either the legal or the de-facto abolition of capital punishment.

A traditional cartography of the death penalty throughout the world would be of immense utility and might outline the transformation, since the end of the 1950s, of retentionist countries into abolitionist countries. However, the progressive changes to the colours of the political map will not in themselves convey sufficient information to understand the reasons and motives for progress or the obstacles to abolition and its trends. It will not be easy to gather the knowledge needed for a better understanding of the international harmonization of criminal law and to guide it effectively towards the abolition of the death penalty throughout the world. A modern map such as the one developed by Jean-Luis Halperin and Stefano Manacorda, the team formed by jurists from both the *Collège de France* and the *École Normal Supérieure* of Paris, seeks to do precisely that: it is intended as a resource for knowledge and understanding, capable of producing guidelines for action. These roads towards harmonization also serve as the model with which to interpret the evolution of the legal, and especially the criminal facts, which Mireille Delmas-Marty, Member and Emeritus Professor of the *Collège de France*, has prepared as a general theory over recent years, at the helm of a remarkable group of researchers.

Mireille Delmas-Marty has developed a model for technical interpretation and construction of the processes of international legal harmonization, which goes by the name of “*Les chemins de l’harmonization*”.<sup>4</sup> In my opinion, it is an essential complement to the traditional methods of comparative law. The methodology of *Les Chemins* can be applied to numerous specific matters that today have already been harmonized, constructing new legal realities: terrorism, international criminal law, the trafficking of human beings, money laundering, corruption, etc., but also to questions that de-harmonize or that “harmonize in reverse”, such as the issue of the universal abolition of the death penalty, which almost 60 years ago began and continues to uphold a premise of universal validity.

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<sup>4</sup> Delmas-Marty, M., Pieht, M., Sieber, U., *Les chemins de l’harmonisation pénale. Harmonising criminal law*, Société de Législation Comparée, Paris 2008.

Here, it is a question of analysing the movement towards the abolition of the death penalty, across the whole international context, in countries that have implemented it, in those that retain it without applying it, and in those that retain it and apply it:

- a) An attempt to set out a systematic classification of the singular processes of abolition;
- b) The actors, both organizations and private citizens, who intervene in the processes;
- c) The factors that set abolition in motion and, if applicable, the moratorium. We will examine all of that in the processes already carried out as well as in those in which the issue is still alive. Likewise, the processes of the countries that fiercely cling on to the death penalty will be examined.

The processes of greatest impact on abolition in the modern era that assist us with the analysis may be summarised in three models.

## **2 Processes of transition, evolution and integration.**

At the height of the preparation of the Universal Declaration of Human Rights, hardly half-a-dozen countries had adopted abolition.<sup>5</sup> However, it was during the constituent processes after the Second World War, when the most representative abolitions took place: in Germany and Italy. In both countries, abolition represents a reaction against the excesses of Nazism and of Fascism; a strong reaction against their previous experiences leading to a complete rejection of arbitrary and cruel death inflicted by the State. Another relevant moment, without leaving Europe, is the departure from some countries of the old authoritarian regimes, such as in Spain and Greece, which share the rejection of the numerous capital executions in their relatively recent history, especially in the case of Spain. Similar events did not take place in Portugal, because the dictatorship had not

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<sup>5</sup> Ancel, Marc, *The death penalty* Part I: *Evolution until 1960* and Part II: *Evolution from 1961 to 1965*. Department of Economic and Social Affairs New York, United Nations. 1968. For a European context, see Marc Ancel: *La peine de mort dans les pays européens*. Report. Council of Europe. 1962.

changed the early abolition of the 19<sup>th</sup> century and only on limited occasions did it turn to extrajudicial execution, in order to see its enemies disappear.<sup>6</sup>

Abolition processes are also noted in *stable democratic systems* such as Great Britain and France. Abolition, in the former, is a process that was set in motion by two factors: the works of the Royal Commission of Inquiry on the death penalty and the public disclosure that the last execution of a prisoner, a person called Evans,<sup>7</sup> had been the consequence of a tragic judicial error, as the real perpetrator of the crimes for which Evans had been executed confessed to that and to many other crimes. It was the impact on public opinion that tipped the political balance of the Royal Commission of Inquiry, as its report offered no specific conclusion on retention or abolition.

