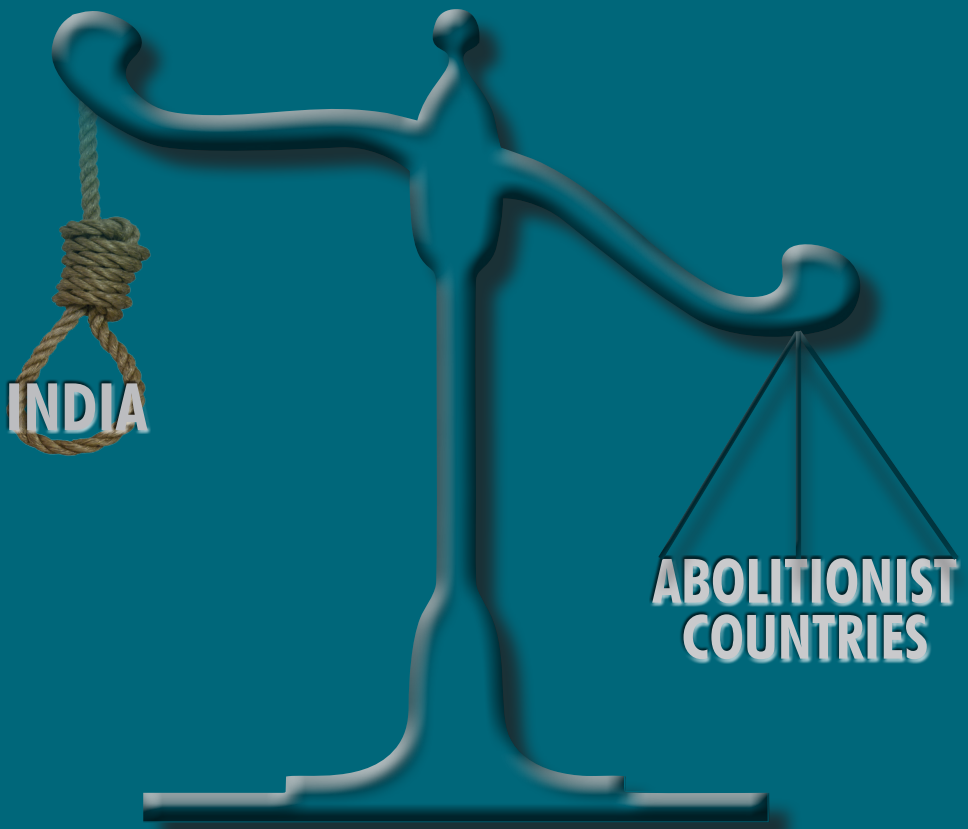


# OUR STANDARDS AND THEIR STANDARDS: INDIA VS ABOLITIONIST COUNTRIES



ASIAN CENTRE FOR HUMAN RIGHTS



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THEIR STANDARDS:  
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## **Our Standards and Their Standards: India Vs Abolitionist Countries**

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# I. EXECUTIVE SUMMARY

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The Law Commission of India in its “Report No.262: The Death Penalty” of August 2015 recommended that *“the death penalty be abolished for all crimes other than terrorism related offences and waging war. Although there is no valid penological justification for treating terrorism differently from other crimes, concern is often raised that abolition of death penalty for terrorism related offences and waging war, will affect national security. However, given the concerns raised by the law makers, the commission does not see any reason to wait any longer to take the first step towards abolition of the death penalty for all offences other than terrorism related offences.”*<sup>1</sup>

Threat to national security has been used to justify retention of death penalty in many countries of the world.

This report shows that there are countries with fewer resources than India which faced far more protracted and deadly insurgencies and acts of terrorism but did not feel the necessity to use death penalty to ensure national security. These countries are mainly in Asia including Philippines, Nepal and Sri Lanka.

The Philippines abolished death penalty in 2006 in the midst of insurgencies and widespread acts of terrorism committed by the Moro National Liberation Front (MNLF), the Moro Islamic Liberation Front (MILF), the Abu Sayyaf Group (ASG) and the Communist Party of Philippines (CPP) with the death toll of 120,000 in the conflict with the Moro insurgents<sup>2</sup> and 40,000 with the CPP between 1969 and 2014.<sup>3</sup> Prior to the abolition of death penalty, the Abu Sayaff group claimed responsibility for a series of bomb attacks over the years, including an attack on a passenger ferry in Manila Bay in February 2004 that killed 100 people.<sup>4</sup> In February 2005, the guerrillas killed 13

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1. Law Commission of India, Report No.262 The Death Penalty August 2015 available at <http://lawcommissionofindia.nic.in/reports/Report262.pdf>
  2. Philippines arrests Muslim rebel over killing of U.S. troops, Reuters, 2 June 2014; available at: <http://in.reuters.com/article/2014/06/02/us-philippines-militants-idINKBNOEDOK220140602>
  3. Guide to the Philippines conflict, BBC, 8 October 2012; available at: <http://www.bbc.com/news/world-asia-17038024>
  4. Bomb caused Philippine ferry fire, BBC News, 11 October 2004, <http://news.bbc.co.uk/2/hi/asia-pacific/3732356.stm>
-

Marines in an ambush in Patikul, Sulu.<sup>5</sup> In the face of these acts of terrorism and without any political solution, on 6 June 2006 the Philippines Congress passed bills abolishing the death penalty and President Gloria Macapagal-Arroyo signed the Republic Act No. 9346, *‘An Act prohibiting the imposition of the death penalty in the Philippines’*.<sup>6</sup> Following the abolition of death penalty, the Philippines continued to face deadly acts of terrorism. In April 2007, the Abu Sayyaf cadres abducted and beheaded six construction workers and a factory worker in Jolo, Southern Philippines.<sup>7</sup> In August 2007, the MNLF and the Abu Sayyaf groups claimed responsibility for an ambush on troops in Jolo, which led to death of 60 soldiers.<sup>8</sup> From 2008 to 2011, the Abu Sayyaf group conducted a series of kidnappings for ransom. Kidnap victims included a group of Filipino journalists in 2008; foreign members of the International Committee of the Red Cross in 2009; and two Filipino-Americans in 2011.<sup>9</sup> Finally, the Philippines has been able to find a political solution with the Moro Islamic Liberation Front (MILF) in May 2015<sup>10</sup> while it still confronts the CPP whose sole aim has been to overthrow the Philippine government using guerrilla-style warfare.<sup>11</sup>

No other country in the world has witnessed the assassination of its national political leaders as Sri Lanka. The Liberation Tigers of Tamil Eelam (LTTE) had perfected the use of suicide bombers, invented the suicide belt and pioneered the use of women in suicide attacks. The LTTE assassinated former Prime Minister of India, Rajiv Gandhi on 21 May 1991,<sup>12</sup> President of Sri

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5. 14 Marines killed; 10 were beheaded, Inquirer.net, July 12, 2007; available at: <http://www.inquirer.net/specialreports/thesoutherncampaign/view.php?db=1&article=20070712-76172>
  6. Available at: <http://www.icomdp.org/cms/wp-content/uploads/2013/04/Report-How-States-abolition-the-death-penalty.pdf>
  7. Philippine group beheads hostages, BBC, 20 April 2007; available at: <http://news.bbc.co.uk/2/hi/asia-pacific/6574773.stm>
  8. Guide to the Philippines conflict, BBC, 8 October 2012, available at: <http://www.bbc.com/news/world-asia-17038024>
  9. Ibid
  10. In 2012, the Philippines Government and the MILF had agreed to a framework for a peace deal after 17 years of negotiations and both parties signed the Comprehensive Agreement in 2014. See BBC News, “MILF rebels hand over arms in the Philippines”, 16 June 2015, <http://www.bbc.com/news/world-asia-33144749>
  11. Philippines-CPP/NPA (1969 - first combat deaths): August 2014; available at: [http://ploughshares.ca/pl\\_armedconflict/philippines-cppnpa-1969-first-combat-deaths/](http://ploughshares.ca/pl_armedconflict/philippines-cppnpa-1969-first-combat-deaths/)
  12. 5 things to know about the Rajiv Gandhi assassination case, Business Standard, 19 February 2014, [http://www.business-standard.com/article/politics/5-things-to-know-about-the-rajiv-gandhi-assassination-case-114021900625\\_1.html](http://www.business-standard.com/article/politics/5-things-to-know-about-the-rajiv-gandhi-assassination-case-114021900625_1.html)

Lanka Ranasinghe Premadasa on 1 May 1993,<sup>13</sup> Member of Parliament Dr Neelan Tiruchelvam of the Tamil United Liberation Front (TULF) on 29 July 1999,<sup>14</sup> and Lakshman Kadirgamar, Sri Lanka's Foreign Minister on 12 August 2005<sup>15</sup> while it made attempts to assassinate then sitting President Chandrika Bandaranaike Kumaratunga in a suicide attack on 18 December 1999<sup>16</sup> and then Minister and current President of Sri Lanka, Maithripala Sirisena on 9 October 2008.<sup>17</sup> Though death penalty remains in the statute book, Sri Lanka did not carry out an execution since 1976 to deal with the dreaded LTTE.

In fact, the Communist Party of Nepal-Maoist (CPN-M) is the only leftist insurgent organisation in the 21<sup>st</sup> century which caused overthrow of a government anywhere in the world i.e. the monarchy in Nepal. In the armed conflict that claimed over 13,000 lives from 1996 to 2006, the People's Liberation Army (PLA), the military wing of the CPN (Maoist) spread to 73 out of 75 districts of Nepal except Manang and Mustang districts.<sup>18</sup> According to some estimates, the Maoists established control over approximately 40 per cent of Nepal's countryside, thereby assuming the functions of governance in the areas under their control.<sup>19</sup> Yet Nepal did not recall the death penalty to deal with the Maoists.

Outside Asia, Colombia has been facing equal, if not far more serious and protracted armed conflict than India, Philippines, Nepal and Sri Lanka. Colombia has been in armed conflict with the *Fuerzas Armadas Revolucionarias de Colombia* (FARC or the Revolutionary Armed Forces of Colombia) since 1964. Between 1980s and 2000s, the FARC succeeded in gaining control of over one-third of Colombia's national territory, having fighters on the entry

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13. Suicide Bomber Kills President of Sri Lanka, New York Times, 2 May 1993 <http://www.nytimes.com/1993/05/02/world/suicide-bomber-kills-president-of-sri-lanka.html>
  14. A Leading Sri Lankan Moderate Is Killed, The New York Times, 30 July 1999, <http://www.nytimes.com/1999/07/30/world/a-leading-sri-lankan-moderate-is-killed.html>
  15. Assassination and after, The Frontline, Volume 22 - Issue 18, Aug 27 - Sep 09, 2005, <http://www.frontline.in/static/html/fl2218/stories/20050909006100400.htm>
  16. President survives assassination bid, The Sunday Times, 19 December 1999, <http://www.sundaytimes.lk/991219/frontm.html>
  17. Minister Maithripala Sirisena escapes suicide bomb attack, deputy minister injured, The Sunday Times, 9 October 2008, <http://www.sundaytimes.lk/081005/latestnews/42.html>
  18. Nepal Conflict Report 2012 [http://www.ohchr.org/Documents/Countries/NP/OHCHR\\_Nepal\\_Conflict\\_Report2012.pdf](http://www.ohchr.org/Documents/Countries/NP/OHCHR_Nepal_Conflict_Report2012.pdf)
  19. <http://www.hrw.org/reports/2005/nepal0205/2.htm>



and exit routes of all major cities.<sup>20</sup> Yet, Colombia did not feel the need to invoke death penalty abolished in 1910 under the Legislative Act No. 3 to combat the FARC.<sup>21</sup>

In the cases of isolated but deadly acts of terror in Metropolitan cities, India imposed death penalty in a number of terror cases and justifies the use of death penalty on the ground that it is applied on the “rarest of rare” cases as enunciated by the Supreme Court of India in *Bachan Singh v. State of Punjab*<sup>22</sup>. Some of the terror cases in which death penalty was imposed include the Parliament attack of 13 December 2001 by the Lashkar-e-Toiba and the Jaish-e-Mohammad terrorists killing nine persons including six Delhi Police personnel, two Parliament staff and a gardener, and the terrorist attacks on Mumbai which took place on 26-29 November 2008 killing 164 persons (civilians and security personnel) and injuring 308 persons<sup>23</sup>. While Afzal Guru, convicted for his role in the attack on the Indian Parliament, was hanged inside the Tihar Jail in Delhi on 9 February 2013,<sup>24</sup> Mohammed Ajmal Amir Kasab, 26/11 attack convict, was hanged in Yerwada Jail in Pune, Maharashtra on 21 November 2012.<sup>25</sup>

European countries too faced isolated but deadly terror attacks such as the 2005 London Bombings killing 52 people and injuring more than 770,<sup>26</sup> the 2004 Madrid bombings killing 191 people and wounding nearly 2,000<sup>27</sup> and the 2011 Breivik killings in which Anders Behring Breivik, a far-right extremist detonated a bomb next to government offices in Oslo, Norway killing

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20. Fact sheets - FARC areas of influence, Colombia Reports, 21 April 2014, <http://colombiareports.com/farc-areas-of-influence/>

21. The Legislative Act No. 3 provided that “*in no event may legislators impose the death penalty*”. For details, refer to Observations to the Draft Additional Protocol to the American Convention on Human Rights to abolish the death penalty, Colombia, 5 February 1990, <https://www.oas.org/en/iachr/mandate/Basics/observations-death-penalty-Colombia.pdf>

22. AIR 1980 SC 898

23. HM announces measures to enhance security, Press Information Bureau, Government of India, 11-December, 2008, <http://www.pib.nic.in/newsite/erelease.aspx?relid=45446>

24. Afzal Guru, Parliament attack convict, hanged in Delhi’s Tihar Jail, NDTV, 9 February 2013, <http://www.ndtv.com/india-news/afzal-guru-parliament-attack-convict-hanged-in-delhis-tihar-jail-512816>

25. Ajmal Kasab hanged and buried in Pune’s Yerwada Jail, Times of India, 21 November 2012, <http://timesofindia.indiatimes.com/india/Ajmal-Kasab-hanged-and-buried-in-Punes-Yerwada-Jail/articleshow/17303820.cms>

26. BBC, [http://news.bbc.co.uk/2/shared/spl/hi/uk/05/london\\_blasts/what\\_happened/html/](http://news.bbc.co.uk/2/shared/spl/hi/uk/05/london_blasts/what_happened/html/)

27. Madrid bombing suspects charged, BBC, 11 April 2006, <http://news.bbc.co.uk/2/hi/europe/4899042.stm>

eight people and injuring at least 209 persons<sup>28</sup> while he further opened fire killing 69 youths who were holidaying at a summer camp on the Utoeya island.<sup>29</sup>

There is no doubt that these isolated but deadly terror attacks in Europe would have fallen into the “rarest of rare” category but non-execution of those convicted or the prohibition on the use of death penalty did not make the continent more vulnerable to terror attacks. Contrarily, India’s execution of terror suspects had made India more vulnerable. Further, India has not convicted any leader of the armed groups it designates as terrorist groups under the Unlawful Activities (Prevention) Act.<sup>30</sup> Rather, it engages in dialogue with these groups, which is the need of the hour but exposes the futility of the use of death penalty.

It is not only in matters of national security but on homicide offences too, India fails to learn from the experiences of other countries from Asia, Africa and Latin America.

In comparison to the Philippines, South Africa, Colombia and Honduras, India has the lowest homicide rate despite India not executing any convict for homicide offences since execution of Dhanananjay Chatterjee on 14 August 2004 while India started execution of terror convicts in 2013 starting with executoin of Ajmal Kasab.

