

Forum: Human Rights Council
Issue: Protecting the rights of those facing the death penalty
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Introduction

The death penalty, also known as capital punishment, is the lawful, state-sanctioned infliction of death as punishment for committing serious crimes. The earliest recorded use of the death penalty can be traced back to ancient Greece in the 7th century B.C.E. Throughout civilizations, various forms of the death penalty were conducted. Some of these early methods include boiling, stoning, burning, hanging, beheading, and executions by firing squads. The death penalty carries on to this day in countries with methods such as lethal injection and the gas chamber. Today, concerns with its ineffectiveness in reducing crime coupled with human rights concerns have led to over 70% of the countries in the world abolishing the practice. The death penalty in those countries has been replaced by punishments like life imprisonment.

According to the Death Penalty Information Center, at least 657 executions were carried out in 2019. Disproportionate use against minorities or mentally disabled individuals, execution of the innocent, and the method of execution, all represent serious human rights violations. Proponents argue that the death penalty is legitimate by stating that those who commit murder have taken the life of another, so they should also lose their right to life. They also claim that the death penalty reduces or deters crime. Death penalty opponents argue that capital punishment is immoral regardless of when it is used, but particularly in response to non-violent or drug-related crimes, due to the disproportionality of the punishment. They claim that capital punishment violates the condemned person's right to life and is inhumane and degrading. Additionally, statistics reveal a lack of correlation between whether a country uses the death penalty and the overall crime rate. According to Amnesty International, research has shown that the death penalty is not a more effective deterrent than the alternative sanction of life or long-term imprisonment.

For the reasons listed above, all member nations are encouraged to address this issue by drafting effective resolutions that focus on eliminating the human rights violations related to the death penalty.

Definition of Key Terms

Death row phenomenon

The "death row phenomenon" describes a psychological disorder experienced by prisoners condemned to death. According to a study conducted by US criminologist Robert Johnson, the cause of the death row phenomenon includes a combination of confinement, the treatment that death row inmates are subjected to, isolation, and deprivation of interaction. It has also been noted that uncertainty regarding the date of execution leads to trauma. While there is no consensus on the precise nature of the death row phenomenon, there is general acceptance that it might invoke a violation of the prohibition against torture and cruel, inhumane treatment.

The right to a fair trial

According to the European Convention on Human Rights, "When a person is charged with a crime, or involved in some other legal dispute, they have the right to a fair trial." This means that everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial trial established by law. The fair trial serves to limit governmental abuse, promote transparency, and help prevent miscarriages of justice, which, in the past, had led to innocent people being imprisoned or killed. Moreover, the effective protection of all human rights very much depends on the availability of access to competent, independent, and impartial courts of law that can, and will, administer justice fairly. Yet, though over 90% of countries have signed international agreements requiring them to ensure everyone gets a fair trial, many still fail to do so for a number of reasons, including discrimination, access to lawyers, profiling, coercion, and pre-trial detentions. It is vital to address the issue as people need to have faith that anyone accused of a crime will be treated fairly and humanely. Without fair trials, the consequences can be devastating and trust in government--as well as the rule of law--can collapse.

Sentencing disparities

According to the United States Department of Justice, the sentencing of disparities is defined as "a form of unequal treatment in criminal punishment that is often of unexplained cause and is at least incongruous, unfair and disadvantageous in consequence." A study conducted in the US in 2006 gives evidence of racial sentencing disparities. In the study, prisoners were categorized as Blacks and Hispanics or Whites/Non-Hispanics. The study found that between the years 1990–1999, Blacks and Hispanics received more intense and harsher penalties than the White/Non-Hispanic group, regardless of the level of the crime committed.

