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# Human Rights Council

## The abolishment of the death penalty



**MODEL UNITED NATIONS**  
THE INTERNATIONAL SCHOOL OF THE HAGUE

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<b>Forum:</b>	Human Rights Council
<b>Issue:</b>	The abolishment of the death penalty
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## Introduction

The death penalty is the act of taking someone's life for the committing of a capital crime. This varies greatly from country to country – some countries have completely abolished the death penalty whereas some still follow very strict laws sometimes influenced by religion. The death penalty is a broad topic, it has moral, religious and financial implications. The death penalty has been used since ancient times by many societies; from remote tribes to the very first colonies in the United States of America. The reason that this issue is so complicated is because a country must not only take into account international law and human rights, but these countries also have the right to make their own laws in their sovereign territory. Another question to be considered is that of whether capital punishment are just, and if so what methods are appropriate to use. There have been issues with some countries executing people under the age of 18, which is in direct violation of international law. Many countries have abolished the death penalty, but there are still many countries that use capital punishment frequently. In order to come to an international consensus about the abolishment of the death penalty, the position of each country with regards to this issue must be considered carefully and international agreements must be made.

## Definition of Key Terms

### Capital punishment

Capital punishment is an alternative term for the death penalty. Legal systems usually refer to this issue using this term. Capital punishment is the authority to execute someone for committing a crime.

### Capital crimes or offences



A capital crime or capital offence is a crime for which the legal system would consider death as a suitable punishment. This could include betrayal to one's country and cowardice, for example.

### Death sentence

This is the name of the sentence given to a criminal who has been convicted of a capital crime and will be executed at a later date.

### Theocracy

Government, legislature or laws which are based on a religion, or religious beliefs.

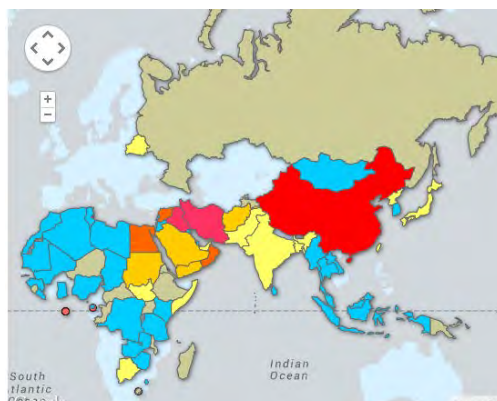
## General Overview

### Facts and figures

Different countries have different laws on if and when the death penalty should be used. As of today 36 countries actively practice capital punishment; 103 countries have completely abolished the death penalty and 6 countries have refrained from carrying out capital punishment although they still retain the law, which states that under special circumstances the death penalty can be implemented. There are 50 countries that have not used it in the last 10 years but have not officially abolished the death penalty.

### International Law

Article 6 of the International Covenant on Civil and Political Rights (ICCPR) contains international laws on circumstances of when the death penalty can be used. This does not prohibit the use the death penalty although it does provide guidelines. Firstly, there must have been a fair trial. This has actually been a very controversial aspect to the death penalty discussion as in some cases people convicted of serious crimes have been given a death sentence, this was then carried out and it has later been realized that these people were innocent. Moreover, often lawyers appointed to the defendants when they cannot afford to pay for one themselves are inexperienced and overworked, with the result that they do not



**Figure 1** Map showing the countries that still practice capital punishment

*Countries practicing capital punishment. Digital image. Amnesty USA. N.p., n.d. Web. 18 Aug. 2015. <<http://www.amnestyusa.org/our-work/campaigns/abolish-the-death-penalty>>.*



get a fair trial. The death penalty is an irreversible sentence and this means that a diplomatic solution to prevent such miscarriages of justice is needed so that everyone has a fair trial. Furthermore, if there has been any violation of the ICCPR rights then the death penalty cannot be used. Perhaps one of the laws on which there has been much focus defines that a legal system is not allowed to sentence someone to death if they are under the age of 18. This law has been directly violated by Sudan, Iran and Saudi Arabia; and this is all the more reason for a quick solution to the problem and international negotiation to abolish the death penalty. There is also a law stating that pregnant defendants cannot be given the death penalty.

## Race

Statistics show that there is a possibility that racism may have something to do with who gets the death sentence; for example in the United States of America around 22 000 murders are committed every year and less than 100 get sentenced to death. Although the number of murders committed by non-white murderers is relatively small, they account for the majority of people who receive a death sentence.

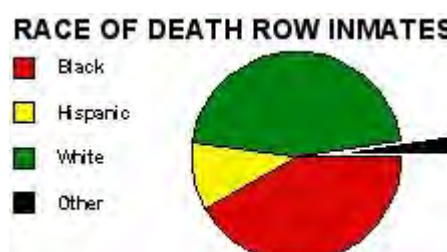


Figure 2 Graph showing the proportions of different races who are currently on death row

*Race of Prisoners Currently on Death Row. Digital image. Death Penalty. N.p., n.d. Web. 18 Aug. 2015.*  
<<http://deathpenalty.org/article.php?id=54>>.