The French case is a prototype of the political decision against the death penalty, even with a majority public opinion in its favour. It is a question of the *Badinter factor*, a fervent abolitionist, who brought together the “learned” professor and the criminal lawyer specialized in cases of capital punishment. He contended, before juries and in the face of public opinion, that the personality disorders of family origin of the majority of capital punishment cases counter the punishment in its most extreme form, because the accused could not fully assume responsibility for his acts.<sup>8</sup>

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<sup>6</sup> On the singular history of the first abolitionist country in the world, see Braga da Cruz; Guillerme, *O movimento abolicionista e a abolição da pena de morte em Portugal: Resenha histórica* in AAVV. , Pena de Morte. “Coloquio Internacional comemorativo do Centenário da abolição da pena de morte em Portugal”. Edit. Faculdade de Direito da Universidade de Coimbra, 1967, 3 vols. II, p. 423-557; Miranda Rodrigues, Anabela, *Portugal como país pionero en la abolición de la pena de muerte en Europa*, in. Arroyo, Luis, Nieto, Adán, Schabas, William, *Pena de muerte: Una pena cruel e inhumana y no especialmente disuasoria*, Cord. Garcia Moreno, Beatriz. UCLM & Tirant lo Blanch, Cuenca 2014. p.79-84.

<sup>7</sup> A passionate account may be seen in chapter 10 of the *Adventures in Criminology* by Sir Leon Radzinowicz, p. 245 and ff. With full details, likewise, Roger Hood, *A History of English Criminal Law*. Vol 5, *The emergence of penal policy*, 1986, p. 661 and ff. Hood, Roger and Hoyle, Caroline, *The death penalty. A worldwide perspective*. 5th. Oxford University Press 2015, p. 40 and ff. A presentation in Spanish in Arroyo Zapatero, *La experiencia de la abolición de la pena de muerte en Gran Bretaña*, in Revista de la Facultad de Derecho de la Universidad Complutense de Madrid, 62, Madrid 1981, pp 47-66, now in *Clásicos españoles sobre la pena de muerte*, Cristina Rodriguez Yagüe, edit. UCLM, Ciudad Real 2013, p. 471 and ff.

<sup>8</sup> Badinter, Robert.: *Contre la peine de mort. Écrits 1970-2006*. Fayard: Paris 2008.

Among the political processes of international origin, those of Turkey, Poland and Latvia are of interest. The first, as a significant member of the European Convention on Human Rights, came under pressure from the Human Rights Court at Strasbourg to moderate the Death Penalty, and at a later point in time, in its desire to integrate in the European Union, its legislators opted for abolition. Poland, at the time before it assumed full EU membership, reacted in ways that were contrary to the community viewpoint, for instance, in the case of the death penalty, but this position was reversed by the previous big decision in favour of integration and, subsequently, by the Treaty of Lisbon.<sup>9 10</sup>

### **3 The actors**

The leading role in the national processes of abolition is usually the responsibility of the Government and the parliamentary majorities. At times, no special actor stands out in the process, for example, in the case of Germany, Italy, Spain and France.

On occasions, the leading role is taken by a court, as with the Supreme Court in South Africa,<sup>11</sup> which declared that the death penalty was a cruel, inhuman and degrading punishment. More frequently, it has been a case of regional Courts, both in Europe with the Court of Human Rights at Strasbourg, and in Latin America with the Inter-American Court of Human Rights. International jurisprudence establishes a sort of siege mentality around capital punishment that, without making a direct declaration of a conventional breach, does say as much in an indirect way, especially as a cruel, inhuman and degrading punishment. This is what happened in the cases of Soering and of O'Calan, two persons charged with murder whose extradition, asked by the US and Turkey, was

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<sup>9</sup> The Treaty of Lisbon (initially known as the Reform Treaty) is an international agreement which amends the two treaties which form the constitutional basis of the European Union (EU). The Treaty of Lisbon entered into force on 1 December 2009.

<sup>10</sup> Yorke, Jon. *Against the death penalty: international initiatives and implications*. Ashgate. 2008, p. 43-100.

<sup>11</sup> S. Chenwi, Lilian. *Towards the abolition of the death penalty in Africa, a human right perspective*. Pretoria University Law Press. 2007.

rejected by the ECHR because they could be punished with the death penalty.<sup>12</sup> Their efficacy was very relevant in relation to Turkey. It has been even more relevant in the abolitionist countries, for example, in Chile and in Peru, in which the Interamerican Convention<sup>13</sup> proscribes the reintroduction once it has been abolished. The moratorium in the Russian Republic is in direct relation to the process of its incorporation in the Council of Europe. The only fiercely retentionist country, Belorussia, avoids for this reason and for others its incorporation into the European Convention.