European Convention on Human Rights

The European Convention on Human Rights, drafted in 1950 and came into force in 1953, is an international convention to protect human rights in Europe. Written by the Council of Europe, a human rights organization, the Convention is comprised of three sections and addresses a wide range of human rights. The main rights and freedoms are laid out in Section I (Articles 2-18). Section II (Articles 19-51) established the European Court of Human Rights and outlines its rules of operation. Section III (Articles 52-59) contains concluding provisions. Following the articles are the seven protocols that are formative in developing a just and fair legal system for member nations. In particular, under Protocol 6, Article 1 reads “Abolition of the death penalty: The death penalty shall be abolished. No one shall be condemned to such a penalty or executed.” All member nations are forced to abide by this protocol, and The Council of Europe has made abolition of the death penalty a prerequisite for membership. Therefore, no legal execution has taken place in any of the organization's member states since 1997.

History

Establishment of capital punishments

The first established laws of capital punishment date back to the Code Hammurabi, written in eighteenth-century B.C.E., which codified capital punishment for 25 different crimes. Other early uses of capital punishment included the 1500 B.C.E. Hittite Code, the Seventh Century B.C.E.'s Draconian Code of Athens, and the Fifth Century B.C.E.'s Roman Law of the Twelve Tablets. Executions during this period were carried out via crucifixion, drowning, being beaten to death or burnt alive, and impalement.

In the Tenth Century C.E., Britain became one of the countries that constantly practices capital punishments. Even though in the following century, William the Conqueror would not allow anyone to be hanged or executed for any crime, the death penalty was reinstated in the Sixteenth Century by Henry VIII. Under his rule, approximately 72,000 people were executed. Common methods of execution during this period included boiling, burning at the stake, hanging, and beheading. The number of capital crimes in Britain continued to rise throughout the next two centuries. By the Eighteenth Century, 222 crimes were punishable by death in Britain. This eventually led to the reform of Britain's death penalty because many juries would not convict defendants if the offense was not serious.

Removing the death penalty

In 1863, Venezuela became the first country to ban the death penalty. The president at the time, Juan Crisostomo Falcon, argued that the use of the death penalty undermined human dignity and that any miscarriage of justice leading to its imposition would be irreversible and irreparable.

Since then, many countries have followed suit. By 2020, a total of 106 countries had banned the death penalty completely. A further 28 countries nominally still have death penalty laws but have not carried out an execution for at least 10 years, while eight countries permit the death penalty only for serious crimes in exceptional circumstances such as for wartime crimes.

Key Issues

Violation of the human rights of people facing the death penalty

Some uses of the death penalty represent clear violations of human rights. Examples include executing people who are under 18 years of age and using the death penalty against people with mental and intellectual disabilities. Since 1990, at least 152 executions of people who were below the age of 18 at the time of the crime have been documented. Moreover, it is estimated that between five and ten percent of all death row inmates suffer from a severe mental illness.

More than half of the exonerations of death row inmates since 2013 have been for people already serving at least 25 years in prison for crimes they did not commit. This means that people can spend decades on death row not knowing when their time is up or whether they will ever see their families again. This, psychologists have argued, can make prisoners suicidal, delusional, and cause other mental issues, which would be as psychologically damaging as torture. This is commonly referred to as the death row phenomenon.

For people who have been exonerated, the trauma may be permanent and could stand in the way of returning to normal life. According to a study conducted in the US, people exonerated for false accusations often experience reputational damage and self-stigma. Furthermore, people also experience depression, anxiety, PTSD, sleep problems, and other psychological symptoms. This also could damage their social life, leading to isolation and strain on relationships with friends and family.

Transparency of trials and executions

Many countries in the past have failed to carry out transparent trials and executions. This has caused many wrongful executions, also known as judicial murder. Cases like these have been documented in countries such as Australia, PRC, Ireland, the UK, the US, and Russia. The victims in

these cases often did not receive an open and fair trial, and many were tortured into confessing to a crime they did not commit.

The importance of court transparency is its ability to promote judicial accountability. Knowing that the internal activity is being monitored prevents corruption and miscarriage of justice and promotes productive judicial behavior. This reduces the odds of innocent people being condemned to die and further minimizes the chances for human rights violations to occur.

