

Joint Statement by FIACAT and the World Coalition Against the Death Penalty

Human Rights Council: 34th session

High-level Biennial Meeting on the Death Penalty

Thank you, Mr President.

I am addressing you on behalf of FIACAT and the World Coalition Against the Death Penalty.

We welcome the holding of this panel discussion on the death penalty and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

It has already been recognized, including by States that have not yet abolished the death penalty, that certain methods of execution and the death row phenomenon constitute cruel, inhuman or degrading treatment which are prohibited by law under an imperative norm of *jus cogens*. The concept of cruel, inhuman or degrading treatment is however a concept that evolves and must be interpreted dynamically. We think that the imposition of the death penalty in itself, and regardless of the circumstances surrounding it and the conditions of its application, contravenes the prohibition of torture and cruel and inhuman treatment or punishment or degrading treatment.

Manfred Nowak, in his capacity as Special Rapporteur on Torture, was already wondering in 2009 whether capital punishment was ultimately not an aggravated form of corporal punishment, now considered cruel, inhuman punishment or degrading treatment. Another Special Rapporteur on torture, Juan Méndez, also referred to this subject in his 2012 report, noting a change on the part of States on this issue. He was thus convinced that "a customary rule prohibiting the death penalty in all circumstances, if it has not yet appeared, is at least in the process of being formed. "

We note that the situation continues to evolve as evidenced by the annual supplement to the Secretary-General's five-year report on the death penalty of 2015, which, in its conclusions, expressly referred to in resolution 30/5 adopted by the Council, The evolution of international human rights law, jurisprudence in this regard and State practice, the imposition of the death penalty is incompatible with the fundamental principles of human rights, in particular the dignity Human rights, the right to life and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. "

In the light of these developments, we believe that the death penalty must indeed be considered as torture or cruel, inhuman or degrading punishment and therefore illegal in all places and circumstances.

In this regard, we call on the Council, in line with the recommendations made in 2012 by Juan Méndez, to conduct an in-depth legal study on the emergence of a customary rule prohibiting the use of the death penalty in all circumstances.

Thank you, Mr President.