Murder rate per 100,000 population had been falling to its lowest level in India since the 1960s. The murder rate started increasing from the mid-60s when executions were the norm to reach its peak in 1992 when the combined rate of murder and culpable homicide not amounting to murder was 5.15 per 100,000 population, roughly double the level in 1957. Since 1992, murder rate has been falling steadily. In 2014, the country witnessed 33,981 murders and 3,332 incidents of culpable homicide not amounting to murder and the

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28. Anders Breivik pleads not guilty at Norway murder trial, BBC, 16 April 2012, <http://www.bbc.com/news/world-europe-17724535>

29. Timeline: How Norway’s terror attacks unfolded, BBC, 17 April 2012, <http://www.bbc.com/news/world-europe-14260297>

30. The list of the banned organisations under the Unlawful Activities (Prevention) Act is available at <http://www.mha.nic.in/BO>

combined rate of the two crimes per 100,000 population was 3.0 in 2014 and 2.98 in 2013 respectively.<sup>31</sup>

According to the United Nations Office on Drugs and Crimes (UNDOC), number of homicides and rate per 100,000 population during 12 years between 1998 and 2009 in the Philippines was 7.2 persons.<sup>32</sup>

South Africa which abolished death penalty in 1996 has far higher homicide rates than India. In 2012, South Africa recorded 25,470 cases of intentional homicides accounting for 60.4 homicide rate per 100,000 population.<sup>33</sup> Homicide rate in South Africa decreased steadily between 1995 and 2011 by more than 50 per cent (from 64.9 to 30.0 per 100,000 population) following abolition of death penalty, though it experienced a slight increase back to 31 per 100,000 population in 2012.<sup>34</sup>

Honduras with no armed conflict has been caught in a vortex of crime, drug trafficking, gang wars, political upheaval and fierce land disputes. With a population of eight million Honduras has the world's highest murder rate. As per the UNDOC, the homicide rate per 100,000 people in Honduras from 2002 to 2012 was 62.5 persons and has been consistently rising since 2000 (rate 50.9) to 2012 (rate 90.4). The murder rate was 173 per 100,000 population in San Pedro Sula, the highest in the world outside a war zone.<sup>35</sup> Yet, death penalty had been abolished in Honduras in 1957<sup>36</sup> and was not reintroduced to deal with homicide offences.

Colombia is among the top countries with highest homicide rates in the world. As per the UNDOC, the homicide rate per 100,000 people in Colombia from 2002 to 2012 was 44.39 persons with murder rate falling

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31. Murder count in India falls to its lowest level since 1960s, The Times of India, 23 August 2015, <http://timesofindia.indiatimes.com/india/Murder-count-in-India-falls-to-its-lowest-level-since-1960s/articleshow/48635001.cms>
  32. United Nations Statistics on Intentional homicide, number and rate per 100,000 population; available at: <http://data.un.org/Data.aspx?d=UNODC&f=tableCode%3a1>
  33. Intentional homicide, number and rate per 100,000 population, UNODC Homicide Statistics 2012; available at: <http://data.un.org/Data.aspx?d=UNODC&f=tableCode%3a1#UNODC>
  34. Global Study on Homicide 2013 (Trends, Context, Data) by United Nations Office on Drugs and Crime, Vienna; Available: [https://www.unodc.org/documents/gsh/pdfs/2014\\_GLOBAL\\_HOMICIDE\\_BOOK\\_web.pdf](https://www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf)
  35. Inside San Pedro Sula - the most violent city in the world, The Guardian, 15 May 2013, <http://www.theguardian.com/world/2013/may/15/san-pedro-sula-honduras-most-violent>
  36. A/HRC/WG.6/22/HND/1, 23 August 2010
-

consistently below 40 persons since 2005. Colombia has not reintroduced the death penalty on the ground that the maximum sentence of 60 years is a sufficient punishment.<sup>37</sup>

Indian courts regularly award death penalty in rape followed by murder cases. On 3 December 2013, a fast-track court sentenced all the four men namely Vinay Sharma, Akshay Thakur, Pawan Gupta and Mukesh Singh to death for gang-rape of “Nirbhaya”, a young medical student on a moving bus in capital Delhi that provoked national outrage and led to massive protests across India in December 2012. Judge Yogesh Khanna stated that the student was “tortured till the very end” and that the case fell into the “rarest of rare category”, which justified capital punishment.<sup>38</sup>

In 1999, South African Police recorded a rape every 26 seconds.<sup>39</sup> In 2013 the Reuters stated that brutal sexual attack such as on Nirbhaya in Delhi barely made a stir in South Africa. It described South Africa as a country long known as the “rape capital of the world”<sup>40</sup>. In 1995, one Moses Sithole was arrested and charged with 38 murders and 40 rapes between 1994 to 1995. During the arrest Sithole attacked an undercover police officer with an axe and was shot three times. Sithole was sentenced to 2410 years in prison. His sentence is made up of 12 years for each of the 40 rapes he committed, 50 years for each of the 38 murders and another 5 years for each of his six robberies.<sup>41</sup>

If Nepal, Sri Lanka, Colombia and the Philippines with fewer resources than India can deal with deadly insurgencies and acts of terrorism without death penalty, can’t India deal with the same without death penalty? If rape and homicide can be dealt without death penalty in South Africa and Honduras, does India need death penalty to these offences?

It is clear that retention of death penalty has no justification in India.

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37. Colombia rules out death penalty for child molesters, International Business Times, 17 February 2015, <http://www.ibtimes.co.uk/colombia-rules-out-death-penalty-child-molesters-1488298>

38. Delhi gang-rape: all four convicts sentenced to death, NDTV, 3 December 2013, <http://www.ndtv.com/india-news/delhi-gang-rape-all-four-convicts-sentenced-to-death-534502>

39. Every 26 Seconds: In 1999, 52,000 Rapes In South Africa, 1 February 2000; Available: <http://www.cbsnews.com/news/every-26-seconds/>

40. Outcry over India gang rape shames some in South Africa, Reuters.com, 6 February 2013; available: <http://www.reuters.com/article/2013/02/06/us-safrica-rape-idUSBRE9150RB20130206>

41. South Africa’s 11 deadliest serial killers murdered 205 people, 29 May 2014; Available: <http://www.timeslive.co.za/local/2014/05/29/south-africas-11-deadliest-serial-killers-murdered-205-people>

## 2. ASIA

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### 2.1 The Philippines: Tackling the beheaders without death penalty

#### 2.1.1. History of abolition of death penalty

Abolition of death penalty in the Philippines has a checkered history. The Constitution promulgated in 1987 abolished death penalty on the ground that capital punishment infringed human rights. In April 1986, then President Corazon Aquino who replaced President Ferdinand Marcos commuted death sentence on 500 prisoners who were sentenced to death mainly by military tribunals, including those convicted during repressive period of martial law under President Marcos between 1972 and 1981.<sup>42</sup>

However, public concern over spiraling crime rates and mounting pressure for restoration of the death penalty by senior military figures prompted President Fidel Ramos, successor to President Aquino, to introduce the death penalty in December 1993 through the Republic Act 7659. The Act allowed the death penalty to be imposed for 46 separate offences, including non-violent crimes. Of these, 23 offences attracted mandatory death sentence. By 2002 there were 52 offences carrying death penalty. The Philippines became a country with one of the highest rates of death sentences in the world with 900 prisoners on death row in 1999.<sup>43</sup>

In December 2000 President Joseph Estrada, who succeeded Fidel Ramos imposed a one year moratorium on executions, commuted all death sentences imposed by the lower courts and requested the Congress to review how death penalty was implemented. In 2001 President Gloria Macapagal-Arroyo, successor to Estrada, announced another moratorium on executions. After a few months, following a spate of kidnappings, she threatened to resume executions. In 2001, proponents of capital punishment introduced a bill

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42. Available at: <http://www.icomdp.org/cms/wp-content/uploads/2013/04/Report-How-States-abolition-the-death-penalty.pdf>

43. Ibid.

seeking to extend its scope even further while in 2002, the Senate and the House of Representatives drafted bill to repeal the death penalty.<sup>44</sup>

Non-Governmental Organisations and human rights groups consistently campaigned for abolition of the death penalty. The Philippines Commission on Human Rights also strongly opposed re-imposition of death penalty.<sup>45</sup> On 15 April 2006, President Arroyo commuted the death sentence of over 1200 prisoners on death-row to life imprisonment. Finally, on 6 June 2006, the Philippines Congress passed the bill abolishing the death penalty and President Arroyo signed the Republic Act No. 9346 *‘An Act prohibiting the imposition of the death penalty in the Philippines’*.<sup>46</sup>

### **2.1.2 Grounds for abolition of death penalty**

Urging for abolition of the death penalty in the Philippines, President Arroyo in a letter sent to Senate President Franklin M. Drilon in April 2006 stated that there was an urgent need for *“abolishing death penalty as its imposition was shown to have not served its principal purpose of effectively deterring the commission of heinous crimes”* and that abolition would remedy the findings that death penalty is anti-poor as it was often the underprivileged who could not afford legal representation and were sentenced to death.<sup>47</sup>

### **2.1.3 Situations at the ground: insurgency, secessionism and crime rate**

#### ***A. Moro insurgency***

The Philippines has a long history of conflict with armed groups Bangsa Moro insurgents initially led by the Moro National Liberation Front (MNLF) and later its breakaway factions i.e. the Moro Islamic Liberation Front (MILF) and the Abu Sayyaf Goup. The insurgency has been concentrated in the remote islands of central Mindanao, especially on Basilan and Jolo.<sup>48</sup> During the 45 years of armed conflict, more than 120,000 people were killed while 2 million people were displaced and economic growth remained stunted in

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44. Ibid.

45. Ibid.

46. Ibid.

47. Ibid.

48. Guide to the Philippines conflict, BBC, 8 October 2012, available at: <http://www.bbc.com/news/world-asia-17038024>

Mindanao.<sup>49</sup> The Moro rebel groups have been engaged in a brutal campaign of beheadings, assassination, kidnappings, etc.<sup>50</sup>

Supported by ethnic Maguindanaos from Mindanao, Hasim Salamat split from the MNLF to form the MILF in 1977. Salamat was against the MNLF advocating a more moderate and conciliatory approach toward the government.<sup>51</sup>

The Government of the Philippines signed an agreement with the MNLF in January 1987 and the MNLF gave up its goal of independence for Muslim regions and accepted the government's offer of autonomy. However, the MILF refused to accept that accord<sup>52</sup> and insurgency remained.

In 1991, another group known as the Abu Sayyaf, came up in and around Jolo and Basilan islands in the southwestern part of the Philippines. The group gained notoriety for its acts terrorism and made kidnapping the cottage industry. In April 2000, the Abu Sayyaf beheaded two school teachers after the government rejected their demands for the release of hostages they were holding.<sup>53</sup> In May 2000, Abu Sayyaf cadres killed 13 soldiers in Basilan's Lantawan town, mutilating some of the corpses.<sup>54</sup> In June 2001, the group beheaded Guillermo Sobero, a Peruvian American, as an "Independence Day gift" to President Gloria Macapagal-Arroyo. In February 2005, MNLF guerrillas killed 13 Marines in an ambush in Patikul, Sulu.<sup>55</sup> In May 2003, suspected rebels from the MILF exploded a bomb cab near the market place in Koronadal on the island of Mindanao. In the explosion 13 people were killed and 30 wounded.<sup>56</sup> The Abu Sayyaf was designated as a terrorist group by the

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49. Philippines arrests Muslim rebel over killing of U.S. troops, Reuters, 2 June 2014; available at: <http://in.reuters.com/article/2014/06/02/us-philippines-militants-idINKBN0ED0K220140602>

50. 'How to end the Philippines' Moro insurgency by Yuriko Koike (Japan's former defense minister and national security adviser and a member of the Lower House), Japan Times, 27 June 2014; available at: <http://www.japantimes.co.jp/opinion/2014/06/27/commentary/world-commentary/how-to-end-the-philippines-moro-insurgency/#.VWf1d9Kqqko>

51. Available: <http://www.globalsecurity.org/military/world/para/milf.htm>

52. Ibid.

53. 14 Marines killed; 10 were beheaded, Inquirer.net, July 12, 2007; available at: <http://www.inquirer.net/specialreports/thesoutherncampaign/view.php?db=1&article=20070712-76172>

54. 14 Marines killed; 10 were beheaded, Inquirer.net, July 12, 2007; available at: <http://www.inquirer.net/specialreports/thesoutherncampaign/view.php?db=1&article=20070712-76172>

55. Ibid.

56. 13 dead in Philippine bomb blast, The Telegraph, 10 May 2003, available at: <http://www.telegraph.co.uk/news/1429691/13-dead-in-Philippine-bomb-blast.html>

United Nations, Australia, Canada, the UAE, the United Kingdom and the United States.<sup>57</sup>

Amidst these acts of terror, the Philippines abolished death penalty in 2006.

However, the killings continued.

In April 2007, Abu Sayyaf cadres abducted and beheaded six construction workers and a factory worker in Jolo, Southern Philippines.<sup>58</sup> In August 2007, the MNLF and the ASG claimed responsibility for an ambush on troops in Jolo, which led to nearly 60 deaths.<sup>59</sup> The group had also claimed responsibility for a series of bomb attacks over the years, including an attack on a passenger ferry in Manila Bay in February 2004 that killed 100 people.<sup>60</sup>

From 2008 to 2011, the group conducted a series of kidnappings for ransom. Kidnap victims included a group of Filipino journalists in 2008; foreign members of the International Committee of the Red Cross in 2009; and two Filipino-Americans in 2011.<sup>61</sup>

On 5 July 2009, suspected MILF rebels caused a bomb explosion outside of Immaculate Conception cathedral in Cotabato city in southern Philippines. Five people were killed and dozens injured in the bomb blast. President Gloria Macapagal Arroyo's chief adviser for the south, Jesus Dureza, described the bombing as "an act of terrorism" and a "murderous act of insanity".<sup>62</sup>

During 2011, the Armed Forces of the Philippines (AFP) lost at least 52 soldiers in action during encounters with the Moro rebels (32 by the MILF and 20 by the ASG).<sup>63</sup>

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57. Abu Sayyaf Group, <http://web.stanford.edu/group/mappingmilitants/cgi-bin/groups/view/152>

58. Philippine group beheads hostages, BBC, 20 April 2007; available at: <http://news.bbc.co.uk/2/hi/asia-pacific/6574773.stm>

59. Guide to the Philippines conflict, BBC, 8 October 2012, available at: <http://www.bbc.com/news/world-asia-17038024>

60. Ibid.

61. Ibid.

62. Bomb blast at Philippines cathedral kills five, The Telegraph, 5 July 2009, available at: <http://www.telegraph.co.uk/news/worldnews/asia/philippines/5752530/Bomb-blast-at-Philippines-cathedral-kills-five.html>

63. Moro Islamic Liberation Front, available at: <http://www.globalsecurity.org/military/world/para/milf.htm>



On 18 October 2011, MILF rebels shot dead 19 PNP-SAF soldiers and wounded about a dozen in Basilan province.<sup>64</sup>

On 27 March 2014, the Government of the Republic of the Philippines and the MILF signed the ‘Comprehensive Agreement on the Bangsamoro’ which sought to end decades of armed conflict in the region of Mindanao.<sup>65</sup> The peace process which broke down in 2000, 2003 and 2008 needed involvement of a number of countries either as facilitator or as support group.<sup>66</sup> After the 2000 break down, the Government of the Philippines and the MILF asked the Malaysian government to host and facilitate the peace negotiations. Following the 2003 break down, they agreed to an International Monitoring Team (IMT) with participation of Malaysia, Libya, Brunei, Japan, Norway and the European Union to verify the ceasefire. After the 2008 break down of the peace process following Supreme Court’s declaring the Memorandum of Agreement on Ancestral Domains (MoA-AD) signed by the government and the MILF as unconstitutional, the International Contact Group (ICG) was formed with participation of Japan, UK, Turkey and Saudi Arabia, and four international NGOs: Muhammadiyah, the Asia Foundation, the HD Centre and Conciliation Resources.<sup>67</sup>

The Bongsomoro Basic Law hit a snag following the killing of 49 Philippine National Police Special Action Force (PNP-SAF) commandos on 25 January 2015 by cadres of MILF and the Bangsamoro Islamic Freedom Fighters (BIFF) in Mamasapano municipality in Maguindanao province. A day after the massacre of the PNP-SAF commandoes, Sen. Ferdinand R. Marcos Jr., chairman of the Senate Local Government Committee tasked to fine-tune the proposed Bongsomoro Basic Law (BBL), temporarily suspended all hearings in respect of the BBL. The deaths occurred in a clash while security

