

Forum: Social, Cultural, and Humanitarian Committee (SOCHUM)

Issue #18-01: Addressing the practice of the death penalty

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Introduction

The death penalty is a form of capital punishment. It entails being sentenced to death for committing a capital crime. The first accounts of it are many centuries old. Today, the manners of carrying out this punishment include, but are not limited to: beheading, electrocution, hanging, lethal injection and firing squad.

According to 2016 Amnesty International statistics, 57 countries maintain the death penalty in law. This means that in these countries the death penalty is legal, but not used as a form of punishment, lest it be an extreme case. Meanwhile, 23 countries around the world retain it in practice, meaning that it is still used. However, in 2016, executions went down 37 percent since 2015, at least according to recorded numbers.

A majority of the countries that still practice the death penalty lack transparency when it comes to executions and the information related to them. The United States is one of the only countries which publishes this information, and only partially. The fact that information is withheld everywhere from the families of the convicted isn't fair to them and serves the purpose of concealing what should be public information.

Human rights groups such as Amnesty International have been advocating for the abolishment of the death penalty for years now. Amnesty has been doing so since 1977. In this year, 16 countries had eliminated the death penalty. Since this year, 141 countries have either abolished the punishment in practice or in law. By the end of 2017, 106 countries had abolished

the death penalty completely. Nevertheless, still, over 993 executions were carried out in this year, excluding China, which likely carried out over a thousand.

The United Nations is also against the death penalty, as its practice violates two essential human rights: the right to life, and the right to live free from torture. On October 10th 2017, the World Day Against the Death Penalty, Secretary-General António Guterres addressed an event at the UN Headquarters in New York. He stressed that “The death penalty does little to deter crimes or serve victims” and said that, “The death penalty has no place in the 21st century”.

Amnesty says that the death penalty does not deter crime, according to a multitude of studies conducted, but countries who maintain the death penalty claim otherwise. For instance, according to the Death Penalty Information Center, the murder rate of this decade has gone down in the U.S., while the number of executions has gone up. However, the murder rate in states without the death penalty has consistently remained lower than the murder rate in states with the death penalty.

Overall, there are studies that support the effectiveness of the death penalty, and studies that maintain that it does little to deter crime rates, but as a committee part of the National Research Council has concluded, the studies are too flawed in terms of methodology to point to any conclusive results.

Nevertheless, governments still using the death penalty claim the death penalty not only deters crime, but helps to keep dangerous criminals off the street for good, while Amnesty International, the United Nations, and other countries, having abolished the death penalty, maintain that this is not the case and that it is a political tool, expensive, discriminatory and a way that innocent people may suffer an irreversible punishment.

Definition of Key Terms

Abolitionist:

Having abolished something and advocating for its abolition, especially the death penalty.

Capital punishment:

The legal authorization to kill someone as a consequence for committing a, often severe, crime. A type of capital punishment is the death penalty.

Capital crime:

A crime so serious that death is considered as a form of punishment. Such crimes entail murder or the betrayal of one's country.

Death Penalty:

The punishment for committing a capital crime. A type of capital punishment.

Death Row:

A block or section in a prison that is reserved for prisoners who have been sentenced to death. Most death row inmates postpone the death penalty by several years through the filling out of appeals.

Retentionist:

Advocating the continuation or retention of something, especially capital punishment.

Moratorium:

The temporary probation of an activity.

General Overview

The earliest records of the death penalty trace back many centuries. Today, its use is diminishing, but still a pressing issue. People, even juveniles, continue to be executed every day despite the fact that this goes against the Human Rights Declaration adopted by the UN in 1948, with over 50 countries participating in its drafting and 48 becoming signatories.

A study exploring the correlation between the countries' legal, political and religious systems and their use of the death penalty was released. Essentially, the study aimed to answer why some countries have and why others don't have the death penalty. Professors David Greenberg and Valerie West drew varied conclusions from the data of 193 countries compiled. They found that countries who convict more criminals are also more likely to kill them, that countries with higher literacy rates and more developed economies were less likely to use the death penalty, that where the Catholic religion was present, there were also fewer executions, and that the population of a country had little to do with whether or not countries implemented the death penalty. However, the two professors pointed out that these were generalizations, and that they would not apply in every case.

Reasons for the death penalty

Some countries still use the death penalty because of the overcrowding of prisons, because they believe that it will help serve justice and because they believe that the death penalty will help reduce crime rates.

Reasons against the death penalty

On the other hand, other countries and organizations say that the death penalty violates the human rights of life and a life free from torture or cruel, inhuman or degrading treatment or punishment. They say that it at times claims innocent lives.