There are very few examples of a solitary President of a Republic in favour of the reform, with a parliament set against it, such as in Mongolia, where President Elbeg was able to ratify the 2º Optional Protocol in his parliament within two years.<sup>14</sup>

#### **4 International bodies**

International bodies have and increasingly are accomplishing a starring role in the range of actors in the abolition process. The first great step forward was taken by the Commission on Crime Prevention and Criminal Justice of the United Nations, especially at the *UN Congress on the Prevention of Crime* of 1980 in Caracas. A proposal on abolition was adopted there, supported by the whole apparatus that we know as *safeguards*, which are found under article 6 of the International Covenant on Civil and

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<sup>12</sup> V. Nieto Martín, Adán, *Judicial cooperation in the EU as a means of combating the death penalty and expansion of human rights*, en Arroyo/Biglino/Schabas, *Towards universal abolition of the death penalty*, Tirant lo Blanch, Valencia 2010, 51-75.

<sup>13</sup> American Convention on human rights, also known as the **Pact of San José**, is an international human right instrument that was adopted in 1969 and came into force on 18 July 1978. The bodies responsible for overseeing compliance with the Convention are the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights. Bourgoise, Laurence/Ubeda, Amaya, *The Inter-American Court of Human Rights. Case-Law and Commentary*, Oxford University Press 2011.

<sup>14</sup> S. Halvorsen in Scherdin, Lill (Edit.) *Capital punishment. A hazard to a sustainable criminal justice system*. Ashgate, 2014, p. 297.

Political Rights of 1966 in the years following the aforementioned Congress and especially in 1989.<sup>15</sup>

The Council of Europe followed a similar but more complete process and closed the question with the adoption of the equivalent of the 2<sup>o</sup> facultative protocol of the ICCPR, protocol n<sup>o</sup> 6 to the European Convention of Human Rights, ratified today by every country except Belorussia. The Treaty of Lisbon had the last word with its express abolition of capital punishment.<sup>16</sup>

The process at an international level provisionally concluded with the adoption of the 2<sup>nd</sup> Facultative Protocol to the International Convention that established abolition except in times of war, although certainly in a year of global optimism: 1989. But subsequently, it has been endorsed with extraordinary legislative and symbolic vigour in the three resolutions from the Security Council and the Assembly General through the rejection of the death penalty as a punishment for the most serious crimes – against humanity and war crimes – in the ad hoc Tribunals of the 1990s. The reward has been its inclusion in the Statute of Rome<sup>17</sup>. Its effects on national legislations were especially evident in abolition in Rwanda, but its effects have multiplied since then throughout Africa.

Academics have played a significant role as a group of actors, both in their own university circles as well as their participation in institutions representing political order. As an example of the first, it is worth recalling, in the case of Spain, my mentor Professor Marino Barbero. His inaugural lesson from the 1963-1964 academic year on the death penalty called for its abolition with only a few months after the execution of the Communist leader Julián Grimau, who was the last person executed of the Francoist genocide time (1963). It was the end of the *first* and *second* periods of Francoism that

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<sup>15</sup> About *safeguards* s. Bernaz, Nadia.: *Le droit international et la peine de mort*. La documentation Française. Paris, 2008.

<sup>16</sup> Yorke, Jon. *The right to life and abolition of the death penalty in the Council of Europe*. European Law Review. (2009), p.205-229.

<sup>17</sup> The Rome Statute of the International Criminal Court (often referred to as the International Criminal Court Statute or the Rome Statute) is the treaty that established the International Criminal Court (ICC). It was adopted at a diplomatic conference in Rome on 17 July 1998.

gave way to a “solely” authoritarian version of the Regime and left a long-lasting memory in Spanish life. The maximum academic authority, the Rector of the University of Murcia, wore the uniform of the Francoist “Movement” under his academic attire. He surely shuddered when Marino Barbero Santos shouted that if they made the effort to keep it, because of its great importance, then entrust the executions to the Head of State himself to carry out with his own hands.

Another academic who successfully dedicated a good part of his life to abolition was the President of the International Society for Social Defence, Marc Ancel. His reports to the United Nations General Assembly and then for the Council of Europe have been the ashlar blocks of abolitionist thought. Over the last twenty years, leading academics have assumed responsibility for the five-yearly report for the Secretary General: Roger Hood and William Schabas.<sup>18</sup> Robert Badinter may undoubtedly be positioned mid-way between academia and politics. In recent years of Chinese modernization, the main impulse to capital crime reduction and for death penalty abolition has come from scholars such as Gao Mingxuan y Zhao Bingzhi<sup>19</sup>

NGOs joined the ranks of actors against capital punishment late in the day, but when they did so, on the eve of globalization, their voice was heard everywhere. Amnesty International named its campaign “when the State kills”<sup>20</sup> and started a movement that was assumed monographically at least by the *Ensemble contre la peine de mort*, which gave way to the *World Coalition against the death penalty*, a mobilizing movement that together with other activities has propelled numerous processes, such as the launch, in 2010, of the inter-governmental organization *International Commission Against the*

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<sup>18</sup> Hood has recently published his 5th edition of the most important work at a global level on the matter, in collaboration with Carolyn Hoyle. William Schabas also held again the responsibility for the report to the Secretary General of the United Nations over the period 2010-2015.