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64. MILF: Our forces had edge, went for the kill, Inquirer.net, 20 October 2011; available at:<http://newsinfo.inquirer.net/78739/19-soldiers-slain-in-basilan#ixzz3cGMJVF19>

65. Philippines prepares for historic peace deal, Aljazeera, 25 March 2014, <http://www.aljazeera.com/indepth/features/2014/03/philippines-prepares-historic-peace-deal-milf-201432411220461644.html>

66. PEACETALK: Learning from the Mindanao peace process, Mindanews, 29 January 2014; available at: <http://www.mindanews.com/mindaviews/2014/01/29/peacetalk-learning-from-the-mindanao-peace-process/>

67. International Contact Group on Mindanao, available at: <http://www.c-r.org/featured-work/international-contact-group-mindanao>

forces were pursuing a well-known terrorist belonging to the Southeast Asian terrorist group Jemaah Islamiyah.<sup>68</sup>

On their part, the BIFF stated that uninformed operation by the security forces in remote Bongosomoro territories surprised the BIFF cadres resulting in the firefight. Von al-Haq, spokesman for the MILF-Bangsamoro Islamic Armed Forces (MILF-BIAF) put the blame on the security forces for not coordinating with the MILF Ceasefire Committee, or with the Government of the Philippines peace panel and MILF Ad Hoc Joint Action Group (AHJAG) for conducting security operations within MILF held territories.<sup>69</sup>

Despite such unfortunate incident, the peace process sustained. On 20 May 2015, the Philippines House of Representatives Ad-hoc Committee on the Bangsamoro Basic Law (BBL) voted in favour of the bill to approve the measure formalizing the creation of a new political entity to replace the existing Autonomous Region in Muslim Mindanao.<sup>70</sup>

### ***B. Communist insurgency***

The Communist Party of the Philippines (CPP) is the oldest rebel group in the country. The CPP's New People's Army (NPA) launched their armed struggle against the Philippine government in 1968.<sup>71</sup> As per local reports, about 40,000 people both combatants and civilians died in the armed conflict with the CPP which is listed as the Foreign Terrorist Organisation by the US State Department.<sup>72</sup>

On 6 March 2010, eleven soldiers were killed in an ambush by communist guerrillas of the New People's Army (NPA) in Mindoro Islands, south of Manila.<sup>73</sup>

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68. BBL in peril over killing of police commandos, Manila Bulletin, 27 January 2015, Available at: <http://www.mb.com.ph/bbl-in-peril-over-new-massacre/#RyeubHJiKG0q7FGx.99>

69. Ibid.

70. House panel approves Bangsamoro Basic Law, GMA News Online, 20 May 2015, Available at: <http://www.gmanetwork.com/news/story/490146/news/nation/house-panel-approves-bangsamoro-basic-law#sthash.oPZVKJH2.dpuf>

71. The Communist Insurgency in the Philippines: Tactics and Talks, International Crisis Group; 4 February 2011, available at: <http://www.crisisgroup.org/en/regions/asia/south-east-asia/philippines/202-the-communist-insurgency-in-the-philippines-tactics-and-talks.aspx>

72. Guide to the Philippines conflict, BBC, 8 October 2012; available at: <http://www.bbc.com/news/world-asia-17038024>

73. Eleven soldiers killed in clash with NPA, 6 March 2015; available at: <http://www.english.rfi.fr/asia-pacific/20100306-eleven-soldiers-killed-clash-npa>

On 14 December 2010, 10 soldiers from the AFP were killed in a raid by suspected members of the NPA in Northern Samar province.<sup>74</sup>

During 2011, AFP lost at least 61 soldiers in action during encounters with the NPA.<sup>75</sup>

On 10 March 2014, six soldiers and two were killed after a foiled attack by 50 communist guerrillas on a town police station of Matanao in Davao del Sur province.<sup>76</sup>

On 30 November 2014, four civilians were killed and four others injured after NPA militants opened fire on an ambulance in the city of Rosario in Surigao del Sur Province in southern Philippines.<sup>77</sup>

On 16 February 2015, four soldiers were killed and three others were wounded in a bomb explosion in Mati City in Davao Oriental provision.<sup>78</sup>

On 1 April 2015, at least two soldiers were killed while 12 were wounded in a landmine attack by suspected communist rebels in Surigao del Sur in Maguindanao.<sup>79</sup>

### **C. Homicide rate**

According to the statistics of the United Nations on homicide worldwide, number of homicides and rate per 100,000 population during 12 years between 1998 and 2009, a total of 71,895 homicides occurred in the Philippines. These include: 5,913 in 1998 (Rate 8.0); 5,703 in 1999 (rate 7.5); 5,735 in 2000 (rate 7.4); 5,852 in 2001 (rate 7.4); 6,553 in 2002 (rate 8.1); 6,436 in 2003 (rate 7.8); 6,344 in 2004 (rate 7.6); 6,434 in 2005 (rate 7.5); 6,196 in 2006 (rate 7.1); 5,962 in 2007 (rate.7); 5,820 in 2008

74. New People's Army (NPA); available at: <http://www.globalsecurity.org/military/world/para/npa.htm>

75. Moro Islamic Liberation Front, available at: <http://www.globalsecurity.org/military/world/para/milf.htm>

76. Philippines: 10 killed in communist rebel attacks in Mindanao, Asian Correspondent, 10 March 2014; available at: <http://asiancorrespondent.com/120432/philippines-10-killed-in-communist-rebel-attacks-in-mindanao/>

77. Four civilians killed in NPA armed attack in Philippines, 1 December 2014; available at: <http://www.presstv.ir/detail/2014/12/01/388338/militant-attack-kills-4-filipino-civilians/>

78. 4 killed in NPA attack in Mati, Manila Bulletin, 16 February 2015; available at: <http://www.mb.com.ph/4-killed-in-npa-attack-in-mati/#hsAvge2oZyzSSuSF.99>

79. Two soldiers killed, 12 hurt in NPA Surigao attack, 3 April 2015; available at: <http://www.rappler.com/nation/88842-soldiers-killed-npa-surigao>

(rate 6.5); and 4,947 in 2009 (rate 5.4). An average of 5,991.25 homicides occurred each year during the stated period.<sup>80</sup>

As per statistics of the Philippine National Police (PNP), cases of murder increased by 71.84% during January to May 2014 over the corresponding period in 2013. It recorded 296 murder cases in January-May 2013 while during January – May 2014 it recorded 412 cases.<sup>81</sup>

***D. Incidence of rape and rape followed by murder cases***

As per statistics of the Philippines Commission on Women (PCW), police recorded a total of 8,168 cases of rape during 10 years from 2004 to 2013. These included: 1,035 cases in 2004; 973 in 2005; 685 in 2006; 859 in 2007; 839 in 2008; 797 in 2009; 1,062 in 2010; 855 in 2011 and 1,063 in 2012. It means that an average of 816.8 cases have been recorded each year.<sup>82</sup>

**Case 1: Rape followed by murder of two sisters**

On 5 May 1999, Cebu Regional Trial Court convicted seven young men found guilty of kidnapping and murder of two sisters - Jacqueline and Marijoy Chiong - on 16 July 1997, in Cebu City and sentenced each of them to two life terms.<sup>83</sup>

On 3 February 2004, the Supreme Court had imposed the death penalty on the convicts except for one of them, a minor at the time of the crimes. In February 2005, the Supreme Court dismissed their petition to have their case heard at the Court of Appeals for lack of merit. Yet, in 2006 President Gloria Macapagal-Arroyo commuted all death sentences to life terms, thereby saving the six convicts from lethal injection.<sup>84</sup>

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80. United Nations Statistics on Intentional homicide, number and rate per 100,000 population; available at: <http://data.un.org/Data.aspx?d=UNODC&f=tableCode%3a1>

81. PNP: Crime up by 17 percent, GMA Network, 27 June 2014; available at: <http://www.gmanetwork.com/news/story/367656/news/nation/pnp-crime-up-by-17-percent>

82. Statistics of violence against Filipino women, Philippine Commission on Women; available at: <http://www.pcw.gov.ph/statistics/201405/statistics-violence-against-filipino-women>

83. The Chiong Sisters Rape-Murder Case, Inquirer, 9 May 2009; available at: <http://newsinfo.inquirer.net/inquirerheadlines/nation/view/20090905-223648/The-Chiong-Sisters-Rape-Murder-Case>

84. The Chiong Sisters Rape-Murder Case, Inquirer.net, 5 September 2009, <http://newsinfo.inquirer.net/inquirerheadlines/nation/view/20090905-223648/The-Chiong-Sisters-Rape-Murder-C>

## **2.2 Sri Lanka: Countering the deadliest terrorist group without imposing death penalty**

The Liberation Tigers of Tamil Eelam (LTTE) was regarded as one of the most ruthless terrorist organizations in the world. The Federal Bureau of Investigation (FBI) of the United States had identified the LTTE as “among the most dangerous and deadly extremists in the world”.<sup>85</sup> According to the FBI, the LTTE had perfected the use of suicide bombers, invented the suicide belt, pioneered the use of women in suicide attacks, and assassinated two world leaders - the only terrorist organization to do so.<sup>86</sup> Those assassinated by the LTTE were former Prime Minister of India, Rajiv Gandhi on 21 May 1991;<sup>87</sup> President of Sri Lanka Ranasinghe Premadasa on 1 May 1993;<sup>88</sup> Member of Parliament Neelan Tiruchelvam of the Tamil United Liberation Front (TULF) on 29 July 1999;<sup>89</sup> and Lakshman Kadirgamar, Sri Lanka’s Foreign Minister on 12 August 2005<sup>90</sup> in addition to making attempts on then sitting President Chandrika Bandaranaike Kumaratunga in a suicide attack on 18 December 1999<sup>91</sup> and then Minister and current President of Sri Lanka, Maithripala Sirisena on 9 October 2008.<sup>92</sup>

The LTTE was formed in 1975 under the leadership of Velupillai Prabhakaran to demand an independent Tamil state in the northern and eastern Sri Lanka, where most of the Tamils reside.<sup>93</sup> In July 1983, the LTTE ambushed an army convoy in Jaffna, killing 13 soldiers. This triggered riots in Colombo and

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85. Taming the Tamil Tigers, The Federal Bureau of Investigation (FBI), 8 January 2008, [https://www.fbi.gov/news/stories/2008/january/tamil\\_tigers011008](https://www.fbi.gov/news/stories/2008/january/tamil_tigers011008)

86. Ibid.

87. 5 things to know about the Rajiv Gandhi assassination case, Business Standard, 19 February 2014, [http://www.business-standard.com/article/politics/5-things-to-know-about-the-rajiv-gandhi-assassination-case-114021900625\\_1.html](http://www.business-standard.com/article/politics/5-things-to-know-about-the-rajiv-gandhi-assassination-case-114021900625_1.html)

88. Suicide Bomber Kills President of Sri Lanka, New York Times, 2 May 1993 <http://www.nytimes.com/1993/05/02/world/suicide-bomber-kills-president-of-sri-lanka.html>

89. A Leading Sri Lankan Moderate Is Killed, The New York Times, 30 July 1999, <http://www.nytimes.com/1999/07/30/world/a-leading-sri-lankan-moderate-is-killed.html>

90. Assassination and after, The Frontline, Volume 22 - Issue 18, Aug 27 - Sep 09, 2005, <http://www.frontline.in/static/html/fl2218/stories/20050909006100400.htm>

91. President survives assassination bid, The Sunday Times, 19 December 1999, <http://www.sundaytimes.lk/991219/frontm.html>

92. Minister Maithripala Sirisena escapes suicide bomb attack, deputy minister injured, The Sunday Times, 9 October 2008, <http://www.sundaytimes.lk/081005/latestnews/42.html>

93. Timeline: Sri Lanka conflict, The Guardian, 18 May 2009, <http://www.theguardian.com/world/2009/may/18/sri-lanka-conflict>

elsewhere in which nearly 3,000 Tamils were killed.<sup>94</sup> That was the beginning of the long drawn civil war.

Though death penalty is legal and handed down continuously by the courts for murder<sup>95</sup> and drug trafficking<sup>96</sup> etc, Sri Lanka has not carried out execution since 1976.<sup>97</sup>

In the conflict between the government forces and the LTTE for nearly 26 years, around 130,000 people were killed<sup>98</sup>, thousands disappeared<sup>99</sup> and tens of thousands displaced<sup>100</sup>. The conflict ended in May 2009 after the Sri Lanka government led by then President Mahinda Rajapaksa launched brutal military assault and crushed the LTTE militarily. The last phase of the Eelam war witnessed unprecedented killings (estimated between 40,000 and 70,000) that happened within 120 to 130 days inside the ‘No Fire Zones’ because of the use of artillery, mortars, rocket launchers and supersonic jets by the Sri Lankan armed forces.<sup>101</sup>

The LTTE controlled the North and East of Sri Lanka and established a parallel government where the writ of the Sri Lankan government did not run. The LTTE’s de facto government had its own police, army, navy, air force, legal codes, courts, prisons, taxes, customs, immigration, administration,

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94. Sri Lankan families count cost of war, BBC News, 23 July 2008, [http://news.bbc.co.uk/2/hi/south\\_asia/7521197.stm](http://news.bbc.co.uk/2/hi/south_asia/7521197.stm)
  95. For example, on 25 June 2015, High Court in Colombo awarded death penalty to a Sri Lankan soldier for killing eight Tamil civilians by slitting their throats in Jaffna nearly 15 years ago. <http://www.dnaindia.com/world/report-sri-lankan-soldier-gets-death-penalty-for-killing-8-tamil-civilians-in-jaffna-2098857>
  96. For example, the Colombo High Court in October 2014 awarded death sentence to five Indian Tamil fishermen on drug trafficking charges. <http://www.thehindu.com/news/national/5-indian-fishermen-sentenced-to-death-by-sri-lankan-court/article6548538.ece>
  97. ‘Sri Lanka has not implemented death penalty since 1976’, The Hindu, 10 November 2014, <http://www.thehindu.com/news/national/sri-lanka-has-not-implemented-death-penalty-since-1976/article6583210.ece>
  98. Shattered lives, The Economist, 19 November 2012, <http://www.economist.com/blogs/banyan/2012/11/sri-lankas-bloody-civil-war>
  99. As per a 2003 report of the International Committee of the Red Cross (ICRC), 20,000 complaints of disappearances were received by the ICRC during the course of Sri Lanka’s ethnic conflict out of which 9,000 cases were resolved - many of the missing people being traced to prisons and detention centres. [http://news.bbc.co.uk/2/hi/south\\_asia/2781551.stm](http://news.bbc.co.uk/2/hi/south_asia/2781551.stm)
  100. As per the report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyan, dated 5 June 2014 (A/HRC/26/33/Add.4 ), some 760,000 IDPs have registered as having “returned” to their areas of origin in the north and the east of Sri Lanka since April 2009 and another 22,000 IDPs were currently still displaced as per government sources. The report is available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G14/043/68/PDF/G1404368.pdf?OpenElement>
  101. “Killings at end stage of Lanka civil war unprecedented”, The Hindu, 17 December 2012, <http://www.thehindu.com/news/national/tamil-nadu/killings-at-end-stage-of-lanka-civil-war-unprecedented/article4207174.ece>

local government, planning, development programmes, social services, Non Governmental Organizations (NGOs), financial system, trades, shops, commercial ventures, medical services, educational services.<sup>102</sup>

In April 1987, the Sri Lankan government mounted Operation Liberation in the LTTE held the northern and eastern parts of the country. That year, India, which has a sizeable Tamil population, signed an accord with the Sri Lankan government to bring an end to the conflict. Under this accord, an Indian Peace Keeping Force was sent to the island nation but it further escalated the conflict, this time between the Indian peacekeepers and the LTTE. The LTTE avenged by assassinating former Prime Minister Rajiv Gandhi in 1991.

### **2.3 Nepal: Tackled the revolutionaries who overthrew the monarch without imposing death penalty**

The Communist Party of Nepal-Maoist (CPN-M) is the only leftist organization in the 21<sup>st</sup> century which overthrew the monarch through an armed struggle. Nepal witnessed a decade-long civil war from 1996 to 2006. Both sides of the civil war committed a range of human rights abuses.