For instance, from the year 1973 to 2012, 140 People in the United States were released from death rows due to wrongful imprisonment. In 2009 alone, 9 inmates were released from death row. For instance, in Alabama, Daniel Wade Moore was originally found guilty of the sexual assault and murder of Karen Tipton in 2002. However, he was released in 2009, when 256 pages of withheld evidence were introduced.

Some have not been so lucky, as their innocence was discovered only after the death penalty was carried out. Thus, irreversible damage has been done not only to the individuals executed but to their families and friends.

States and organizations that oppose the death penalty also say that it is not a deterrent to crime, is expensive and unjustly disregards mental illness. The death penalty costs countries who use it millions every year, due to the lengthy legal processes, methods of execution and after costs, such as those for funerals.

Organizations against the death penalty

Organizations that oppose the death penalty include Amnesty International, the United Nations (UN) and the Organization of American States (OAS). These parties and, in the cases of the UN and OAS, the countries that form part of them, have eliminated the death penalty in certain places, introduced resolutions to do so in others, and conducted studies to discredit the death penalty.

Major Parties Involved and Their Views

United States

The United States is a Group of 7, or G7, country, meaning that it is one of the seven most powerful industrialized countries in the world. Out of these seven, it is the only one still carrying out executions. As of 2016, 31 states retain the death penalty, while 19 have abolished or overturned it. According to 2016 statistics, 20 people were executed in that year and 2,902 people were on death row. The United States as a whole classifies as a retentionist country, but it is not accurate to say this, seeing as not all of its states still use the death penalty. Nevertheless, executions have decreased since the year 2000, and in 2006, the United States was no longer among the top five executioners in the world, according to Amnesty International statistics. The United States releases some information regarding executions, but a portion of it remains classified.

Iran

Iran's executions have put it among the top countries in terms of how many people are executed

each year. In 2016, over 500 people were executed. Iran's methods of execution vary from hanging to shooting, to stoning to falling from an undetermined height. However, hanging is the most common method, and although a moratorium was put on public hangings in 2008, they continue to happen. Up until May 23rd of 2018, Iran's executions tallied up to 36 according to the Abdorrahman Boroumand Foundation. As of May 4th, 2018, however, Iran Human Rights Monitor reports 72 executions. As there is much secrecy around executions, it remains hard to tell exactly how many people, and for what reasons, were and are still executed. As of 2017, Iran is the top 2nd in terms of how many people are executed each year.

Saudi Arabia

Saudi Arabia retains the death penalty in law and in 2016, 154 people were executed. Saudi Arabia is third in terms of how many people are executed each year. The previous number is an estimation, as the actual figures remain classified. The most common form of execution in Saudi Arabia is beheading, although public stoning is used for crimes such as adultery. Shooting is also a method that is used. After execution, people are often crucified.

Sudan

Sudan retains the death penalty in law and gave 21 death sentences in 2017. Like in Iran and Saudi Arabia, a common form of carrying out this sentence is stoning. The punishment is carried out by a crowd, who throw stones at the sentenced individual. This individual is buried up to their chest with their hands tied. Reports by Amnesty International show that hanging is the most common method of execution. Media numbers put the execution figures at 0 in 2017, but because of the secrecy surrounding capital punishment, a completely accurate number cannot be determined.

China

In China, the death penalty is deeply rooted and dates back thousands of years. The punishment is not only written in the criminal code, but also regularly enforced. The methods of execution are, according to China's Criminal Procedure Law of 1996, shooting and lethal injection. However, in 2010, the method of shooting was discontinued, because death by lethal injection

was found to be more humane. Also, the cost for one dose of lethal injection is 300 yuan, while the cost for a firing squad is 700 yuan. Thus, the method of death by lethal injection is cheaper. China is executing hundreds of people each year, but the exact numbers remain classified, as they are a state secret. They have been named the top executioner in the world, with annual executions numbering around a thousand by Amnesty International.

Iraq

Iraq maintains the practice of the death penalty and is among the top countries in terms of the number of executions. Iraq shows no signs of falling from being the top fourth executioner in the world in the coming years. Over 88 executions were carried out in 2016. Methods of execution include hanging and shooting. Hanging is the most common method. Shooting should be provided for by the Military and Internal Security Forces laws, but sources show that it hasn't been carried out in some time.

Brazil

The last execution carried out in Brazil was in 1876. The death penalty has not been used a form of punishment officially since the year 1889 with the proclamation of the republic. However, the form of punishment is still liable in times of war for severe crimes. Because of this, Brazil is considered to not have abolished the death penalty completely.