## Major Parties Involved and Their Views

### Islamic Republic of Iran

Iran is reportedly one of the worst countries when it comes to the death penalty. In Iran, there have not only been reports of persons under the age of 18 being executed but also their methods of execution are very old fashioned for the modern day. In Iran the method of stoning is used to execute criminals, which is very inhumane in comparison with other methods. Furthermore in comparison with other countries the crimes for which people receive the death penalty are completely different and in most cases less severe. In Iran religion has a large influence on the law as Iran is a theocracy. In Iran it is a capital crime to be homosexual which in a lot of countries is not considered a crime at all. Moderate crimes, for example possession of a small amount of drugs, as well as more serious crimes such as rape and murder can all be punished by death. It should be seriously questioned whether it is just to execute people for such crimes, and whether we need to condemn countries that practice these extreme forms of punishment.



## Saudi Arabia

Similarly to Iran, Saudi Arabian law is based on Sharia law. This dictates that crimes such as Apostasy are punishable by death; this is when you oppose the religion of their country. This violates the basic human right of freedom of speech. This is taken even further by performing executions publicly in town squares. In Saudi Arabia they also use stoning as a method of execution. This is the reality of what is happening in some countries and diplomatic action has to be taken to tackle this issue.

## Sudan

Sudan is similar to Iran and Saudi Arabia in their view on the death penalty. It is worth noting that Sudan, Saudi Arabia and the Islamic Republic of Iran are the only 3 countries that execute people who are under the age of 18

## Amnesty International

Amnesty International is an organization devoted to protecting human rights. They are actively supporting the abolishment of the death penalty as they believe it violates one's human rights. They focus on injustice when it comes to the death penalty. Amnesty international work widely on spreading word of how this is inhumane, regardless of the crime committed. They are also a Non-governmental Organization (NGO) which is what makes people trust them as they are not influenced by any governments and their political or religious views.

## People's Republic of China

In China the death penalty is given to people who have committed serious violent crime but also non violent crime for example drug trafficking. There have been reports of China executing many more people than the government claims. One of the biggest moral issues here is with for example drug trafficking the person may have been set up and they could have their life taken as a result of someone else's actions.

## Council of Europe

The council of Europe prohibits all 47 members from using the death penalty as a punishment. Furthermore, the European Union prohibits members to use capital punishment under article 2 of the Charter of Fundamental Rights of the European Union. This means that in all countries in Europe, except Belarus, the death penalty has been abolished.

## The United States of America

The United States of America is a slightly complicated situation. This is because many laws are decided by the state itself, therefore in some states capital punishment has been abolished yet in other and most states it is still practiced. Furthermore, the United States have also controversially been known to test poisons on prisoners who face the death penalty. The United States of America has also been known to relieve people on death row from their death sentence in exchange for testing developing drugs.

## Timeline of Events

Date	Description of event
1863	Venezuela became the first country to abolish the death penalty for all crimes
1883-1885	Public hanging in western countries was attacked and private executions began
1945	World War II ends
1965	Murder Act; otherwise known as the abolition of death penalty in Britain
1977	The last execution in France was carried out by the use of the guillotine.
1981	Capital punishment officially abolished in France
2009	Russia reaffirms that they do not use of the death penalty even though by law it is still allowed to be practiced

In the western world, 1883-1885 were important years in moving towards the abolition of the death penalty, as public hangings were considered as 'cruel' with the result that they were all made private. In the United States of America the last public execution took place in 1935. Towards the end of the Second World War there was a big movement against the death penalty which saw the abolishment of the death penalty in a number of states in the United States of America. The murder act was proposed by the British government who after 10 years made this into a permanent law. There has not been an execution since 1964 in Britain.



## UN involvement, Relevant Resolutions, Treaties and Events

The United Nations has passed a series of resolutions in the General Assembly with the ambition of having a 'global moratorium on executions'. This idea was initiated by Italy with the help of the European Union as a whole. The first one of these resolutions was passed with 104 votes in favor. The second resolution was passed with 106 votes in favor and the last one of the 3 resolutions was passed with 109 votes in favor. The International Covenant on Civil and Political Rights was a covenant which has 6 rules to follow regarding the death penalty.