In March 1995, the CPN-M began to draw up plans to launch an armed struggle, the “People’s War”, against the State. On 13 February 1996, the CPN-M launched an armed insurgency against the Government. Over the years, what was initially regarded as a minor problem of law and order, developed into an entrenched and often brutal armed conflict that affected the entire country. Violations and abuses including killings by both government security forces and by the CPN-M were widespread throughout the conflict.<sup>103</sup>

Between 1996 and 2006, over 13,000 people died and 1,300 remained missing.<sup>104</sup>

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102. “Parallel Governments -Living between terror and counter terror in northern Lanka (1982-2009)” by Daya Somasundaram, University of Jaffna, <https://www.mcgill.ca/trauma-globalhealth/files/trauma-globalhealth/JAS373899-pre-publication.pdf>

103. Nepal Conflict Report 2012 [http://www.ohchr.org/Documents/Countries/NP/OHCHR\\_Nepa\\_Conflict\\_Report2012.pdf](http://www.ohchr.org/Documents/Countries/NP/OHCHR_Nepa_Conflict_Report2012.pdf)

104. Nepal Conflict Report 2012 [http://www.ohchr.org/Documents/Countries/NP/OHCHR\\_Nepa\\_Conflict\\_Report2012.pdf](http://www.ohchr.org/Documents/Countries/NP/OHCHR_Nepa_Conflict_Report2012.pdf)

The Maoists deliberately killed scores of civilians whom they accused of being “informers” or being engaged in other acts of defiance of the Maoist dictat. They had specifically targeted local officials and civil servants, teachers, journalists, off-duty army and police personnel, and members of non-Maoist political parties, such as the Nepali Congress party and the Communist Party of Nepal (Unified Marxist-Leninist) (CPN [UML]).<sup>105</sup> In order to achieve the maximum deterrent effect on the population, the Maoists often executed their victims in public, forcing the victim’s relatives and other villagers to observe the killing. The executions were often preceded by extreme torture involving excruciating methods of killing, such as burning a victim alive or breaking the victim’s bones until death. The Maoists had used homemade explosive devices on security forces and civilians indiscriminately. They had also resorted to hostage taking for ransom and abducted villagers, including schoolchildren and their teachers, for forcible political indoctrination.<sup>106</sup> The Maoists had allegedly recruited over 4000 minors to fight in the decade-long civil war.<sup>107</sup>

It is estimated that between 200,000 and 400,000 people were displaced during the conflict.<sup>108</sup>

Most importantly, the People’s Liberation Army (PLA), the military wing of the CPN (Maoist) had estimated 5,000 - 10,000 active combatants. By the end of the conflict, the PLA had expanded to include seven declared divisions countrywide, organized under three commands – Western Command, Special Central Command, and Eastern Central Command.<sup>109</sup> The conflict spread to all over the country, except two districts of Manang and Mustang out of 75 districts of the country.<sup>110</sup> Estimates suggested that the Maoists had established control over approximately 40 per cent of Nepal’s countryside, thereby assuming the functions of governance in the areas under their

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105. <http://www.hrw.org/reports/2005/nepal0205/2.htm>

106. Ibid.

107. See Nepal: Maoists Should Release Child Soldiers, HRW, 1 February 2007, <https://www.hrw.org/news/2007/02/01/nepal-maoists-should-release-child-soldiers>

108. See ‘Report-I Post-Conflict Displacement in Nepal, MCRG available at: <http://www.mcrg.ac.in/rw%20files/RW36/6.Report1.pdf>

109. Nepal Conflict Report 2012 [http://www.ohchr.org/Documents/Countries/NP/OHCHR\\_Nepal\\_Conflict\\_Report2012.pdf](http://www.ohchr.org/Documents/Countries/NP/OHCHR_Nepal_Conflict_Report2012.pdf)

110. Ibid.



control.<sup>111</sup> However, the Maoists claimed that they controlled 70 percent of the countryside.<sup>112</sup>

Nepal did not use death penalty to counter the Maoists. Rather clause 7.2.1 of the Comprehensive Peace Agreement 2006 signed by Prime Minister Girija Prasad Koirala and Maoist chairman Prachanda clearly stated, *“Both sides respect and protect the fundamental right to life of any individual. No individual shall be deprived of this fundamental right and no law that provides capital punishment shall be enacted.”*<sup>113</sup> Article 12 of Nepal’s Interim Constitution, which came into force after the Comprehensive Peace Accord was signed, provided that *“Every person shall have the right to live with dignity, and no law shall be made which provides for capital punishment”*.<sup>114</sup>

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111. <http://www.hrw.org/reports/2005/nepal0205/2.htm>

112. See Thousands flee eastern Nepal following Maoist threats: officials, Reliefweb, 8 September 2004, <http://reliefweb.int/report/nepal/thousands-flee-eastern-nepal-following-maoist-threats-officials>

113. Comprehensive Peace Agreement 2006 available at <http://www.satp.org/satporgtp/countries/nepal/document/papers/peaceagreement.htm>

114. Interim Constitution of Nepal is available at the website of Law Commission of Nepal at [http://www.lawcommission.gov.np/index.php?option=com\\_remository&Itemid=2&func=fileinfo&id=163&lang=en](http://www.lawcommission.gov.np/index.php?option=com_remository&Itemid=2&func=fileinfo&id=163&lang=en)

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## 3. AFRICA

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### 3.1 South Africa: Dealing with rape and homicide offences without imposing death penalty

Section 277 of the Criminal Procedure Act of South Africa provided for death penalty. However, the Constitutional Court of South Africa in the case of *State v. Makwanyano & Anr*<sup>115</sup> declared in 1995 Section 277 of the Criminal Procedure Act of South Africa as unconstitutional, among others, on the ground of arbitrariness. The President of the Constitutional Court stated that “*arbitrariness inherent in the application of section 277 in practice. Of the thousands of persons put on trial for murder, only a very small percentage are sentenced to death by a trial court, and of those, a large number escape the ultimate penalty on appeal. At every stage of the process there is an element of chance. The outcome may be dependent upon factors such as the way the case is investigated by the police, the way the case is presented by the prosecutor, how effectively the accused is defended, the personality and particular attitude to capital punishment of the trial judge and, if the matter goes on appeal, the particular judges who are selected to hear the case. Race and poverty are also alleged to be factors.*” President of the Constitutional Court further stated “*Most accused facing a possible death sentence are unable to afford legal assistance, and are defended under the pro deo system. The defending counsel is more often than not young and inexperienced, frequently of a different race to his or her client, and if this is the case, usually has to consult through an interpreter. Pro deo counsel are paid only a nominal fee for the defence, and generally lack the financial resources and the infrastructural support to undertake the necessary investigations and research, to employ expert witnesses to give advice, including advice on matters relevant to sentence, to assemble witnesses, to bargain with the prosecution, and generally to conduct an effective defence. Accused persons who have the money to do so, are able to retain experienced attorneys and counsel, who are paid to undertake the necessary investigations and research, and as a result*

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115. *State v Makwanyane and Another* (CCT3/94) [1995] ZACC 3; 1995 (6) BCLR 665; 1995 (3) SA 391; [1996] 2 CHRLD 164; 1995 (2) SACR 1 (6 June 1995) available at <http://www.saflii.org/za/cases/ZACC/1995/3.html>

*they are less likely to be sentenced to death than persons similarly placed who are unable to pay for such services.*<sup>116</sup>

### **3.1.1. Murder**

As per data available with the United Nations on intentional homicide, South Africa recorded 26,877 intentional homicides in 1995 accounting for 64.9 homicide rate per 100,000 population; 25,470 in 1996 accounting for 60.4 homicide rate; 24,486 in 1997 accounting for 57.1 homicide rate; 25,127 in 1998 accounting for 57.7 homicide rate; 22,604 in 1999 accounting for 51.2 homicide rate; 21,758 in 2000 accounting for 48.6 homicide rate; 21,405 in 2001 accounting for 47.2 homicide rate; 21,553 in 2002 accounting for 46.8 homicide rate; 19,824 in 2003 accounting for 42.5 homicide rate; 18,793 in 2004 accounting for 39.8 homicide rate; 18,528 in 2005 accounting for 38.8 homicide rate; 19,202 in 2006 accounting for 39.7 homicide rate; 18,487 in 2007 accounting for 37.9 homicide rate; 18,148 in 2008 accounting for 36.8 homicide rate; 16,834 in 2009 accounting for 33.8 homicide rate; 15,940 in 2010 accounting for 31.8 homicide rate<sup>117</sup> and 15,609 in 2011 accounting for 30.1 homicide rate.<sup>118</sup>

An analysis of the above figures reveals that cases of intentional homicides as well as rate per 100,000 population were the highest at 26,877 cases accounting for 64.9 homicide rate in 1995. In 1996 the Constitutional Court declared death penalty unconstitutional and illegal, South Africa recorded 25470 cases of intentional homicides accounting for 60.4 homicide rate per 100,000 population.<sup>119</sup> It is highly note worthy that homicide rate in South Africa decreased steadily between 1995 and 2011 by more than 50 per cent (from 64.9 to 30.0 per 100,000 population), though it experienced a slight increase back to 31 per 100,000 population in 2012.<sup>120</sup>

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116. Ibid.

117. Intentional homicide, number and rate per 100,000 population, UNODC Homicide Statistics 2012; available at: <http://data.un.org/Data.aspx?d=UNODC&f=tableCode%3a1#UNODC>

118. FACT SHEET: Explaining the official crime statistics for 2011/12; Available: [http://www.issafrica.org/crimehub/uploads/2012\\_Crime\\_Stats\\_Factsheet.pdf](http://www.issafrica.org/crimehub/uploads/2012_Crime_Stats_Factsheet.pdf)

119. Intentional homicide, number and rate per 100,000 population, UNODC Homicide Statistics 2012; available at: <http://data.un.org/Data.aspx?d=UNODC&f=tableCode%3a1#UNODC>

120. Global Study on Homicide 2013 (Trends, Context, Data) by United Nations Office on Drugs and Crime, Vienna; Available: [https://www.unodc.org/documents/gsh/pdfs/2014\\_GLOBAL\\_HOMICIDE\\_BOOK\\_web.pdf](https://www.unodc.org/documents/gsh/pdfs/2014_GLOBAL_HOMICIDE_BOOK_web.pdf)

### 3.1.2. Rape

In 1999, South African Police recorded 52,000 cases of rapes in the country. It has been stated that every 26 seconds a woman is raped. In 2000, citing Interpol statistics which are indeed provided by the national police, many in the media described South Africa as the rape capital of the world.<sup>121</sup> In 2005, *News24* website reiterated the tag of rape capital<sup>122</sup> while in 2013 the Reuters stated that brutal sexual attack such as on Nirbhaya in Delhi barely make a stir in South Africa. It described South Africa as a country long known as the “rape capital of the world”.<sup>123</sup>

According to statistics of the South African Police Service (SAPS), the year wise figures of cases of rapes recorded by the police included: 38,896 cases in 2002-03; 39,007 cases in 2003-2004; 41,006 cases in 2004-05; 41,343 cases in 2005-06; 39,304 cases in 2006-07; 36,190 cases in 2007-08<sup>124</sup>; 47,588 cases in 2008-09; 49,310 cases in 2009-10; 49,253 cases in 2010-11; 48,003 cases in 2011-12; 49,376 cases in 2012-13 and 46,253 cases in 2013-14.<sup>125</sup>

The above figures reveal that reported cases of rape stabilised, with a slight decrease of 3%, since 2008-09 from 47,588 to 46,253 in 2013-14. On the other hand, the South African Medical Research Council had estimated that only one in nine rapes were reported to the police. Thus the actual numbers of rapes in South Africa is much higher than numbers recorded by the police.<sup>126</sup>

121. Every 26 Seconds: In 1999, 52,000 Rapes In South Africa, 1 February 2000; Available: <http://www.cbsnews.com/news/every-26-seconds/>

122. SA ‘rape capital’ of the world, *News24.com*, 22 November 2005; Available: <http://www.news24.com/SouthAfrica/News/SA-rape-capital-of-the-world-20051122>

123. Outcry over India gang rape shames some in South Africa, *Reuters.com*, 6 February 2013; available: <http://www.reuters.com/article/2013/02/06/us-safrica-rape-idUSBRE9150RB20130206>

124. South African Police Service Annual Report 2008/2009; Available at: [http://www.saps.gov.za/about/stratframework/annualreports\\_arch.php](http://www.saps.gov.za/about/stratframework/annualreports_arch.php)

125. Annual Report 2013-14 of the South African Police Service; available at: [http://www.saps.gov.za/about/stratframework/annual\\_report/2013\\_2014/crime\\_statreport\\_2014\\_part1.pdf](http://www.saps.gov.za/about/stratframework/annual_report/2013_2014/crime_statreport_2014_part1.pdf)

126. FACTSHEET: South Africa’s official crime statistics for 2013/14: Sexual assault; Available: <https://africacheck.org/factsheets/factsheet-south-africas-official-crime-statistics-for-201314/>

### **3.1.3. Emblematic cases of gruesome cases of rape and murder**

#### **Case 1: Murders and rapes committed by Moses Sithole (38 murders) 1994-1995**

Moses Sithole carried out killings in Atteridgeville, Boksburg and Cleveland between 1994 to 1995. He faced 38 charges of murder and 40 charges of rape. He was arrested in 1995 when he was trying to obtain a firearm from a family member. During the arrest Sithole attacked an undercover police officer with an axe and was shot three times. Sithole was sentenced to 2410 years in prison. His sentence is made up of 12 years for each of the 40 rapes he committed, 50 years for each of the 38 murders and another 5 years for each of his six robberies. His sentences do not run concurrently. There will be no possibility of parole for at least 930 years. He is currently in C-Max, the maximum security section of Pretoria Central Prison.<sup>127</sup>

#### **Case 2: Murders and rapes committed by Christopher Mhlengwa Zikode (18 murders) 1994-1995**

Christopher Mhlengwa Zikode was a dreaded serial killer who was believed to have raped and killed 18 people in Donnybrook KwaZulu-Natal in South Africa between 1994 and 1995.<sup>128</sup> He was infamous as “Donnybrook Serial Killer”. All his victims were between 20 and 30 years. His modus operandi was to kick open the door of his victims’ house, shoot the men in the head and drag the women to nearby plantations, where he would rape them repeatedly - sometimes for as long as five hours - and kill them. If they resisted he would shoot them first and commit necrophilia. Sometimes he would attack women from behind in footpaths in the area. Zikode was arrested on 29 September 1995. On 7 January 1997, a High Court judge sentenced him to 140 years in prison, including five life sentences after he was convicted on 21 charges, including eight murders, five rapes, five attempted murders and one indecent assault, between April and September 1995. The judge said during sentencing that Zikode had absolutely no regard for human life and

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127. South Africa’s 11 deadliest serial killers murdered 205 people, 29 May 2014; Available: <http://www.timeslive.co.za/local/2014/05/29/south-africas-11-deadliest-serial-killers-murdered-205-people>

128. South Africa’s 11 deadliest serial killers murdered 205 people, 29 May 2014; Available: <http://www.timeslive.co.za/local/2014/05/29/south-africas-11-deadliest-serial-killers-murdered-205-people>

his attitude towards women was “contemptible”.<sup>129</sup> Many of his killings were conducted execution-style. Zikode would kill his rape victims and mutilate them. During the early hours of 24 June 1995, Zikode repeatedly raped a woman and her nine-year-old daughter on the same bed. The next month, he broke into Zanele Khumalo’s bedroom while she was asleep. He shot her in the head, then dragged the corpse to a nearby plantation and raped her.<sup>130</sup>

### **Case 3: Siphon Thwala (19 murders) 1996-1997**

Siphon Agmatir Thwala became the most wanted man in KwaZulu-Natal during a year-long killing spree in the sugarcane fields of Mount Edgecombe, near the small town of Phoenix. Thwala raped and strangled 19 victims with their underwear before burying them in shallow graves. He was sentenced to 506 years in prison for the killings.<sup>131</sup>

