

Wrongful Conviction Concerns Lead To Abolishment Of Death Penalty In The Philippines

Based on concerns about the execution of innocent people and the morality of the death penalty, in May 2006 President Gloria Macapagal Arroyo commuted the sentence to life in prison, of everyone in the Philippines whose death sentence had been affirmed on appeal. Two months later the Philippines Congress abolished the death penalty. When President Arroyo signed the law, the more than 1,200 people sentenced to death had their sentence commuted to life in prison without parole.

One of the most vocal advocates of ending the death penalty in the Philippines was Father Shay Cullen. *The Manila Times* published the following article he wrote following President Arroyo's announcement that she would commute all finalized capital sentences to life in prison. The reader will note Father Cullen's mention that the Philippines Supreme Court recognized in a 2003 decision that it dismissed the charges or acquitted the defendant in more than 10% of 907 death penalty cases it reviewed.

Abolishing The Death Penalty Is Justice For The Poor



Father Shay Cullen

By Father Shay Cullen

It was a happy moment and a surprise for many when President Gloria Macapagal-Arroyo announced in a simple statement on Holy Saturday that the Philippines would change its policy of executing convicted criminals. The death penalty, abolished by the Constitution, was strangely restored by an act of Congress in 1993 amid much opposition by the Church and human-rights groups.

Of the 1,205 inmates on death row, many have been wrongfully convicted, according to human-rights groups representing some of them. Only 230 of these convictions have been affirmed by the Supreme Court. One study, citing a decision of the Supreme Court in July 2003, *People v. Mateo*, showed that the lower regional trial courts had close to a 72-percent wrong conviction rate. In reviewing 907 death-penalty cases, the Court admitted that 26 were dismissed, 555 modified, 65 acquitted and 31 remanded. This underlines just how flawed is the system of justice in the Philippines which the justices have been trying to reform for years.

Most death-penalty sentences are unsafe and those convicted are overwhelmingly the poor who are unable to hire a lawyer. The public defender, no matter how dedicated, is inexperienced, undertrained, has no resources or help to investigate the circumstances and uncover evidence that would exonerate his client and expose lies. Convictions are handed down despite the preponderance of reasonable doubt. The rich have the best of lawyers and the power and

influence and bribe officials, police and scare off witnesses. They almost never get convicted.

The death penalty was reinstated in the Philippines not because it was a just punishment but because it was a high-profile and desperate remedy to quench public anger at the rising tide of heinous crimes.

Kidnapping, murders, rapes, extortion rackets, drug trafficking, holdups and bank robberies were the daily headlines for many years. Most of them were abetted by corrupt police or military elements. Some of which had their own criminal gangs. When they were suspected, they eliminated the gang in a spectacular shootout that "solved" the crimes and won them a medal. The crime wave of the 1990s abated, not because of the death penalty, but because some of the suspected top cops and generals ran for public office and won, based on their crime-fighting successes against their own gangs.

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About the author: Father Shay Cullen is a Catholic Missionary priest born in Ireland. He was sent to the Philippines in 1969. In 1974, he established the PREDA Foundation. — The People's Recovery Empowerment Development Assistance Foundation Inc. During the 1980's Cullen campaigned successfully for the removal of the U.S. military bases in the Philippines and the establishment of economic zones to replace them.

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Single Eyewitness OK For Murder Conviction Says India's Supreme Court

Om Prakash was convicted by the Sessions Court in Rajasthan, India and sentenced to life in prison for the murder of his wife on May 14, 1992. Prakash denied committing the murder and there was no physical or forensic evidence linking him to the crime. So the prosecution's case depended on the testimony of one person who claimed to have witnessed the murder – the dead woman's brother.

Prakash appealed to the High Court, which set aside his conviction and ordered a judgment of acquittal on the basis that a conviction cannot be sustained that is based solely on the eyewitness evidence of an "interested witness," such as the victim's brother in Prakash's case.

The State appealed the High Court's decision to India's Supreme Court. In June 2007 the Court ruled that a "conviction can be based on the testimony of a single eyewitness ... provided, the sole witness passes the test of reliability. ... [M]ere relationship of the witness with the deceased is no ground to discard his testimony, if it is otherwise found to be reliable and trustworthy." Having rejected that independent corroboration of eyewitness testimony by an "interested witness" is necessary to sustain a conviction, the Supreme Court overturned the High Court's decision. The Court's ruling resulted in the reinstatement of Prakash's murder conviction and life sentence.

Source:

Conviction can be based on testimony of sole witness. By Legal Correspondent, *The Hindu*, June 17, 2007.



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