- Moratorium on the use of the death penalty, 18 December 2007, **(A/RES/62/149)**
- Moratorium on the use of the death penalty, 18 December 2008, **(A/RES/63/168)**
- Moratorium on the use of the death penalty, 21 December 2010 **(A/RES/65/206)**
- The International Covenant on Civil and Political Rights entered into force on the 23 March 1976, resolution 2200A

## Evaluation of Previous Attempts to Resolve the Issue

The International Covenant on Civil and Political Rights was effective on the whole. This covenant set down 6 limitations under article 6 of when and under what circumstances one could be sentenced to death. The defendant cannot be sentenced to death if: they are pregnant; they are under the age of 18; any of the rights stated in the International Covenant on Civil and Political Rights have been violated; they have not had a fair trial; the crime was not punishable by death when it was committed and they cannot appeal to have a lesser sentence. This has widely been effective although has been blatantly violated by a number of countries. Firstly, Iran, Sudan and Saudi Arabia have not only executed people under the age of 18; the covenant also states that it must only be used for the most serious crimes. In these 3 countries it is used for drug possession and for being homosexual. Furthermore, in countries such as the Democratic people's republic of North Korea and China it is unclear whether all these laws are being followed.

The resolutions for a Moratorium on the use of the death penalty are not legally binding. This means they only provide guidelines for countries which choose to follow these.

This has not been effective in at least 41 countries as there were 41 countries who voted against the resolution.

Although these attempts to solve the problem have not completely achieved the intended goal, they were good initiatives and there has been a decrease in votes against such resolutions as they develop and an improved chance of diplomatic negotiations.

## Possible Solutions

This topic is very complicated, having to take into account lots of view points, treaties, morals and religion. There are several ways in which this issue can be tackled. There is the possibility of creating a treaty on which all countries agree. It may be a challenge to get all countries to ratify, but it would build a strong foundation for further steps towards future complete abolishment.

There is always the option of providing incentives to countries that have not abolished the death penalty. This could take the form of financial incentives or creating trading links between countries thereby promoting their economy. Alternatively, countries could boycott other states who do not abide by international law or who have not abolished the death penalty.

Another possible way to tackle the problem is to increase United Nations monitoring on countries using the death penalty to ensure that they are performing capital punishment in the most humane and lawful way possible.

## Bibliography

"Abolish the Death Penalty." *Amnesty International USA*. Amnesty International, n.d. Web. 10 Aug. 2015. <http://www.amnestyusa.org/our-work/campaigns/abolish-the-death-penalty>

"Capital Punishment." *Wikipedia*. Wikimedia Foundation, 7 Aug. 2015. Web. 10 Aug. 2015. [https://en.wikipedia.org/wiki/Capital\\_punishment](https://en.wikipedia.org/wiki/Capital_punishment)

"Death Penalty Focus : Facts." *Death Penalty Focus : Facts*. Death Penalty Focus, 13 May 2013. Web. 10 Aug. 2015. <http://deathpenalty.org/section.php?id=13>





"The Death Penalty Under International Law." *HRI* -. International Bar Association, n.d. Web. 10 Aug.

2015. [http://www.ibanet.org/Human\\_Rights\\_Institute/About\\_the\\_HRI/HRI\\_Activities/death\\_penalty\\_resolution.aspx](http://www.ibanet.org/Human_Rights_Institute/About_the_HRI/HRI_Activities/death_penalty_resolution.aspx)

"Death Penalty Worldwide." *Cornell University Law School*. N.p., n.d. Web.

<http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=3DIran>

"Murder (Abolition of Death Penalty) Act 1965." *Wikipedia*. Wikimedia Foundation, 13 Apr.

2015. Web. 10 Aug.

2015. [https://en.wikipedia.org/wiki/Murder\\_\(Abolition\\_of\\_Death\\_Penalty\)\\_Act\\_1965](https://en.wikipedia.org/wiki/Murder_(Abolition_of_Death_Penalty)_Act_1965)

Olsen, Scott. *Pennsylvania Death Penalty Moratorium*. Digital image. *The Morning Call*. N.p.,

n.d. Web. 18 Aug. 2015. <<http://www.mcall.com/news/breaking/mc-pa-death-penalty-moratorium-tom-wolf-20150213-story.html>>.

"Part I: History of the Death Penalty." *Part I: History of the Death Penalty*. Death Penalty

Information Center, n.d. Web. 10 Aug. 2015. <http://www.deathpenaltyinfo.org/part-i-history-death-penalty>

"Public Executions in Saudi Arabia." *Wikipedia*. Wikimedia Foundation, 6 July 2015. Web. 10

Aug. 2015. [https://en.wikipedia.org/wiki/Public\\_executions\\_in\\_Saudi\\_Arabia](https://en.wikipedia.org/wiki/Public_executions_in_Saudi_Arabia)

"United Nations Moratorium on the Death Penalty." *Wikipedia*. Wikimedia Foundation, 16

May 2015. Web. 10 Aug.

2015. [https://en.wikipedia.org/wiki/United\\_Nations\\_moratorium\\_on\\_the\\_death\\_penalty](https://en.wikipedia.org/wiki/United_Nations_moratorium_on_the_death_penalty)