### **Case 4: Cedric Maake (27 murders) 1996 -1997**

One of the worst serial killers in South Africa’s history, Cedric Maake murdered 27 people and raped 14. Maake was found guilty of 27 of the 34 murders he was charged with; he was found guilty of 26 of the 28 attempted murder charges and found guilty of 14 of the 15 rapes he was charged with. His victims ranged from a 74 year-old tailor he murdered with a hammer to a 15-year-old teenager on her way home from a disco with her boyfriend. In 1998 Maake was finally caught when he sold a bicycle at a pawn shop. The bike had been stolen from Gerhard Lavoo, murdered in 1997. He is currently serving a 1340-year prison sentence.<sup>132</sup>

### **Case 5: Jack Mogale (16 murders) 2008 -2009**

For two years Jack Madumetsa Mogale was involved in a gruesome reign of terror that targeted women in the west of Johannesburg. Mogale lured 15 women and one child to deserted fields in Westonaria, Venterspost and Lenasia. He struck his victims with blunt objects, then raped and strangled

129. [http://www.crimezzz.net/serialkillers/Z/ZIKODE\\_christopher.php#](http://www.crimezzz.net/serialkillers/Z/ZIKODE_christopher.php#)

130. <http://www.iol.co.za/dailynews/opinion/case-studies-1.1130946#.Vd7izvmqqko>

131. South Africa’s 11 deadliest serial killers murdered 205 people, 29 May 2014; Available: <http://www.timeslive.co.za/local/2014/05/29/south-africas-11-deadliest-serial-killers-murdered-205-people>

132. South Africa’s 11 deadliest serial killers murdered 205 people, 29 May 2014; Available: <http://www.timeslive.co.za/local/2014/05/29/south-africas-11-deadliest-serial-killers-murdered-205-people>

them. He was arrested in March 2009. Mogale faced 61 counts of rape, murder, kidnapping and attempted murder. He was found guilty of 52 charges – 19 of rape, 16 of murder, nine of kidnapping and attempted murder, among them. He was sentenced to 16 life sentences which are running concurrently. He was sentenced without the possibility of parole.<sup>133</sup>

#### **Case 6: David Randitsheni (10 murders) 2004-2008**

David Randitsheni committed a series of murders, rapes and kidnappings of children between 2004 and 2008. He was sentenced to 16 life terms and 220 years in prison. He is to be eligible for parole only after serving at least 35 years in prison.<sup>134</sup>

#### **Case 7: Bulelani Mabhayi (20 murders) 2007-2011**

Bulelani Mabhayi was the serial killer who terrorized the village of Tholeni near Butterworth in the Eastern Cape. Mabhayi started his murder spree in 2007, preying on the weak and vulnerable women and children of the village. The police arrested Mabhayi, just 500m down a narrow road from the latest murder scene in 2011. He was sentenced to 25 life sentences after pleading guilty to 36 charges — 20 of murder, six of rape and 10 of housebreaking.<sup>135</sup>

#### **Case 8: Jimmy Maketta (16 murders) April -December 2005**

Jimmy Maketta targeted the township of Philippi outside Cape Town between April and December 2005. He was convicted on 16 counts of murder, 19 counts of rape. He was sentenced to life in prison.<sup>136</sup>

#### **Case 9: Stewart Wilken (10 murders) 1990 – 1997**

Serial killer Stewart Wilken preyed on the street children and women in Port Elizabeth from 1990 to 1997. He was convicted of seven counts of murder and two counts of sodomy. Wilken confessed to murdering 10 people including his 11-year-old daughter, and five counts of sodomy.<sup>137</sup>

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133. Ibid.

134. Ibid.

135. Ibid.

136. Ibid.

137. Ibid.

### **Case 10: Extermination of Viana family in Walkerville, south of Johannesburg**

On 1 October 2011, 12-year old Amaro Jose Viana, of Portuguese descent, his mother Geraldine (42) and father Tony (53) were killed in an attack by the family's gardener Petrus Radebe (24), Siphon Mbele (21) and Sphiwe David Motaung (20) in Walkerville, south of Johannesburg. A fourth person, a minor whose name was not published and apparently the son of Petrus Radebe, also participated in the attack.<sup>138</sup>

All four admitted their guilt on all charges against them. The accused robbed the family, held them captive. They raped Geraldine and shot her dead before killing her husband. Thereafter they killed the family dog and drowned to dead Amaro Jose in a tub filled with boiled water.<sup>139</sup>

In May 2013, Siphon Mbhele (20) and Patrick Radebe (23,) were sentenced to five life sentences and 24 years in jail each while Sphiwe David Motaung was sentenced to 20 years for housebreaking and robbery in 2012. He had fled the scene before the murders.<sup>140</sup>

### **Case 11: Simone Sithole, a serial rapist of women and children**

On 20 February 2015, Simone Sithole, a Mozambican who for years raped women and children in a Mamelodi East informal settlement in Pretoria, was sentenced to in effect 78 years' imprisonment. High Court in Pretoria Judge Moses Mavundla sentenced Sithole to a total of 564 years imprisonment on 45 charges, but ordered that some of the sentences run concurrently. Sithole pleaded guilty to the charges, including 21 of rape, one of sexual assault, numerous charges of robbery with aggravating circumstances, pointing a firearm, and illegal possession of a firearm. He would break into people's homes at night, threaten his victims with a firearm or other dangerous weapons, and most were tied up before they were raped and robbed of cellphones, cash, clothes and jewellery.<sup>141</sup>

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138. Two blacks drowned white child in boiling water, 25 July 2012; Available at: <http://praag.org/?p=838>

139. Two blacks drowned white child in boiling water, 25 July 2012; Available at: <http://praag.org/?p=838>

140. Killers of Viana family sentenced to five life sentences (in South Africa), 9 November 2013; Available: <https://thetruthshallsetyoufreeblog.wordpress.com/2013/11/09/killers-of-viana-family-sentenced-to-five-life-sentences-in-south-africa/>

141. Serial rapist Sithole jailed for 78 years, Sowetan Live, 21 February 2015, <http://www.sowetanlive.co.za/news/2015/02/21/serial-rapist-sithole-jailed-for-78-years>



## 4. EUROPEAN UNION: THE RAREST OF RARE DOCTRINE AND THE TERROR ATTACKS

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India and European nations faced similar isolated but deadly acts of terror. While India imposed death penalty in a number of terror cases following the doctrine of the “rarest of rare” enunciated in *Bachan Singh v. State of Punjab*<sup>142</sup>, the EU on other hand prohibits imposition of death penalty.

There is no doubt that a number of terror attacks in EU would have been classified as the rarest of rare cases in Indian judiciary.

### 4.1. The 7<sup>th</sup> July 2005 London Bombings

#### a. Description of events

On 7 July 2005, four suicide bombers carried out co-ordinated terror attacks in underground public transportation system in central London killing 52 people and injuring more than 770. At 8:50 am local time, three bombs simultaneously went off on three underground trains - train number 331 travelling south from King’s Cross station to Russell Square, train number 204 travelling east from Liverpool Street station to Aldgate and train number 216 which had just left Edgware Road station heading west for Paddington. While 26 people were killed and over 340 injured in train number 331, seven people were killed and 171 injured in train number 204, and six people were killed and 163 others were injured in the explosion that ripped apart train number 216. At 9:47 am local time, there was a fourth explosion on a number 30 double-decker bus in Tavistock Square, killing 13 people and injuring more than 110 others. All the four suicide bombers were also killed.<sup>143</sup>

The 7<sup>th</sup> July terrorist attacks occurred the day after London won its bid to host the 2012 Olympic Games and people were in celebration mood. This was the first suicide terror attack in the UK and the worst terror incident since the 1988 Lockerbie bombing.

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142. AIR 1980 SC 898

143. BBC, [http://news.bbc.co.uk/2/shared/spl/hi/uk/05/london\\_blasts/what\\_happened/html/](http://news.bbc.co.uk/2/shared/spl/hi/uk/05/london_blasts/what_happened/html/)

By 13 July 2005, the police had strong evidence that Hasib Hussain, Mohammad Sidique Khan, Germaine Lindsay and Shehzad Tanweer were the bombers and that they had died in the attacks.<sup>144</sup>

### **b. The trial**

After nearly 20 months of investigation into the 7/7 bombings, the police on 22 March 2007 arrested three men later identified as Mohammed Shakil, 30, Sadeer Saleem, 26, and Waheed Ali, 23, for their alleged involvement in the 7 July suicide bombings in London. Of them, Mohammed Shakil and Waheed Ali were arrested at Manchester Airport when they were due to catch a flight to Pakistan. The three men were arrested on suspicion of the commission, preparation or instigation of acts of terrorism under the Terrorism Act 2000.<sup>145</sup> On 5 April 2007, the three were formally charged with conspiracy with the 7 July bombers between the 1 November 2004 and the 29 June 2005 to cause explosions on the London transport system or at tourist attractions in the city. *“The allegation is that they were involved in reconnaissance and planning for a plot with those ultimately responsible for the bombings on the 7 July before the plan was finalised,”* said Sue Hemming, head of the Counter Terrorism Division of the Crown Prosecution Service.<sup>146</sup>

On 9 May 2007, the police arrested bomber Mohammad Sidique Khan’s widow Hasina Patel, 29, her brother Arshad Patel, 30, Khalid Khaliq, 34, and Imran Motala, 22, under the Terrorism Act of 2000<sup>147</sup> but they had to be released without charges. Khalid Khaliq was additionally charged with possessing of an al-Qaeda training manual which did not relate to the 7/7 bombings and the City of Westminster Magistrates’ Court released him on bail on 21 May 2007.<sup>148</sup>

Three arrested suspects - Mohammed Shakil, Sadeer Saleem, and Waheed Ali were tried for their alleged involvement into the 7/7 bombings but on

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144. “Report of the Official Account of the Bombings in London on 7th July 2005” , released on 11<sup>th</sup> May 2006

145. See, Three held over 7 July bombings, BBC, 22 March 2007, [http://news.bbc.co.uk/2/hi/uk\\_news/6481495.stm](http://news.bbc.co.uk/2/hi/uk_news/6481495.stm) ; Police quiz 7 July bomber’s widow, BBC, 9 May 2007, [http://news.bbc.co.uk/2/hi/uk\\_news/6637917.stm](http://news.bbc.co.uk/2/hi/uk_news/6637917.stm)

146. Three charged over 7/7 bombings, BBC, 5 April 2007, [http://news.bbc.co.uk/2/hi/uk\\_news/6529643.stm](http://news.bbc.co.uk/2/hi/uk_news/6529643.stm)

147. Police quiz 7 July bomber’s widow, BBC, 9 May 2007, [http://news.bbc.co.uk/2/hi/uk\\_news/6637917.stm](http://news.bbc.co.uk/2/hi/uk_news/6637917.stm)

148. Man bailed over ‘al-Qaeda manual’, BBC, 21 May 2007, [http://news.bbc.co.uk/2/hi/uk\\_news/6675165.stm](http://news.bbc.co.uk/2/hi/uk_news/6675165.stm)

1 August 2008, the jury of Kingston Crown Court failed to reach a verdict despite three weeks of deliberations. The prosecution case rested on an alleged “hostile” reconnaissance mission that explored potential targets in London and was carried out by the three men with two of the bombers in December 2004. The group visited locations including the London Eye, Natural History Museum and London Aquarium. The defendants insisted they had been in London for social reasons, visiting the tourist attractions only for sightseeing and argued that had they been on a reconnaissance mission they would not have used their own mobile phones and cars.<sup>149</sup>

### **c. Final judgement**

The case was retried for three months. Prosecutor Neil Flewitt said the case centered on circumstantial evidence, which he argued created a compelling picture of guilt. But the three men insisted that they were ideologically opposed to suicide bombings. Their lawyers said that there was no evidence of the suspects’ complicity in the bombing and that they were being tried for guilt by association.<sup>150</sup>

On 28 April 2009, the jury at Kingston Crown Court unanimously rejected the prosecution’s case and held all the three accused - Waheed Ali, Sadeer Saleem, and Mohammed Shakil not guilty of conspiring with the four bombers by organising a reconnaissance mission to London. Ali and Shakil were, however, convicted of conspiracy to attend a terrorist training camp in Pakistan.<sup>151</sup>

## **4.2 Hacking to death of British soldier Lee Rigby**

### **a. Description of events**

On 22 May 2013, a British soldier Lee Rigby (25 years) was murdered in broad daylight by two Islamists identified as Michael Adebolajo and Michael

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149. July 7 trial jury fails to reach verdict, *The Guardian*, 1 August 2008, <http://www.theguardian.com/uk/2008/aug/01/july7.uksecurity>

150. British Court Clears 3 Men on Terrorism Charges, *The New York Times*, 28 April 2009, [http://www.nytimes.com/2009/04/29/world/europe/29britain.html?\\_r=0](http://www.nytimes.com/2009/04/29/world/europe/29britain.html?_r=0)

151. Trio not guilty of helping 7/7 London bombers, *The Guardian*, 28 April 2009, <http://www.theguardian.com/uk/2009/apr/28/july-7-london-bomb-trial>

Adebowale near the Royal Artillery Barracks in Woolwich, southeast London. Rigby held the rank of drummer in the 2nd Battalion of the Royal Regiment of Fusiliers, and had served in Afghanistan.<sup>152</sup>

On the fateful day, Rigby was walking along the Wellington Street as he was returning to his barracks in Woolwich when the assailants drove into Rigby at 30-40mph, then dragged him into the road and attacked him with knives. The attackers also attempted to behead him with a meat cleaver. He died of multiple cut and stab wounds.<sup>153</sup> The men, both Muslim converts, reportedly cried “Allahu Akbar” or “God is great!” before hacking Rigby with knives and a meat cleaver.<sup>154</sup>

Describing the nature of the barbarity employed by the attackers, an eyewitness said that “two black guys” “grabbed the [white] guy towards the wall then stabbed him - stabbed him, stabbed him, cut his neck, and then dragged him into the middle of the road”. Another eyewitness named James, who was at the scene, described the attackers as “animals” for what they did to the victim.<sup>155</sup>

The attack took place in full public view and there were so many eyewitnesses. The attackers made no attempt to flee and instead encouraged the bystanders to take pictures of them and their victim. They also asked people on the street to call the police.<sup>156</sup>

One of the attackers, Adebolajo, handed a letter to witness Amanda Donnelly Martin when she arrived at the scene shortly after Lee Rigby’s murder. Addressed to “my beloved children”, the letter urged people to seek martyrdom, and stated: “If you find yourself curious as to why carnage is

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152. Woolwich Attack: British soldier Lee Rigby died ‘in the most horrific way possible,’ says relative, Daily News New York, May 23, 2013, <http://www.nydailynews.com/news/crime/london-attack-lee-rigby-identified-british-soldier-hacked-death-article-1.1352671>

153. Lee Rigby murder: Adebolajo and Adebowale jailed, BBC, 26 February 2014, <http://www.bbc.com/news/uk-26357007>

154. Woolwich Attack: British soldier Lee Rigby died ‘in the most horrific way possible,’ says relative, Daily News New York, May 23, 2013, <http://www.nydailynews.com/news/crime/london-attack-lee-rigby-identified-british-soldier-hacked-death-article-1.1352671>

155. Woolwich attack: Eyewitness accounts, BBC, 28 May 2013, <http://www.bbc.com/news/uk-22636231>

156. *Ibid.*

reaching your own towns then know its simply retaliation for your oppression in our towns.”<sup>157</sup>

Another witness Ingrid Loyau-Kennett, a mother of two, confronted one of the attackers just seconds after they had attempted to behead Lee Rigby and asked the attackers to surrender their weapons. But the terrorist who was holding a bloodied knife told her that the man was killed because he was “a British soldier” and “I killed him because he killed Muslims and I am fed up with people killing Muslims in Afghanistan they have nothing to do there.”<sup>158</sup>

A video taken by a witness on mobile phone surfaced showing a suspect with blood-covered hands using jihadist rhetoric to justify the violence. Brandishing a cleaver and a knife, and with the body of the victim lying yards away, the suspect said: *“The only reason we have killed this man today is because Muslims are dying daily by British soldiers. And this British soldier is one. It is an eye for an eye and a tooth for a tooth. By Allah, we swear by the almighty Allah we will never stop fighting you until you leave us alone. So what if we want to live by the Sharia in Muslim lands? Why does that mean you must follow us and chase us and call us extremists and kill us?....”*<sup>159</sup>

Later the police arrived and shot the two assailants, who were taken to different hospitals under custody.