Russia

Russia retains the death penalty in law but hasn't carried out executed for ten years now. Before a moratorium was placed on executions in the year 1996, the death penalty was carried out by the manner of shooting. Nevertheless, the last execution recorded occurred in 1999.

Kazakhstan

Kazakhstan abolished the death penalty in 2009. The country's president, Nursultan Nazarbayev, signed a presidential decree in 2003 that imposed a moratorium on the death penalty. In 2009, Nazarbayev signed a law which abolishes the death penalty except in cases of terrorism that result in death or in the case of a war crime. In these situations, the law allows for the right to

seek pardon.

Peru

Peru retains the death penalty in law, but is abolitionist in practice, only carrying out executions for treason and crimes committed in times of war. The country abolished capital punishment in 1979 for ordinary crimes. Peru has considered the reinstatement of the death penalty for children's rapists and assassins, especially after since in recent years there have been incidents surrounding these crimes.

Chile

Chile is abolitionist in practice, but maintains the death penalty in law for serious crimes, like those committed during war. The country abolished the death penalty for ordinary crimes in 2001.

Germany

Germany abolished the death penalty completely in 1987. This concerns all crimes. In 2014, Germany withheld information and evidence concerning a case that the United States was pursuing because of their opposition to the death penalty. Sean Oliver had been charged with the murder of another member of the United States military, Dmitry Chepusov. Germany refused to cooperate unless the United States agreed not to pursue the death penalty as a form of punishment. In 1985, Germany fought the extraction of a German citizen charged with two murders in Virginia, until the U.S. agreed not to seek the death sentence.

United Kingdom

Since 1998 in the United Kingdom the death penalty has been illegal. However, it has been over 50 years since the country used the type of punishment. In 1965, it was suspended before it was eliminated for good. Nevertheless, some people believe that it should be reinstated for crimes such as terrorism

Turkey

Turkey has abolished the death penalty for all crimes. It did so in 2004, but since that year, there has been talk about reinstating it. Reinstating the death penalty would make Turkey's chances long-standing goal of joining the European Union unreachable.

France

France has abolished the death penalty completely. The 14th World Day against the Death Penalty on October 10th marked the 40th year since the last execution in France. France advocates for the abolishment of the capital punishment.

Sweden

Sweden is against the death penalty. Since 1972, the death penalty has been outlawed. Sweden, like the United Nations, maintains that the death penalty should be abolished, as it is incompatible with human rights.

Argentina

Since 2008 the death penalty has not been allowed by the law. The country ratified the United Nations Second Protocol on September 2nd of 2008. This international treaty, for which the World Coalition is currently campaigning, makes it impossible to reinstate the death penalty. Under a 1994 constitutional amendment, all international treaties signed by Argentina are the same as constitutional rules. Thus, the form of capital punishment is permanently abolished.

Timeline

Date	Description of event
1948	The United Nations unanimously adopted the Universal Declaration of Human Rights, which states that people have the right to life, and the right to live free from torture.

- 1957-1972 England and Canada conduct studies which, for the most part, were critical of the death penalty.
- 1957 The movement against capital punishment is revitalized in the United States. Several states, such as Hawaii and Alaska, abolish the death penalty. Delaware does so in the following year but reinstates it in 1961.
- 1963-1965 Michigan abolishes the death penalty as a consequence for treason. The next year in Oregon, voters abolish the death penalty. Iowa, New York, West Virginia and Vermont abolish the death penalty.
- 1966 The International Covenant on Civil and Political Rights (ICCPR) is adopted by the United Nations. According to Article 6 of this covenant, a person shall not “be arbitrarily deprived of his life” and neither pregnant women or people under 18 years of age at the time of the crime shall receive the death penalty.
- 1974 The National Conference of Catholic Bishops publicly opposes the death penalty, switching from the Roman Catholic Church’s traditional view that the death penalty serves to protect the state.
- 1984 The United Nations adopts the Second Optional Protocol to the ICCPR, which aims to abolish the death penalty.
- 1987 A study is published by Hugo Bedau and Michael Radelet which documents 350 cases in which defendants were wrongly convicted and sentenced to death between 1900 and 1985. Following the publication of the study, multiple other cases of wrongful conviction arise.
- 1989 The UN economic and social council (ECOSOC) adopted “Safeguards

Guaranteeing Protection of Rights of those Facing the Death Penalty”.