<sup>19</sup> Gao Mingxuan/Wang Junping, “The Death Penalty upon Larceny should be Abolished in China: A Global Perspective”, en Zhao Bingzhi (ed.), *Chinese Practice of Death Penalty Reform*, China Legal Publishing House, 2010, and Zhao Bingzhi/Wang Shuiming, “Development Trend of Death Penalty in contemporary Era and Its Inspiration for China”, en Zhao Bingzhi (ed.), *Chinese Practice... cit.* See also Sizu Wang, in Arroyo Zapatero, L. Biglino, P. Schabas, W.(Edit.): *Towards universal abolition of the death penalty*. Valencia. Ed. Tirant Lo Blanch. 2010, p. 309 and ff,

<sup>20</sup> *When the state kills. The death penalty vs. human rights*. Edited & published by Amnesty International, 1989.

*Death Penalty*, which is chaired by Federico Mayor Zaragoza.<sup>21</sup> At the time of the Amnesty International report, 1989, it was reported that 70 countries had abolished capital punishment by law or were *de facto* abolitionists, while 100 conserved it.

## **5 The events that brought about the abolition processes.**

In the processes of abolition, factors stand out that help set the abolition processes in motion, although there are some others that tend to have the contrary effect.

Among the factors that drive abolition are judicial errors.<sup>22</sup> The Evans case that led to abolition in Great Britain has previously been mentioned. The numerous cases of judicial error that have occurred in the USA, and were discovered primarily – but not only – on the basis, of the availability of DNA tests, and are today well recognized and systemized in the *Death Penalty Project*, are the propelling factor that has given rise to most progress towards abolition in the USA. As told by lawyer Scott Turow,<sup>23</sup> over 100 people convicted of the death penalty and later declared innocent while they were on death row made Governors shudder such as the Governor of Illinois, George Ryan. Subsequently, seven US States, with or without moratorium, abolished the death penalty as a reaction to the horror of the execution of innocents over the past five years<sup>24</sup>.

The general feeling of social aversion to the death penalty is fundamentally due to the awareness of risk and error and repugnance towards cruelty in the execution, specially the

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<sup>21</sup> For a presentation of tasks and objectives of the Commission, see Mayor Zaragoza, Federico, *The abolition of the death penalty: a question of respect for human rights*, in L. Arroyo and J. Bordes, *Francisco de Goya. Contra la crueldad de la pena de muerte/Against the cruelty of capital punishment*, Universidad de Castilla-La Mancha and Real Academia de Bellas Artes, Madrid 2013. On line at <http://www.inacipe.gob.mx/publicaciones/Goya.php>.

<sup>22</sup> The Death Penalty Project, *The inevitability of error. The administration of justice in death penalty cases*, London 2014.

<sup>23</sup> Turow, Scott: *Ultimate punishment: A lawyer's reflections on dealing with the death penalty*. Picador: New York 2002.

<sup>24</sup> On the effects of wrongful convictions in various countries, see Hood, Roger & Hoyle, Carolyne: *The Death Penalty, a worldwide perspective*. 5<sup>th</sup> Ed. Oxford 2015, p. 323 and ff.

so-called “botched executions”.<sup>25</sup> But in 2014, a new factor has recently emerged that has been on the point of helping abolition by referendum in California: the economic cost to the state of the criminal proceedings with requests for capital punishment. *Due process*, surrounded by guarantees in the capital cases, multiplies the procedural costs, which replicated in thousands of cases produces a rejection in people concerned with the public *debt*, which generates strange alliances for abolition in California.

Added to wars, their horror, massacres, and so on, another relevant factor in contemporary times has been the dissolution of military blocks. Their most direct consequences, linked to the optimism of 1989, are those already mentioned in the International Convention on the Rights of the Child, which has managed to exclude children from being candidates for execution in countries that are reluctant to do so, even out of a repugnance towards accepting sources of legal authority in international organs, such as those in the United States. Its signatories also include countries fiercely committed to execution such as Saudi Arabia and China. The approval of the *safeguards* refers to the same process.

Events may also be identified that trigger contrary social processes, favourable to maintaining capital punishment or its reintroduction, which includes recourse to execution in *de facto* abolitionist countries.