Major Parties Involved and Their Views

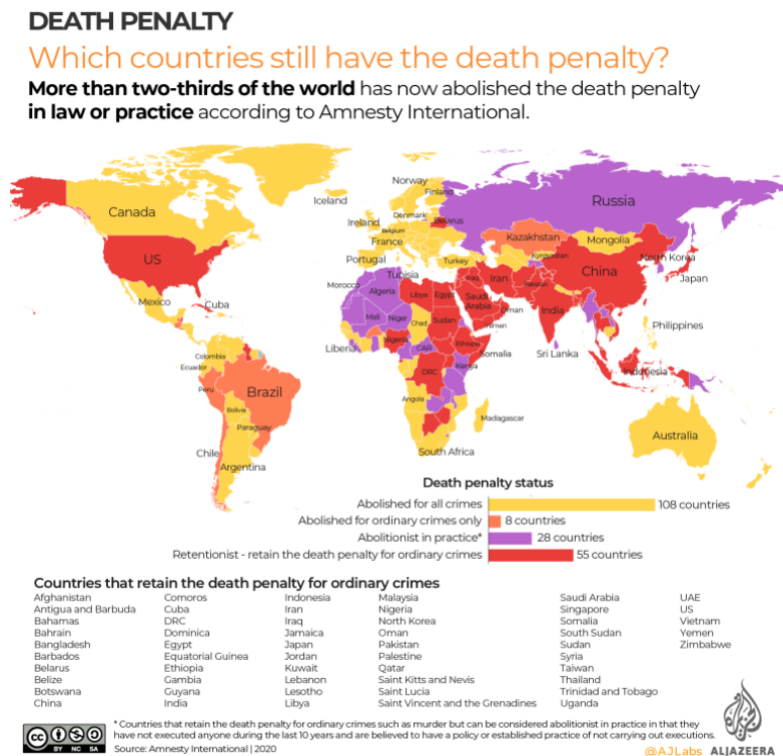


Figure 1: Infographic map of the death penalty by countries.

United States of America (USA)

In the developed world, the US is a major outlier in the number of executions it carries out. Other countries that execute a significant number of people are predominantly led by authoritarian regimes that have been documented to have committed major human rights abuses, including China, North Korea, Saudi Arabia, and Iran. Despite criticism and pressure from the international community, 27 US states have continued to use capital punishment. A major concern in the US regarding the death penalty is racially-based sentencing disparities. In the US, 75 percent of capital cases involve the murder of a white victim or victims, even though Blacks and Whites are about equally likely to be victims of murder. Other

issues such as sentencing the innocent and the time between sentencing and execution have also been a major concern in the US. According to the National Academy of Sciences, at least 186 people have been exonerated and released from prison after serving time on death row. From these statistics, it is estimated that as many as 4.1% of people currently on death row may have been wrongfully convicted. Moreover, the average time between sentencing and execution was 264 months (or 22 years) in 2019, triple that of the average death row stay in 1984. Of note is the wide gap in public opinion between members of the two major parties on the issue of capital punishment. According to a national poll by the Pew Resource Center, 77% of Republicans support the death penalty, compared with only 40% support from Democrats.

Amnesty International

Founded in 1961, Amnesty International is a non-governmental organization that focuses on addressing issues regarding human rights. Amnesty International's stated goal is that the death penalty is inhumane and should be abolished completely. Amnesty International has called the death penalty "the ultimate cruel, inhuman and degrading punishment." They also stated that they strongly oppose the death penalty without any exception, regardless of the crime, guilt or innocence, or the method of execution. The organization publishes an annual report documenting perceived abuses and analyzing trends for every country in the world. They actively campaign to strengthen standards against the use of the death penalty, apply pressure on cases that are about to be executed, and support actions of the abolitionist movement at all levels.

European Nation (EU)

The European Union (EU) is one of the strongest opponents of the death penalty in the world. Abolishment of the death penalty has been a prerequisite for admission into the EU, and all members of the EU have abolished capital punishment. The EU has been very active in fighting to abolish the death penalty. They initiated resolutions in the UN General Assembly asking for a ban on the use of the death penalty. The EU also issues statements, organizes campaigns, and intervenes on the behalf of those condemned to death, especially when minimum standards are not confirmed. The EU is also a donor to many civil society organizations that advocate abolition, such as the World Coalition Against the Death Penalty. In 2017, the EU banned the export of substances that can be used to carry out executions and launched an alliance under the UN framework for states supporting a trade ban on such substances.