The terrorists were in possession of a gun and eight knives on the day of the attack. Adebolajo had visited an Argos store in Lewisham, south-east London, the day before the murder to buy a knife sharpener and five-piece knife block set, costing £44.98. The gun, a 90-year-old 9.4mm-calibre Dutch revolver, was not loaded.<sup>160</sup>

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157. Lee Rigby murder: Map and timeline, BBC, 26 February 2014, <http://www.bbc.com/news/uk-25298580>

158. Mum talked down Woolwich terrorists who told her: ‘We want to start a war in London tonight’, The Telegraph, 22 May 2013, <http://www.telegraph.co.uk/news/uknews/terrorism-in-the-uk/10074881/Mum-talked-down-Woolwich-terrorists-who-told-her-We-want-to-start-a-war-in-London-tonight.html>

159. Woolwich attack: the terrorist’s rant, The Telegraph, 23 May 2013, <http://www.telegraph.co.uk/news/uknews/terrorism-in-the-uk/10075488/Woolwich-attack-the-terrorists-rant.html>

160. Lee Rigby murder: Map and timeline, BBC, 26 February 2014, <http://www.bbc.com/news/uk-25298580>

The murder of soldier Lee Rigby provoked a backlash of anti-Muslim anger across the UK and resulted in attacking of mosques, racial abuse and comments on social media.<sup>161</sup>

### **b. The trial**

On 27 September 2013, the two accused, Michael Adebolajo, 28, from Romford, east London and Michael Adebowale, 22, from Greenwich, south-east London, appeared via videolink in court at the Old Bailey, where they pleaded not guilty to the charges of murder. Mr Adebolajo asked to be known as Mujaahid Abu Hamza in the court while Mr Adebowale wanted to be called Ismail Ibn Abdullah.<sup>162</sup>

Following a trial that lasted less than three months, on 19 December 2013, the Old Bailey jury of eight women and four men found both the men guilty of murdering Lee Rigby. They had heard that Adebolajo and Adebowale drove a car into Fusilier Rigby at 30-40mph, before dragging him into the road and attacking him with knives and attempting to decapitate him with a meat cleaver. Adebolajo claimed he was a “soldier of Allah” and the killing was an act of war.<sup>163</sup>

### **c. Final judgement**

On 26 February 2014, Michael Adebolajo was given a whole-life term and Michael Adebowale was jailed for a minimum of 45 years. The judge, Mr Justice Sweeney, held Adebolajo as the leader of the brutal murder and his case was a rare one, where not only was the seriousness exceptionally high but the requirements of just punishment and retribution made a whole-life term the just penalty. But the judge said Adebowale had played a lesser role in the murder of Lee Rigby. His age and his mental health were also given as reasons for his 45-year minimum term.<sup>164</sup> Mr Justice Sweeney said the pair carried

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161. Woolwich attack provokes anti-Muslim backlash across UK, The Telegraph, UK, 25 May 2013, <http://www.telegraph.co.uk/news/uknews/terrorism-in-the-uk/10080300/Woolwich-attack-provokes-anti-Muslim-backlash-across-UK.html>

162. Two plead not guilty to Lee Rigby murder in Woolwich, BBC, 27 September 2013, <http://www.bbc.com/news/uk-24297429>

163. Two guilty of Lee Rigby murder, BBC, 19 December 2013, <http://www.bbc.com/news/uk-25450555>

164. Lee Rigby murder: Adebolajo and Adebowale jailed, BBC, 26 February 2014, <http://www.bbc.com/news/uk-26357007>

out the murder “in a way that would generate maximum media coverage”, and that Adebolajo had “no real prospect of rehabilitation”.<sup>165</sup>

In April 2014, Michael Adebolajo launched an appeal against his sentence.<sup>166</sup>

On 3 December 2014, the two convicted men lost legal challenges against their sentences. Three judges at the Court of Appeal rejected Michael Adebolajo’s attempts to have his conviction overturned and Michael Adebowale’s attempt for a reduction in his minimum sentence of 45 years was also turned down. Lord Chief Justice Lord Thomas, sitting with Lady Justice Hallett and Mr Justice Openshaw, said the sentences were “just” punishment for the “horrific and barbaric” murder. He said Adebolajo’s attempt to challenge his conviction was “misconceived” and “completely hopeless”.<sup>167</sup>

In 1998, the United Kingdom abolished death penalty for all crimes.

### **4.3 Madrid bombings, Spain**

#### **a. Description of events**

On 11 March 2004, a series of bombs exploded within minutes of each other on four commuter trains at the height of the morning rush-hour in the Spanish capital Madrid. The explosions killed 191 people and wounded nearly 2,000.<sup>168</sup> All the four ill-fated trains had left Alcala de Henares station, 19 miles from Madrid. Ten explosions ripped through the busy carriages as the trains were either in stations or just outside. Three bombs failed to go off and were later deactivated by explosive experts.<sup>169</sup>

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165. Lee Rigby killer Michael Adebolajo launches appeal, BBC, 8 April 2014, <http://www.bbc.com/news/uk-26941996>

166. Lee Rigby killer Michael Adebolajo launches appeal, BBC, 8 April 2014, <http://www.bbc.com/news/uk-26941996>

167. Lee Rigby murder: Killers lose legal challenges, BBC, 3 December 2014, <http://www.bbc.com/news/uk-30306145>

168. Madrid bombing suspects charged, BBC, 11 April 2006, <http://news.bbc.co.uk/2/hi/europe/4899042.stm>

169. <http://news.bbc.co.uk/2/shared/spl/hi/guides/457000/457031/html/nn2page1.stm>

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The Spanish government immediately accused the Basque terrorist group Eta that has waged a violent campaign for 36 years to gain independence for the Basque region in northern Spain.<sup>170</sup>

But Spanish police found a stolen van containing detonators and a cassette with verses of the Quran in Arabic. Soon after, a letter purporting to come from an organization linked to al-Qaeda claimed responsibility for the bomb attacks. The letter, sent to a London-based Arabic newspaper, referred to the bombs as strikes against “crusaders”.<sup>171</sup>

In a videotaped message sent out to the media, al-Qaeda claimed responsibility for the train bombings. The message stated that the attacks were “a response to the crimes that you have caused in the world, and specifically in Iraq and Afghanistan, and there will be more, if God wills it.”<sup>172</sup> But the investigation has suggested the bombings were carried out by a local cell that was inspired by al-Qaeda, rather than directly ordered by the al-Qaeda’s senior leadership.<sup>173</sup>

#### **b. The trial**

The police arrested more than 100 people in the course of the investigations into the attacks.<sup>174</sup>

On 11 April 2006, the court charged 29 people, most of them Moroccan nationals, over the Madrid train bombings. Judge Juan del Olmo accused five Moroccan men - Jamal Zougam, Abdelmajid Bouchar, Youssef Belhadj, Rabei Ousman Sayed Ahmed and Hassan el Haski - of committing 191 murders and 1,755 attempted murders. Jose Emilio Suarez Trashorras, a Spaniard suspected of providing the bombers with explosives, was charged with 192 murders - including the death of a policeman killed during a raid on suspected

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170. Train Bombings Kill At Least 198 in Spain, Wall Street Journal, 12 March 2004, <http://www.wsj.com/articles/SB107899319607552435>

171. Train Bombings Kill At Least 198 in Spain, Wall Street Journal, 12 March 2004, <http://www.wsj.com/articles/SB107899319607552435>

172. Full text: ‘Al-Qaeda’ Madrid claim, BBC, 14 March 2004 <http://news.bbc.co.uk/2/hi/europe/3509556.stm>

173. Madrid bombing suspects charged, BBC, 11 April 2006, <http://news.bbc.co.uk/2/hi/europe/4899042.stm>

174. Ibid.



bombers after the attacks. The others were charged as accomplices in the train bombings.<sup>175</sup>

In November 2006, a leading suspect, Rabei Osman Sayed Ahmed, a 35-year-old Egyptian, was temporarily extradited from Italy to Spain to face trial. Ahmed was jailed for 10 years in Italy a month earlier for having links to terror cells in Europe and Iraq. He was alleged to have spent 18 months in Spain before the Madrid bombings, sharing his knowledge of explosives with other key suspects.<sup>176</sup>

The trial of 29 people accused of involvement in train bombings opened in Madrid on 15 February 2007. Of the 29 men on trial, six were charged with 191 counts of murder and 1,755 of attempted murder and one was charged with 192 counts of murder and 1,755 of attempted murder. If convicted, they faced up to 40,000 years in jail each. 22 others faced lesser terror-linked charges.<sup>177</sup> Later charges were dropped against one defendant for lack of evidence. Of the 28 on trial, 19 were Arabs, mostly Moroccans, and nine Spaniards. Seven of the key suspects, including the alleged mastermind Tunisian Serhane ben Abdelmajid Fakhel, died in an explosion at a Madrid flat during a police raid in April 2004.<sup>178</sup>

### **C. Final judgement**

The trial went on for four months and all the accused pleaded not guilty to involvement in the attacks. The defendants had faced charges including murder, forgery and conspiracy to commit a terrorist attack.<sup>179</sup>

On 31 October 2007, the court convicted 21 and acquitted seven suspects including alleged ringleader Rabei Osman. Three of the convicted persons, Jamal Zougam and Otman el Ghanoui, both Moroccan nationals, and Spaniard Emilio Trashorras were found guilty of murder and sentenced to 43,000 years in jail each. While Jamal Zougam and Otman el Gnaoui were

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175. Ibid.

176. Madrid bombing suspect extradited, BBC, 18 November 2006, <http://news.bbc.co.uk/2/hi/europe/6160240.stm>

177. Train bomb trial starts in Madrid, BBC, 15 February 2007, <http://news.bbc.co.uk/2/hi/europe/6363149.stm>

178. Madrid bombers get long sentences, BBC, 31 October 2007, <http://news.bbc.co.uk/2/hi/europe/7070827.stm>

179. Ibid.

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convicted of carrying out the attacks on four commuter trains, Jose Emilio Suarez Trashorras was found guilty of supplying the explosives.<sup>180</sup> The jail terms were largely symbolic as under Spanish law the maximum term that can be served is 40 years.<sup>181</sup> Eighteen other people were convicted of lesser charges and received sentences ranging from three to 18 years.<sup>182</sup>

On 17 July 2008, Spain’s Supreme Court overturned the convictions of four people, namely, Basel Ghalyoun, Muhammad Almallah Dabas, Abdelilah el Fadual el Akil and Raul Gonzalez – who were sentenced to between five and 12 years by the lower court. The apex court also rejected an appeal by the prosecution against the acquittal of Rabei Osman stating that Osman had been jailed for eight years in Italy for association with a terror group and he could not be condemned again for the same crime. The Supreme Court also overturned the acquittal of Antonio Toro, a Spanish former miner, and convicted him of exchanging explosives used in the attack for drugs and money. He was jailed for four years.<sup>183</sup>

In 1995, Spain had abolished the death penalty for all crimes.

#### **4.4. Attacks on Charlie Hebdo office, Paris**

##### **A. Description of events**

At 11:30 local time (10:30 GMT) on 7 January 2015, two masked gunmen identified as brothers Cherif Kouachi and Said Kouachi, dressed in black and armed with Kalashnikov assault rifles, attacked the office of the French satirical weekly magazine, *Charlie Hebdo*, in Rue Nicolas-Appert, Paris, killing 12 people: eight journalists, two police officers, a caretaker and a visitor. The attack took place during the magazine’s editorial meeting. Those killed were: *Charlie Hebdo* editor and cartoonist Stephane “Charb” Charbonnier (47); Cartoonists Jean “Cabu” Cabut (76), Bernard “Tignous” Verlhac (57), Georges Wolinski (80), and Philippe Honore (73); Elsa Cayat (54),

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180. Men behind Madrid bombs laugh in court, The Telegraph, 1 November 2007, <http://www.telegraph.co.uk/news/worldnews/1568079/Men-behind-Madrid-bombs-laugh-in-court.html>

181. Madrid bombers get long sentences, BBC, 31 October 2007, <http://news.bbc.co.uk/2/hi/europe/7070827.stm>

182. Ibid.

183. Spain: Court overturns convictions of four for Madrid train bombing, The Guardian, 18 July 2008, <http://www.theguardian.com/world/2008/jul/18/spain.terrorism>

psychoanalyst and columnist; Economist and regular magazine columnist Bernard Maris (68); Michel Renaud, a visitor; Mustapha Ourrad, proof-reader; Frederic Boisseau (42), caretaker; Franck Brinsolaro (49), a police officer who acted as Charb's bodyguard; and Police officer Ahmed Merabet (42) who was shot dead in a nearby street after the attack.<sup>184</sup> At least four people were critically wounded in the attack.<sup>185</sup>

The terrorist attack on *Charlie Hebdo* is believed to be the deadliest attack in France since 1961, when right-wingers who opposed the independence of Algeria bombed a train, killing 28 people. President Francois Hollande described the terrorist attack as an act of "exceptional barbarity".<sup>186</sup> Cherif Kouachi was a convicted Islamist who was jailed in 2008 and had long been known to police for militant activities.<sup>187</sup>

The two masked gunmen drove a black Citroen C3 up to the *Charlie Hebdo* building in Rue Nicolas-Appert. They burst into number 6, Rue Nicolas-Appert, before realising they had the wrong address. They then moved down the street to number 10 where the *Charlie Hebdo* offices are on the second floor. Once inside, the terrorists asked maintenance staff in reception where the magazine's offices were before shooting dead caretaker Frederic Boisseau. One of the magazine's cartoonists, Corinne Rey, described how the gunmen threatened her, forcing her to enter the code for the keypad entry to the newsroom on the second floor - where a weekly editorial meeting was taking place. The men opened fire and killed the editor's police bodyguard, Franck Brinsolaro, before asking for editor Stephane Charbonnier, known as Charb, and other four cartoonists by name and killing them, along with three other editorial staff and a guest attending the meeting. Witnesses heard the gunmen shouting "We have avenged the Prophet Muhammad" and "Allahu Akbar" (God is Great) while calling out the names of the journalists.<sup>188</sup>

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184. Charlie Hebdo attack: Three days of terror, BBC, 14 January 2015, <http://www.bbc.com/news/world-europe-30708237>

185. Charlie Hebdo: Gun attack on French magazine kills 12, BBC, 7 January 2015, <http://www.bbc.com/news/world-europe-30710883>

186. Ibid.

187. Charlie Hebdo attack: Three days of terror, BBC, 14 January 2015, <http://www.bbc.com/news/world-europe-30708237>

188. Ibid.

A police car blocked the gunmen's escape route down the narrow street Allee Vert and the gunmen opened fire before driving away towards the Boulevard Richard Lenoir where a video footage shows the gunmen getting out of the vehicle and shooting police officer Ahmed Merabet who was on a nearby pavement. One of the attackers then walked up to the injured officer on the pavement and shot him dead at close range. The gunman returned to the car and drove away with his accomplice. Later the car was found abandoned about 3km (1.8 miles) north of the Charlie Hebdo offices. Investigators found Molotov cocktails and two jihadist flags in the car. The attackers then hijacked another car and disappeared.<sup>189</sup>

As the police continued their search for the Charlie Hebdo attack suspects, at about 08:45 local time on 8 January 2015, a lone gunman, armed with a machine-gun and a pistol, shot dead a policewoman, Clarissa Jean-Philippe (27) and injured a man in the southern Paris suburb of Montrouge. The Police confirmed that this shooting had links with the *Charlie Hebdo* killings. On the same day (8 January) at about at 10:30 local time, the Charlie Hebdo attack suspects robbed a petrol station near Villers-Cotterets, north-east of Paris.<sup>190</sup>

On the morning of 9 January, the massive manhunt entered its final phase as police surrounded the printing firm where Said and Cherif Kouachi had holed up at Dammartin-en-Goele, 35km (22 miles) from Paris. Both the suspects were finally killed in the encounter. Meanwhile, in a Jewish supermarket at Porte de Vincennes in Paris, a gunman identified as Amedy Coulibaly (32) took several people hostages, threatening to kill them unless the Kouachi brothers were allowed to go free. Elite commandos stormed the supermarket and shot dead the gunman and freed 15 hostages from the store. They found the dead bodies of four hostages.<sup>191</sup>

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189. Ibid.