Horrible crimes have resulted from *de facto* abolitionism in Gambia. Terrorism is another driving factor that breaks a moratorium. The numerous pitiless violations with or without murders, carried out, or experienced for the first time, in India, is what has reinforced the institutional social impact of capital punishment in a country that had only one execution in the past few years and only because of the terrorist attacks in Bombay that caused over

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<sup>25</sup> Radelet, M., *Examples of Post-Furman Botched Executions*, July 24, 2014, <http://www.deathpenaltyinfo.org/some-examples-post-furman-botched-executions>

70 victims. Terrorism was the sad event that triggered the attempts to reintroduce capital punishment in Peru<sup>26</sup>.

Perhaps it is the religious standpoint of certain religions, and the spirit of the Talion, that could be included among the reasons that, rather than triggering, maintain the predominance of capital punishment. The law of Talion is also a typical sociological fact that operates by itself, especially in modern-day society of mass communication.

## **6 Final Considerations.**

All of the above shows a lattice work of relevant processes, facts, and authors in the evolution of the abolition process. Completed with other research, it may all serve to develop a cartographic *opus majus*.

What drives the processes of abolition is not only the positive idea that what we call the right to life but, above all, the idea and feeling of rejection of cruel treatment, causing pain to others. It is the feeling of rejection of torture and harsh cold-blooded murder. The rejection of the death penalty can form part of a contemporary “*ethical-cosmopolitanism strategy*”,<sup>27</sup> which radically rejects killing other people.

The most complex question lies in how to define and to transmit the rejection of the death penalty and the grounds of its proscription. Once again, the arts, including photography and literature, appear to be the most appropriate to define the rejection of cold-blooded death that the State inflicts with capital punishment and the solidarity towards whoever suffers such a punishment. Francisco de Goya was the first to denounce cruel and

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<sup>26</sup> Hurtado Pozo, Jose, *Attempts to reinstate the death penalty in Peru*, in Arroyo Zapatero, L. Biglino, P. Schabas, W. (Edit.), *Towards universal abolition of the death penalty*. Valencia. Ed. Tirant Lo Blanch. 2010, pp. 213-222.

<sup>27</sup> Held, David, *Cosmopolitanism: Ideals, Realities, and Deficits*, Cambridge: Polity Press 2010; Charvet, J., *The possibility of a cosmopolitan ethical order based on the idea of universal human rights*, in *Millennium – Journal of International Studies* vol. 27 no.3, 1998, pp. 523-541.

inhuman punishment, as well as the cruelties of war, in illustrated works, in which his rejection of the death penalty is manifest.<sup>28</sup> One has to wait for the modern vanguards to find similar expressions of such values and, most especially, the German expressionists of the 1920s, well represented at the centenary commemoration of the First World War, inspired by Goya in the “Disasters of War”.

Many people are today searching for a guide for human action founded on the search for the common good, in solidarity and in the rejection of cruelty based on scientific research beyond Kantian ethical universalism and Christian moral thought, including the programme for an “ethical world” of Hans Kung.<sup>29</sup> Three orientations deserve to be highlighted: the contribution of Richard Rorty in his “*Contingency, Irony and Solidarity*”<sup>30</sup> and that of Von Trotha<sup>31</sup>: the former primarily on solidarity and the latter on cruelty, as well as in favour and against the “*Consentement meurtrier*” [murderous consent] an idea developed by Marc Crépon,<sup>32</sup> all inspired like Goya by the “Disasters of War”. Those who find themselves searching for guidelines on human actions in favour of the common good are very numerous, goodness in which human rights have a place and among them that of not losing the right to life, not even by the actions of the State in its policy on justice. A task to which the best of the generations that have constructed and developed the United Nations have dedicated themselves.

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<sup>28</sup> J. Blas & J. M. Matilla, *El libro de los Desastres de la Guerra*, 2 vol. Museo Nacional del Prado, 2000. Also L. Arroyo y J. Bordes, *Francisco de Goya. Against the cruelty of capital punishment*, cit.

<sup>29</sup> Hans Kung, *A Global Ethic for Global Politics and Economics*. Oxford University Press, New York 1998

<sup>30</sup> Rorty, Richard. *Contingency, Irony, and Solidarity*. Cambridge: Cambridge University Press, 1989.

<sup>31</sup> Trotha, Trutz von, & Rösel, Jakob, *On cruelty, Sur la Cruauté, Über Grausamkeit*, R. Köppe: Cologne 2011.

<sup>32</sup> Marc Crépon, *Le consentement meurtrier*, Cerf: Paris 2012