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Southafrica's Death Penalty Is Not Yet Dead!

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We have yet to come to terms with the full meaning and implications of the Marikana tragedy. Although the report released by the Marikana Commission of Inquiry goes some way towards this goal, the foundational moral dilemmas raised by the loss of every life in this conflict have yet to be properly articulated.

What the world witnessed at Marikana was the extrajudicial execution of South African citizens in a country that had formally abolished the death penalty.

Those who, from all sides, perished had not been indicted. Nor were they brought to any court of justice. No verdict had been pronounced.

Formal or informal, deliberate or spontaneous, the decision to spill their blood and bring their lives to an end did not conform with the fact that, in South Africa, the death penalty had been outlawed.

That these extrajudicial executions happened in the way they did was not only a grave instance of discrimination and inequality before the law, it was an indictment of the state.

For justice to be obtained, compensation and reparations are morally in order.

What is the state and why are we convinced of its necessity in the first place if not for the reason that it will protect our lives by excluding from the political sphere the greatest of evils – violent death?

Originally, the raison d'être of the state was to expel death from the community. Its single most important role is not to decide who must live and who must die – it is to guarantee a secure life for all its citizens. This it does by distancing life from death, in law and in practice.

Because of our history of institutionalised racism, the state in South Africa was configured in such a way that, on matters of life and death, the law did not protect everybody equally.

For blacks in particular the law, death and the state tended to collude too often and for too long in an endless nightmare.

It was always as if, to ritually reaffirm the life of the state, black people had to be sacrificed in one way or the other, preferably through some form of an execution in place of an absent justice.

The right to liberally spill black people's blood is what kept giving life to the South African state.

It is what finally turned it into the breathing corpse we called apartheid.

The execution of black men and women in this country was not accidental – it was always politically determined.

To justify these executions, the state alleged that, should the black man not be executed, he might turn out to destroy the state and thus return all to a state of nature in which a far greater number of men and women could die.

But as we have come to know, the true cipher of racism is not the demand for security; it is nihilism. It is the coincidence of death and the norm.

The formal abolition of the death penalty does not mean that many are still not condemned to death. In fact, the death penalty has morphed into countless forms of extrajudicial executions.

Blood is still spilt, either in the hands of state organs or those of countless private executioners.

We have entered a new period in our history when processes of accumulation, privatisation and deregulation are not necessarily happening through primitive dispossession, but through chaos and disorder.

What we call corruption is a key device in this new political economy.

Post-apartheid South Africa is not only a nation in which most of its citizens are propertyless in a society in which consumption rules, but also a nation of privately armed citizens. A systemic redistribution of the means of violence is the inevitable corollary of this new political economy.

A police force in military garb, hundreds of private security firms and a public culture deeply nostalgic of the environments of enclosure typical of apartheid have all conspired to produce an increasingly fragmented, fearful and vulnerable nation.

In the face of generalised mortal risk, the nation is willing to believe that each individual can be his or her own police officer, judge and executioner.

This new regime of risk and insecurity and this mode of redistribution of the means of violence undermine community and foster a society of atomistic individuals isolated before power, separated from each other by fear, mistrust and suspicion, and prone to mobilise under the banner of a mob or militia rather than a community built around networks of solidarity.

This raises all sorts of questions, the most important of which is what freedom and citizenship mean in an armed society.

What does a term like “civil society” mean in such a context?

We recognise the features of an armed society in the proliferation of weapons and the incidents of violence and death related to the use of guns.

An armed society is anything but a polite or decent society.

In an armed society, speech is not the highest form of human association. An armed society is not devoted to the freedom and equality of its component members.

It is devoted to the cult of the gun, or the threat of it.

As things stand, there is absolutely no guarantee that there will not be a repeat of Marikana.

For Marikana to not be repeated, we will have to ponder the full ethical and legal implications of what actually happened.

The gun represents a form of violence whose main feature is to foster an undemocratic culture.

An undemocratic culture is one in which the gun turns into the privileged means that mediates the relationships between putatively free and equal citizens.

And wherever the rule of the people turns into the rule of property and the rule of property into the rule of the gun, the likelihood of extrajudicial forms of execution dramatically increases.

For more information on the Marikana massacre, see the website of the Marikana Support Campaign.

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