- 1990 The General Assembly of the Organization of American States (OAS) adopts the Protocol to the American Convention on Human Rights. This abolishes the death penalty in all instances except during war.
- 1993 The International Criminal Tribunal for the former Yugoslavia does not accept the death penalty as a form of punishment in any circumstance.
- 1995 The United Nations Convention on the Rights of the Child comes into force, preventing the execution of individuals under the age of 18.
- 1999 The UN Commission on Human Rights (UNHCR) passed a resolution calling on all states who maintain the death penalty to restrict the number of crimes punishable by death.
- 2002 The Council of Europe’s Committee of Ministers adopts Protocol 13 to the European Convention on Human Rights, the first legally binding international treaty aiming to abolish the death penalty in all circumstances.
- 2005 The UNHCR approves Human Rights Resolution 2005/59 on the question of the death penalty, calling on all states who haven’t abolished it yet, to do so.
- 2007 The United Nations General Assembly passes a resolution calling for the moratorium of the death penalty. I was passed by a 104 to 54 vote, with 29 abstaining. Similar resolutions failed in the 1990s.
- 2011 Sole United States firm stops making the key drug for death penalty executions. The making of this drug, sodium thiopental, was stopped to make sure that it

wouldn't end up being used for the death penalty again.

UN involvement, Relevant Resolutions, Treaties and Events

- In 1948, the United Nations adopted the Universal Declaration of Human Rights, which states that every person has the right to life and the right to a life free from torture or cruel, inhuman or degrading treatment or punishment.
- In 1966 the International Covenant on Civil and Political Rights (ICCPR) is adopted by the United Nations. According to Article 6 of this covenant, a person shall not “be arbitrarily deprived of his life” and neither pregnant women or people under 18 years of age at the time of the crime shall receive the death penalty.
- The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty is adopted and proclaimed by the General Assembly resolution 44/128 of 15 December 1989.
- In 1989, the UN economic and social council (ECOSOC) adopted “Safeguards Guaranteeing Protection of Rights of those Facing the Death Penalty. In the same year those safeguards are endorsed by the General Assembly. They state that any person sentenced to death has the right to appeal and/or petition for a pardon or commutation. They also state that no one under the age of 18 shall be put to death.
- In 1995 the United Nations Convention on the Rights of the Child comes into force, preventing the execution of individuals under the age of 18.
- In 1999 the UN Commission on Human Rights (UNHCR) passed a resolution calling on all states who maintain the death penalty to restrict the number of crimes punishable by death.
- The Protocol to the American Convention on Human Rights to Abolish the Death Penalty is drafted at a conference held by the Organization of American States (OAS).
- Protocol No. 6 to the European Convention on Human Rights, concerning the abolition of the death penalty, is created.
- Protocol No. 13 to the European Convention on Human Rights, concerning the abolition

of the death penalty in all circumstances, is created.

- In 2005, the UNHCR approves Human Rights Resolution 2005/59 on the question of the death penalty, calling on all states who haven't abolished it yet, to do so.

Evaluation of Previous Attempts to Resolve the Issue

As seen through UN involvement, the use of the death penalty has been declining over the years. In 2015, 1634 individuals were reported to have been executed. This was the highest number of people since 1989. Nevertheless, in 2016, execution rates went down by 39% to 1,032 people, and in 2017 they went down 4%. In 2017 there were 993 executions carried out in 23 countries around the world.

Treaties such as the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty have been taken upon by numerous countries, such as Argentina. Others, like the 1999 resolution passed by the UN Commission on Human Rights (UNHCR), aim to abolish the death penalty in a less direct way, looking to minimize the number of crimes that are punishable by death.

Advantages of these treaties are that whether or not they are aimed at eliminating a specific aspect of the death penalty or the death penalty itself, they are specific, extensive and international.

Disadvantages of these treaties include that they are not easily enforced. They are drafted under the assumption that countries will sign and keep to their promise to uphold the treaty. Also, some are more short run than long run, like the 1999 resolution. Treaties that aim to solve problems in the short run will need to be added upon by other similar treaties, which will take time. On the other hand, long run treaties are more likely to take more time for countries to agree to and sign, as they are more detailed and all-encompassing.

Possible Solutions

Possible Solutions include the drafting of future treaties that are not only clear on the complete abolishment of the death penalty, but also legally binding. The ratification of these treaties would lead to the elimination of the death penalty in any and all circumstances. As the death penalty has not proven to be a deterrent for crime or an acceptable method of obtaining justice, it has no place in the 21st century, as the Secretary-General of the United Nations has pointed out.

Steps that could be taken to implement solutions such as these would include, in some instances, changing the way people think, for, in some countries, this procedure is embedded so deeply in the culture that it is normal. To change the way people see the punishment, campaigns against it could be founded. Also, education on its positive and negative aspects could be more widely implemented not only for the general population but also for governments and officials such as lawmakers around the world.

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