190. Ibid.

191. Ibid.

Coulibaly's wife Hayat Boumeddiene escaped and is believed to have travelled to Syria to join the Islamic State group. Two others connected to the couple – Fritz-Joly Joachin and Cheikhou Diakhaby -- were detained in Bulgaria and Turkey, respectively, while they were trying to cross into Syria.<sup>192</sup>

On 9 January 2015, Al-Qaeda in the Arabian Peninsula (AQAP) claimed responsibility for the deadly attacks on the *Charlie Hebdo* to “revenge for the honor” of the Prophet Muhammad, the depiction of whom is forbidden by Islamic tradition.<sup>193</sup>

## **B. The trial**

As of 14 January 2015, French Police arrested 54 people, including four minors, for hate speech or other acts insulting religious faiths, or for cheering the men who carried out the attacks. Many of them have already been convicted under special measures for “immediate sentencing” allowed under French laws. The French justice system allows for individuals suspected of minor crimes to be immediately brought before a judge to face sentencing. Trials by jury are held only for the most serious crimes.<sup>194</sup> Inciting terrorism can bring a five-year prison term or up to seven years for inciting terrorism online.<sup>195</sup>

According to the Justice Ministry, of the 54 cases, 37 cases involved condoning terrorism and 12 were for threatening to carry out terrorist acts. Some of the fast-track custodial sentences handed down under anti-terror legislation included: A man of 22 years was jailed for a year for posting a video mocking one of the three murdered policemen; a drunk driver was given four years in prison after making threats against the police who arrested him; three men in their twenties were jailed in Toulouse for condoning terrorism; a man of

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192. Paris Charlie Hebdo Attacks: Police Arrest 4 Over Alleged Connections To Terror Cell, International Business Times, 9 March 2015, <http://www.ibtimes.com/paris-charlie-hebdo-attacks-police-arrest-4-over-alleged-connections-terror-cell-1840654>

193. Al-Qaeda Group Claims Responsibility for Paris Terror Attack, TIME, 9 January 2015, <http://time.com/3661650/charlie-hebdo-paris-terror-attack-al-qaeda/>

194. French Justice System: How France Was Able To Quickly Convict Suspects After Charlie Hebdo Attacks, International Business Times, 14 January 2015, <http://www.ibtimes.com/french-justice-system-how-france-was-able-quickly-convict-suspects-after-charlie-1783340>

195. New issue of Charlie Hebdo sells out quickly, Associated Press, 14 January 2015, <http://news.yahoo.com/charlie-hebdo-sells-dawn-muhammad-cover-080255447.html>

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20 years was jailed in Orleans for shouting “long live the Kalash[nikov]” at police in a shopping centre.<sup>196</sup>

On 14 January 2015, controversial French comedian Dieudonne M’bala M’bala was detained by police for a Facebook comment appearing to back Paris gunman Amedy Coulibaly. He had written, “I’m finally going home. Know that this evening, as far as I’m concerned, I’m feeling like Charlie Coulibaly” referring to Amedy Coulibaly, one of the three gunmen involved in the attacks.<sup>197</sup> On 18 March 2015, he was found guilty of condoning terrorism and given a two-month suspended sentence by the Paris court.<sup>198</sup>

On 9 March 2015, the French police arrested four people, including a policewoman, who were believed to be close associates of Amedy Coulibaly, who killed four people in a Jewish supermarket on 9 January 2015.<sup>199</sup> But the police had to release two of them including the policewoman without charges on 13 March. The police framed formal charges against two others identified as 33-year-old Amar R and 25-year-old Said M for their alleged conspiracy in the terror attacks. According to the prosecutors’ office, Amar R exchanged 600 texts with Coulibaly over four months and met him 10 times, “in particular on January 5 and 6”. The prosecutors also claimed that traces of Said M.’s DNA had been found on a weapon used by Coulibaly in the kosher supermarket. He had kept regular contact with Amar R., and both men apparently destroyed their mobile phone SIM cards on January 9 - the day of the supermarket attack. Said M. and Amar R. had allegedly contacted each other more than 1,200 times between February 2014 and January 2015 and met regularly.<sup>200</sup>

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196. Paris attacks: Dieudonne held as France tackles hate speech, BBC, 14 January 2015, <http://www.bbc.com/news/world-europe-30811401>

197. Paris attacks: Dieudonne held as France tackles hate speech, BBC, 14 January 2015, <http://www.bbc.com/news/world-europe-30811401>

198. Dieudonne guilty of condoning terrorism with Charlie Hebdo comment, BBC, 18 March 2015, <http://www.bbc.com/news/world-europe-31947941>

199. Paris Charlie Hebdo Attacks: Police Arrest 4 Over Alleged Connections To Terror Cell, International Business Times, 9 March 2015, <http://www.ibtimes.com/paris-charlie-hebdo-attacks-police-arrest-4-over-alleged-connections-terror-cell-1840654>

200. In Paris, preliminary charges against Coulibaly contacts, DW, 13 March 2015, <http://www.dw.de/in-paris-preliminary-charges-against-coulibaly-contacts/a-18315578>

## 4.5 Anders Behring Breivik's case, Norway

### A. Description of events

On 22 July 2011, Anders Behring Breivik (33), a far-right extremist detonated a bomb next to government offices in Oslo, Norway killing eight people and injuring at least 209 persons.<sup>201</sup> The blast was so massive that it blew out the windows of the Prime Minister's Offices and damaged the buildings of Finance and Oil Ministries. Police confirmed the next day that the blast was caused by a car bomb, and undetonated explosives were recovered from the area. The bomb contained an estimated 950 kg of explosives made of fertiliser.<sup>202</sup>

Hours later, the gunman went to the island of Utoeya, located in a lake about 35km (20 miles) north-west of Oslo, dressed as a police officer, where he went on a shooting spree killing scores of young people staying at the summer camp at the island. Survivors stated that he had called campers to him as if to offer help, only to open fire on them. He shot at those who tried to swim away. The shooting spree had lasted more than an hour. Later, he surrendered to the police that surrounded him, along with a pistol and an automatic rifle. But not before he had killed a total of 69 people on the Utoeya island many of whom were involved with the Norwegian Labour Party's youth wing, the (Workers' Youth League i.e. *Arbeidaranes Ungdomsfylking* or AUF).<sup>203</sup> Thirty three others were injured in the shootings.<sup>204</sup>

Before his killing spree, Breivik had uploaded a 1,500 page manifesto titled "2083 - *A European Declaration of Independence*" where he held fiercely anti-Islamic and pro-Israel views, and laid out his worldview "which includes an extreme, bizarre and rambling screed of Islamophobia, far-right Zionism and venomous attacks on Marxism and multi-culturalism".<sup>205</sup>

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201. Anders Breivik pleads not guilty at Norway murder trial, BBC, 16 April 2012, <http://www.bbc.com/news/world-europe-17724535>

202. Timeline: How Norway's terror attacks unfolded, BBC, 17 April 2012, <http://www.bbc.com/news/world-europe-14260297>

203. Timeline: How Norway's terror attacks unfolded, BBC, 17 April 2012, <http://www.bbc.com/news/world-europe-14260297>

204. Anders Breivik pleads not guilty at Norway murder trial, BBC, 16 April 2012, <http://www.bbc.com/news/world-europe-17724535>

205. 'Norway attack suspect had anti-Muslim, pro-Israel views', The Jerusalem Post, 24 July 2011, <http://www.jpost.com/International/Norway-attack-suspect-had-anti-Muslim-pro-Israel-views>

## **B. The trial**

On 7 March 2012, Breivik was formally charged of “performing an act of terrorism in the form of murder, with the intention of destabilising the basic functions of society,” a crime which carries a 21-year prison sentence, the maximum possible under Norwegian law.<sup>206</sup>

Before the trial started, Breivik was subjected to two medical examinations by court-appointed psychiatric teams. Breivik was found insane in the first examination (published in November 2011) but following uproar from Norwegians, a second psychiatric evaluation was ordered which found (results made public on 10 April 2012) the accused sane enough to face trial and a jail term if convicted.<sup>207</sup>

The trial started on 16 April 2012. Breivik pleaded not guilty to the charges of terror and mass murder. He told the court he “acknowledged” the acts committed, but said he did not accept criminal responsibility. He said he acted in self-defence.<sup>208</sup>

On 17 April 2012, the court dismissed a “lay judge”<sup>209</sup> over remarks made on a social networking site suggesting Breivik should be given the death penalty. During the proceedings, Breivik told the court that he would do it all (massacres) again, that his actions “are based on goodness, not evil” and that he acted to defend Norway against immigration and multi-culturalism.<sup>210</sup>

On 19 April 2012, Breivik told the court that he intended hundreds should die in his attack on a Labour Party camp, that he had planned to behead former Prime Minister Gro Harlem Brundtland during the rampage, and post

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206. Norway killer Anders Behring Breivik charged with ‘worst crime in modern times’, The Telegraph, 12 March 2012, <http://www.telegraph.co.uk/news/worldnews/europe/norway/9128122/Norway-killer-Anders-Behring-Breivik-charged-with-worst-crime-in-modern-times.html>

207. Anders Breivik pleads not guilty at Norway murder trial, BBC, 16 April 2012, <http://www.bbc.com/news/world-europe-17724535>

208. Ibid.

209. Lay judges are appointed by local councils for a period of four years. In criminal cases in district courts, lay judges sit together with professional judges to rule on an equal basis on both the question of guilt and on sentencing. For details on Norway’s lay judge system, please visit <http://www.bbc.com/news/world-europe-17740229>

210. Defiant Breivik ‘would carry out massacre again’, BBC, 17 April 2012, <http://www.bbc.com/news/world-europe-17737085>

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a video of it on the internet. He also hoped his car bomb in Oslo would kill the entire government.<sup>211</sup>

The court went on to hear testimonies from survivors and witnesses.

On 12 June 2012, a psychology professor, Sverre Torgersen, called to testify at the trial of Breivik declared the accused as sane.<sup>212</sup>

But on 21 June 2012, prosecutors in their closing argument at his trial demanded that self-confessed mass killer Breivik be considered insane and should be placed in psychiatric care, not sent to prison.<sup>213</sup>

The trial ended on 22 June 2012 with a walkout by families of victims in protest at the accused's attempts to justify the massacre. While the prosecution asked for Breivik to be deemed insane, his lawyer, Geir Lippestad argued that Breivik should be considered sane, as he had been driven by extreme politics, not violence. He demanded that Breivik be acquitted.<sup>214</sup> The court reserved the verdict for 24 August 2012.

### **C. Final judgement**

On 24 August 2012, delivering the verdict, Judge Wenche Arntzen declared Breivik to be sane and sentenced him to at least 21 years in prison which is the maximum punishment possible under Norwegian law. Breivik was convicted of terrorism and premeditated murder. The judge also imposed a sentence of "preventive detention", a special prison term for criminals considered dangerous to society.<sup>215</sup>

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211. Breivik 'hoped attacks would kill hundreds', BBC, 19 April 2012, <http://www.bbc.com/news/world-europe-17766404>

212. Psychologist tells trial in Norway Breivik is sane, BBC, 12 June 2012, <http://www.bbc.com/news/world-europe-18417981>

213. Prosecutors in Norway call for Breivik insanity verdict, BBC, 21 June 2012, <http://www.bbc.com/news/world-europe-18530670>

214. Breivik trial ends in Norway with walkout by families, BBC, 22 June 2012, <http://www.bbc.com/news/world-europe-18547347>

215. Anders Behring Breivik: Norway court finds him sane, BBC, 24 August 2012

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Afterwards Breivik said he did not recognise the court but said he would not appeal as this would legitimise the proceedings. Prosecutors also said they would not challenge the verdict.<sup>216</sup>

Norway had abolished death penalty for all crimes in 1979.<sup>217</sup>

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216. Ibid.

217. <http://www.deathpenaltyinfo.org/abolitionist-and-retentionist-countries?scid=30&did=140#1976>

## 5. LATIN AMERICA: NO DEATH PENALTY TO DEAL WITH INSURGENCY AND CRIMES

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### 5.1. Colombia

Colombia had abolished the death penalty for all crimes in 1910. The last death penalty was executed in the country in 1909. The 1886 Constitution of Colombia allowed imposition of death penalty for certain serious crimes such as treason in time of foreign wars, patricide, murder, arson, gang assault, piracy and certain military offences defined under military law. In 1910, the Legislative Act No. 3 provided that “*in no event may legislators impose the death penalty.*”<sup>218</sup> Article 11 of the revised Constitution introduced in 1991 provides “*The right to life is inviolable. There will be no death penalty.*”<sup>219</sup> The maximum sentence prescribed in law is 60 years.<sup>220</sup>

Colombia has been facing an internal conflict with the left wing *Fuerzas Armadas Revolucionarias de Colombia* (FARC or the Revolutionary Armed Forces of Colombia) since 1964, the National Liberation Army (*Ejército de Liberación Nacional*, ELN) and right wing paramilitary group like the United Self-Defense Forces of Colombia (AUC) formed to combat the FARC. The State security forces, the FARC and AUC committed serious crimes such as kidnappings, assassinations, bombings and other terrorist activities throughout Colombia. The intensity of the armed conflicts is reflected from the death of more than 200,000 people and displacement of five million since 1964.<sup>221</sup> The armed groups also commit gender crimes such as rape, enforced nudity, enforced contraception, sexual slavery, forced pregnancy etc. With the demobilization of the paramilitary AUC, new criminal gangs referred to

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218. Observations to the Draft Additional Protocol to the American Convention on Human Rights to abolish the death penalty, Colombia, 5 February 1990, <https://www.oas.org/en/iachr/mandate/Basics/observations-death-penalty-Colombia.pdf>

219 See <http://english.corteconstitucional.gov.co/sentences/C-239-1997.pdf>

220. ‘Child-killing’ soldier should serve 60 years: Prosecution, Colombia Reports, 16 August 2011, <http://colombiareports.com/child-murdering-lieutenant-should-serve-60-years-prosecution/>

221. Colombia accuses FARC of ‘war crime’ in disputed clash, Yahoo News, 16 April 2015, <http://news.yahoo.com/colombias-farc-rebels-deny-breaking-ceasefire-183418490.html>

as BACRIMs by the Government have emerged and these groups commit serious crimes.<sup>222</sup>

The FARC, the largest and the oldest of all the armed groups in Colombia, operates throughout the country, predominantly in the states bordering Ecuador, Panama and Venezuela. Between 1980s and 2000s, the FARC succeeded in gaining control of over one-third of Colombia's national territory, having fighters on the entry and exit routes of all major cities.<sup>223</sup> After his re-election in 2006, then President Alvaro Uribe launched an unprecedented military offensive against the FARC, backed by US military aid.<sup>224</sup> This forced the militant group to retreat from the big cities, and they are presently mostly active in its heartland in the south.<sup>225</sup> The group had about 16,000 fighters in 2001, according to the Colombian government, but this is believed to have dropped to about 8,000, mainly as a result of desertions.<sup>226</sup>

Since 2012, Colombian government and the FARC have been holding talks in Havana, Cuba. But killing of 11 soldiers by the rebels in April 2015 led the government to step up operations against the rebels. A government air strike on 21 May 2015 killed Jairo Martínez, chief negotiator for FARC, along with 26 other rebels that prompted the FARC to end the indefinite unilateral ceasefire that it had declared in December 2014.<sup>227</sup>

A recent report by the Colombia's National Center for Historical Memory estimated that from 1958 until 2012, the conflict resulted in 220,000 killings, over 5.7 million forced displacements, 25,000 disappeared and 27,000 kidnappings.<sup>228</sup> Eighty percent of those killed were civilians.