Iran

Iranian law permits the use of the death penalty for roughly 50 crimes. Because the laws must be consistent with Islamic (Sharia) law, many of these capital crimes are related to violations of Islamic law. Moreover, Iran has constantly placed second in the number of executions it carries out every year,

although the government insists that the execution numbers are exaggerated and that executions are only carried out after a lengthy judicial process. Iran has also been carrying out executions of minors, despite having signed the Convention on the Rights of the Child, which forbids executing child offenders for crimes committed under the age of 18.

Timeline of Relevant Resolutions, Treaties and Events

Date	Description of Event
1800 BC	The first death penalty laws are established in the Code of King Hammurabi of Babylon. The Code of Hammurabi provides the first known death penalty framework.
1863	The death penalty is banned in Venezuela. Venezuela becomes the first country to ban the death penalty.
1865	The death penalty is banned in San Marino, making it the second country in the world (first in Europe) to abolish the death penalty.
1948	The UN Economic and Social Council passes Human rights, the Charter of the United Nations, and the International Bill of the Rights of Man: preliminary report. This resolution formally introduces the idea of abolishing the death penalty in the United Nations.
1982	The Council of Europe adopts Protocol No. 6 to the European Convention of Human Rights, which abolishes the death penalty in peacetime.
1984	The UN Economic and Social Council passed Safeguards guaranteeing protection of the rights of those facing the death penalty. This resolution prohibits the use of the death penalty under multiple circumstances, and it requires a fair trial to be carried out before condemning a person to death.
1987	The Philippines abolishes the death penalty for all crimes, becoming the first country in Asia to abolish the death penalty. Although it was re-imposed in 1993 to address the rising crime rate, it was abolished again in 2003.

Relevant UN Treaties and Events

- Safeguards guaranteeing protection of the rights of those facing the death penalty, 25 May 1984 (E/RES/1984/50)
- Draft revised Guidelines for State Reports under the International Covenant on Civil and Political Rights (ICCPR), 24 June 2010 (CCPR/C/2009/1/CRP.3)
- Human rights, the Charter of the United Nations and the International Bill of the Rights of Man: preliminary report, 12 May 1948 (E/CN.4/89)

Evaluation of Previous Attempts to Resolve the Issue

Safeguards guaranteeing protection of the rights of those facing the death penalty

Approved by the Economic and Social Council resolution on 25 May 1984, the resolution listed multiple regulations on the death penalty, including situations when the death penalty should not be entertained. It prohibits sentencing children under eighteen, pregnant women, new mothers, or people that have become insane to death. The resolution also ensures the right to a fair trial for anyone accused of a crime. The resolution states that the safeguards to guarantee a fair should “at least equal to those contained in article 14 of the International Covenant on Civil and Political Rights”, including the right of anyone suspected of or charged with a crime for which capital punishment may be imposed to legal assistance at all stages of the proceedings. Moreover, it states that capital punishment may be imposed only based upon clear and convincing evidence that leaves no room for any alternative explanations. In general, this resolution was successful as it helped improve the evaluation standards for the death penalty.

Possible Solutions

1. Abolishing the death penalty
 - Pros: Without the death penalty, the possibility for death penalty-related human right violation to happen will be eliminated. This would be supported by countries and organizations that are against the death penalty, which has a significantly larger number compared to those supporting it.
 - Cons: Though not the majority, some countries still practice the death penalty, and it is nearly impossible to enforce all of them to abolish the death penalty. This issue is especially significant in Islamic countries that follow Sharia, which permits the practice of the death penalty.
2. Putting pressure on states that violate UN resolutions relating to misuse of the death penalty
 - Pros: This better ensures that the death penalty will be carried out justly without interfering with any nation’s law. It also reduces the possibility for death penalty-related human right violation to occur.
 - Cons: It would be difficult to ensure countries that practice the death penalty follow the regulations at all times, as it is possible for secret executions to be carried out. This resolution may only improve the problem partially.

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Appendix or Appendices

I. International Standards on the Death Penalty:

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