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222. 'Colombia 2014 Crime and Safety Report: Bogotá', Overseas Security Advisory Council (OSAC), <https://www.osac.gov/pages/ContentReportDetails.aspx?cid=15445> (Accessed 4 June 2015)

223. Fact sheets - FARC areas of influence, Colombia Reports, 21 April 2014, <http://colombiareports.com/farc-areas-of-influence/>

224. Profiles: Colombia's armed groups, BBC, 29 August 2013, <http://www.bbc.com/news/world-latin-america-11400950>

225. Fact sheets - FARC areas of influence, Colombia Reports, 21 April 2014, <http://colombiareports.com/farc-areas-of-influence/>

226. Profiles: Colombia's armed groups, BBC, 29 August 2013, <http://www.bbc.com/news/world-latin-america-11400950>

227. Colombia guerrilla peace negotiator killed in government air strike, The Guardian, 27 May 2015, <http://www.theguardian.com/world/2015/may/27/colombia-guerrilla-farc-killed-air-strike-peace-talks>

228. Farc guerillas make historic admission of guilt in Colombia bloodshed, The Telegraph, UK, 20 August 2013, <http://www.telegraph.co.uk/news/worldnews/southamerica/colombia/10255424/Farc-guerillas-make-historic-admission-of-guilt-in-Colombia-bloodshed.html>

However, not all of the violence is caused by FARC insurgents; more than half of the massacres in the past three decades had been carried out by right-wing paramilitaries, originally created to combat the FARC.<sup>229</sup> Both the FARC and the ELN have been using terrorism and kidnapping for leverage and income. The National Center for Historical Memory estimates that guerrilla groups kidnapped 25,000 people between 1970 and 2010. In one of its most notable kidnappings, the FARC abducted presidential candidate Ingrid Betancourt in 2002. The group held her and three American military contractors until 2008, when Colombian forces rescued them and twelve other hostages.<sup>230</sup> Other notable crimes committed by the FARC include the assassination of popular former culture minister, Consuelo Araujo, on 29 September 2001<sup>231</sup> and the hijacking of a domestic commercial flight and kidnapping of Senator Jorge Eduardo Gechem Turbay who was on board the flight on 20 February 2002.<sup>232</sup>

The conflict has not only brought terror to Colombia and its neighbours but has in large measure fuelled the cocaine trade as the FARC turned to cocaine production to fund their armed insurgency, helping establish the country as the world's leading producer of the class A narcotic.<sup>233</sup> Experts estimate that FARC takes in between \$500 million and \$600 million annually from the illegal drug trade. The FARC also profits from kidnappings, extortion schemes, and an unofficial "tax" it levies in the countryside for "protection" and social services. A 2008 International Crisis Group report notes that the group's control of population and territory in rural areas "has allowed it to dictate terms for coca growth, harvest, and processing". According to a US Justice Department report in 2006, the FARC supplies more than 50% of the world's cocaine and more than 60% of the cocaine entering the US.<sup>234</sup>

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229. What is at stake in the Colombian peace process?, BBC, 15 January 2015, <http://www.bbc.com/news/world-latin-america-19875363>

230. Council on Foreign Relations, <http://www.cfr.org/colombia/farc-eln-colombias-left-wing-guerrillas/p9272>

231. Threatened Colombian Peace Adviser Flees, The Washington Post, 7 October 2001, <http://www.washingtonpost.com/archive/politics/2001/10/07/threatened-colombian-peace-adviser-flees/a8e991e6-a21d-4b51-af3d-9c5c731d66b0/>

232. Colombian Rebels Hijack a Plane and Kidnap a Senator, The New York Times, 21 February 2002, <http://www.nytimes.com/2002/02/21/world/colombian-rebels-hijack-a-plane-and-kidnap-a-senator.html>

233. Farc guerillas make historic admission of guilt in Colombia bloodshed, The Telegraph, UK, 20 August 2013, <http://www.telegraph.co.uk/news/worldnews/southamerica/colombia/10255424/Farc-guerillas-make-historic-admission-of-guilt-in-Colombia-bloodshed.html>

234. UN Regional Information Centre for Western Europe, <http://www.unric.org/en/colombia/27013-the-guerrilla-groups-in-colombia>

Despite the ongoing peace talks with the Colombian government in Havana, Cuba that started in 2012, the FARC have continued to commit human rights violations. The United Nations High Commissioner for Human Rights stated on the situation of human rights in Colombia (2013) that *“In the context of the ongoing armed conflict, human rights violations are committed daily, with a disproportionate impact on vulnerable or geographically isolated sectors of the population and on social actors, community leaders and human rights defenders. The list of violations is long: killings, disappearances, torture and other ill-treatment, use of landmines, forced displacement, sexual violence and exploitation, stigmatization, threats and intimidation, recruitment and use of children, limitations on freedom of movement and circulation of food and medicines, violation of the rights to education, health, free assembly and opinion, persecution of medical personnel, limitations on humanitarian access, and the illegal use of civilian infrastructure”*.<sup>235</sup>

A July 2014 report of the Human Rights Watch stated that FARC guerrillas were committing widespread abuses with impunity in the mostly Afro-Colombian city of Tumaco and its surrounding rural areas. The HRW documented abuses in Tumaco against more than 70 victims since 2013 in which there is strong indication the FARC was responsible, including 12 killings, 3 disappearances, 6 cases of attempted forced recruitment, and 5 cases of torture, among other types of abuse. Further, 55 cases of conflict-related sexual violence and abuse were committed in Tumaco since 2011 in which the FARC was alleged to be responsible in 33 cases, paramilitary successor groups in 2, and unidentified attackers in 20.<sup>236</sup>

### **Highest homicide rates**

Apart from conflict related violence, crimes such as murder, rape, crime against children are reported in Colombia. In fact, Colombia is among the top countries with highest homicide rates in the world. As per the UNODOC, the homicide rate per 100,000 people in Colombia from 2002 to 2012 is given below:

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235. A/HRC/22/17/Add.3 dated 7 January 2013

236. “Colombia: FARC Battering Afro-Colombian Areas”, Human Rights Watch, 30 July 2014, <http://www.hrw.org/news/2014/07/30/colombia-farc-battering-afro-colombian-areas>

Year	Rate	Count
2000	66.5	26,540
2001	68.6	27,840
2002	68.9	28,387
2003	53.8	22,526
2004	44.8	19,036
2005	39.6	17,086
2006	36.8	16,119
2007	34.7	15,423
2008	33.0	14,911
2009	33.7	15,454
2010	32.3	15,013
2011	33.6	15,803
2012	30.8	14,670

Yet, Colombia has not reintroduced the death penalty stating that the maximum sentence of 60 years is sufficient punishment.<sup>237</sup>

Some of the crimes including those committed in the conflict can easily be bracketed under the “most heinous, brutal, grotesque, diabolical, revolting or dastardly” categories for which Indian courts regularly award death penalty. One such case is the rape and serial murders of children by Luis Alfredo Garavito Cubillos.

**The case of Luis Alfredo Garavito Cubillos**

Luis Alfredo Garavito Cubillos is stated to have killed 172 children from 1992 to 1998. Garavito was arrested on 22 April 1999 and he confessed to have killed 140 children. Garavito lured his victims, mostly street kids or peasant

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237. Colombia rules out death penalty for child molesters, International Business Times, 17 February 2015, <http://www.ibtimes.co.uk/colombia-rules-out-death-penalty-child-molesters-1488298>

children, by giving them a small amount of cash or small gifts. He would then take the children for a walk and rape them before slitting their throats.<sup>238</sup> In 1999, Garavito was sentenced to maximum prison term of 60 years. But the sentence was reduced to 52 years and six months because of a plea bargain deal under which Garavito agreed not to contest any of the charges against him. Although Garavito was being tried for the remaining cases, in no case can his sentence exceed 60 years.<sup>239</sup>

### **Insurgency related crimes**

All the three armed groups were accused of committing serious crimes in the conflict. Asian Centre for Human Rights has documented some of the violations committed by FARC, which, under any yardstick, would fall under the “most heinous, brutal, grotesque, diabolical, revolting or dastardly” categories.

- On 2 January 1994, 35 persons including three children were killed by FARC guerrillas in an attack at a school fund-raising party at La Chinita in Apartadó, Antioquia. Some of the victims were bound and shot execution-style, including a FARC militant for refusing to fire on civilians.<sup>240</sup>
- On 14 February 1996, a group of seven FARC guerrillas stopped a bus carrying over 40 workers to the banana farm known as Finca Osaka, near Carepa, Antioquia. The bus was forced to detour to a secluded spot and began checking identity cards. Thereafter, the FARC members singled out 11 persons including a woman and executed them with shots to the head at the side of the road.<sup>241</sup>
- On 4 and 5 May 1996, FARC members executed 14 people in Alto Mulatos and Pueblo Bello in Urabá. They victims were killed after

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238. Luis Alfredo Garavito: Serial rapist and murderer, nicknamed ‘The Beast’, India TV, 22 February 2014, <http://www.indiatvnews.com/crime/news/luis-alfredo-garavito-serial-rapist-and-murderer-nicknamed-2776.html>

239. Colombian child sex killer gets 52 years, IOL News, 17 December 1999, <http://www.iol.co.za/news/world/colombian-child-sex-killer-gets-52-years-1.23605#.VXUnFs-qqko>

240. Human Rights Watch, ‘War Without Quarter’, October 1998, <http://www.hrw.org/legacy/reports/reports98/colombia/index.htm#TopOfPage>

241. Human Rights Watch, ‘War Without Quarter’, October 1998, <http://www.hrw.org/legacy/reports/reports98/colombia/index.htm#TopOfPage>



tying them up in front of family members and neighbors. Some of the victims were locked inside their home and burned alive.<sup>242</sup>

- On 16 June 1996, 34 villagers who worked in a cocaine plantation run by right-wing paramilitary groups were executed by the FARC members which are also known as the La Gabarra Massacre.<sup>243</sup>
- On 7 August 2002, at least 14 people were killed and 40 injured in mortar shells by FARC in Bogota, Colombia. The attacks were carried out when Álvaro Uribe Vélez was sworn in as President. Two of the shells landed in a slum, killing at least 11 people, many of whom were sleeping in a crude shelter. Another shell landed on a house in a working-class neighborhood, killing three girls.<sup>244</sup>
- In May 2002, 119 civilians, about half of them children, were killed when a missile fired by the FARC hit a church in Bojaya in northern Colombia. The civilians had taken refuge in the church after fighting began between FARC and paramilitaries.<sup>245</sup>
- In February 2003, at least 32 civilians including six children were killed and over 200 injured in a car bomb explosion carried out by FARC in the basement of the El Nopal social club in Bogotá.<sup>246</sup>

## 5.2. Honduras

Death penalty is prohibited in Honduras. Honduras was one of the first countries to sign the American Convention on Human Rights or Pact of San José, with no reservations and undertaking not to reintroduce the death penalty and to abolish it definitively in the 1957 Constitution. This was a major step in proclaiming the inviolability of the right to life.<sup>247</sup>

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242. Ibid.

243. Ibid.

244. Explosions Rattle Colombian Capital during inaugural, *The New York Times*, 8 August 2002, <http://www.nytimes.com/2002/08/08/world/explosions-rattle-colombian-capital-during-inaugural.html>

245. Church bombing: All sides accused, *BBC News*, 22 May 2002, <http://news.bbc.co.uk/2/hi/americas/2001313.stm>

246. At least 32 killed in Colombia club blast, *CNN.com*, 8 February 2003, <http://edition.cnn.com/2003/WORLD/americas/02/08/colombia.explosion/>

247. A/HRC/WG.6/22/HND/1, 23 August 2010

Honduras is one of the most violent nations in the world. Although there is no armed conflict, Honduras is caught in a vortex of crime, drug trafficking, gang wars, political upheaval and fierce land disputes. Crimes such as murder, kidnapping, extortion, carjacking, armed robbery, rape, and other aggravated assaults are reported regularly.<sup>248</sup> It is stated that gang violence is behind a majority of the crime in Honduras.<sup>249</sup> The proliferation of small and light weapons, the drug trade, and the actions of violent armed gangs contribute to high levels of violence.<sup>250</sup>

Honduras with a population of eight million has the world’s highest murder rate. In 2012, an average of 20 people were killed every day. During the same period the murder rate was 173 in San Pedro Sula, reportedly the highest in the world outside a war zone.<sup>251</sup> The homicide rate per 100,000 people in Honduras from 2002 to 2012 as per the UNDOC is given below:

<b>Year</b>	<b>Rate</b>	<b>Count</b>
2000	50.9	3,176
2001	54.8	3,488
2002	55.8	3,623
2003	61.4	4,073
2004	53.8	3,639
2005	46.6	3,212
2006	44.3	3,118
2007	50.0	3,588
2008	60.8	4,455
2009	70.7	5,280
2010	81.8	6,236
2011	91.4	7,104
2012	90.4	7,172

248. Norwegian Refugee Council/Internal Displacement Monitoring Centre (NRC/IDMC), Global Overview 2014: people internally displaced by conflict and violence - Honduras, 14 May 2014, available at: <http://www.refworld.org/docid/53747483379.html> [accessed 8 June 2015]

249. Harrowing images of police battling gang violence in crime-stricken Honduras, The Washington Post, 1 August 2014, <http://www.washingtonpost.com/blogs/worldviews/wp/2014/08/01/harrowing-images-of-police-battling-gang-violence-in-crime-stricken-honduras/>

250. <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14833&LangID=E>

251. Inside San Pedro Sula - the most violent city in the world, The Guardian, 15 May 2013, <http://www.theguardian.com/world/2013/may/15/san-pedro-sula-honduras-most-violent>

Femicide, the systematic killing of girls and women, is widespread in Honduras. In July 2014, the UN Special Rapporteur on Violence Against Women noted that violent deaths of women in Honduras had increased 263.4 percent between 2005 and 2013. The Special Rapporteur expressed concerns regarding the high levels of domestic violence, femicide, and sexual violence. Majority of the violence against girls and women are committed by gang members. In fact, girls and women are fleeing sexual violence at the hands of gangs in Honduras.<sup>252</sup>

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252. Centre for Gender and Refugee Studies 'Thousands of Girls and Women are Fleeing Rape, Sexual Violence and Torture in Honduras, El Salvador and Guatemala', [http://cgrs.uchastings.edu/talking\\_points\\_and\\_stories](http://cgrs.uchastings.edu/talking_points_and_stories) [Accessed 9 June 2015]

The National Campaign for Abolition of Death Penalty in India - a programme of the Asian Centre for Human Rights (ACHR) supported by the European Commission under the European Instrument for Democracy and Human Rights (EIDHR) - conducts research, analysis and advocacy on issues relating to death penalty with the aim for its eventual abolition.

The National Campaign for Abolition of Death Penalty in India has published the following reports relating to the issue of death penalty in India:

- Our Standards and Their Standards: India Vs Abolitionist Countries
- India: Not safe for extradition of those facing death sentences?
- The State of the Right to Life in India, August 2015
- India: Death Without Legal Sanction, June 2015
- India: Death despite dissenting judgements, 02 June 2015
- India: Death in the name of conscience, May 2015
- Arbitrary on all Counts: Consideration of mercy pleas by President of India, 10 December 2014
- Death Reserved for the Poor, November 2014
- Death penalty through self incrimination in India, October 2014
- India: Death Without the Right to Appeal, September 2014
- Award of enhanced punishment of death by the Supreme Court, 26 September 2014
- India: Death Penalty Has No Deterrence, August 2014
- India: Death Penalty Statistics, June 2014
- The Case for Abolition of Death Penalty in India - ACHR's submission to the Law Commission of India on Capital Punishment, May 2014
- Mercy on Trial in India, 22 October 2013
- The State of Death Penalty in India 2013, 14 February 2013

The following publications are expected:

- The state of the mercy pleas
- Right to life in the context of death penalty: Death Penalty and the UN Human Rights Committee
- Death Penalty in India: Issues and contentions

All the reports are available at [http://www.achrweb.org/death\\_penalty.html](http://www.achrweb.org/death_penalty.html)

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