



# The Death Penalty: Capital Punishment in the 21st Century.





### *The Death Penalty*

The Death Penalty is a widely debated issue in international law. The death penalty is the killing of a person by judicial process. However, the legal aspect of capital punishment is a topic of great controversy in the international community as positions can vary within a single political ideology or cultural region. This topic will ignite an interesting debate, as since World War II there has been a trend towards abolishing the death penalty in many countries. However, capital punishment has at one point been used in almost every part of the globe. Amnesty international classifies countries into four categories: 1. 58 countries maintain the death penalty in both law and practice, 2. 90 have abolished it, 3. 10 retain it for crimes committed in exceptional circumstances (times of war), and 4. 36 permit its use for ordinary crimes, but have not used it for at least 10 years/ are practicing a moratorium. Additionally, five countries execute child offenders.

### *International Agreements on the Death Penalty*

Over the years, many treaties and sanctions have been adopted in hopes of further regulating and ultimately abolishing the death penalty. In 1984, the UN Economic and Social Council (ECOSOC) adopted “Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty.” These safeguards declared that no one under the age of 18 at the time of the crime is to be put to death, and that anyone sentenced to death has the right to appeal and to petition for pardon or commutation of their sentence. In 1989, the UN

General Assembly settled on the Second Optional Protocol to the ICCPR – with the goal of completely abolishing the death penalty. In 1993, the International Criminal Tribunal for the Former Yugoslavia stated that the death penalty is not an option (even for the most atrocious of crimes). Then in 1999, the UN Commission on Human Rights passed a resolution that called upon all states that still maintain the death penalty to progressively restrict the number of offenses for which it may be imposed. The Council of Europe’s Committee of Ministers inserted Protocol 13 to the European Convention on Human Rights. Protocol 13 is known as the first international treaty to abolish the death penalty (in all circumstances) with no exceptions (36 countries signed this treaty). Finally, in 2007, the UN General Assembly adopted Resolution 62/149, calling for all states that still maintain the death penalty to establish a moratorium on executions (with a view to abolishing the death penalty).

### *PRO argument for capital punishment:*

Those that argue in favor of capital punishment often believe that their desire for justice or vengeance towards a convicted murderer will be satiated through capital punishment. Another popular argument in support of capital punishment is that, certain crimes are so heinous, death is the only appropriate punishment. Many believe that capital punishment is the only way to permanently remove the most ruthless criminals from society. Also, the notion of deterrence is used as justification of capital punishment – as some believe that the death penalty will dissuade other criminals from killing. A popular example for the





argument of deterrence is Singapore, where the death penalty is almost always carried out consequently causing serious crime to be rare. Finally, public safety is a main concern for many supporters of the death penalty, as it can be argued that if a convicted murderer is put to death, it is impossible for him/her to escape from jail and conduct another murder. Due to the advanced DNA testing methods many countries now possess, it is argued that DNA testing can effectively efface uncertainties that are hovering over a person's guilt or innocence in a case. The pro-capital punishment perspective is also driven by the notion that some criminals are simply beyond rehabilitation, and the death penalty is the only appropriate response to the prisoner's unforgivable acts or behavior.

*CON argument against capital punishment:*

Many feel that supporting premeditated murder is absolutely unacceptable, as it brutalizes society and promotes the idea of revenge – sending an inappropriate message to the masses. Further, it is argued that the idea of deterrence is completely ineffective as statistics prove that the death penalty has not shown a decrease in the homicide rate. Another perspective is that the active use of capital punishment disrespects the sacredness of human life (this is where the argument evolves into the realm of ethics). There is also a chance of error (incorrectly convicting someone of a crime they did not commit) that dissuades many from supporting the death penalty. Among those who actively argue against the death penalty, there are those who describe it as cruel and unusual punishment, claiming that the death of a murderer does not efface the crime (achieving nothing as

the victim is still dead, and another human's life unnaturally taken). Also, it can be argued that defendants who are mentally incompetent will often answer "yes" to questions in the desire to please others; this leads to false confessions. Since 1976, over 30 mentally retarded people have been executed in the USA. Another powerful argument against capital punishment resides in the fiscal realm as capital punishment costs more than life without parole. Studies (in the US) have shown that capital cases (from arrest to execution) cost somewhere between 1 million and 7 million dollars, whereas life imprisonment for a capital case costs only 500,000 dollars.

*International Perspectives on the Death Penalty*

There are four different categories under which countries define their stance on the death penalty. The four categories are titled as: abolitionist for all crimes, abolitionist for ordinary crimes only, abolitionist in practice, and retentionist.

Since 1976, more than half the countries in the world have effectively taken the initiative to abolish the death penalty in law and practice. There are 92 countries that remain abolitionist for all crimes, 11 countries that maintain an abolitionist position for ordinary crimes, 34 countries that identify as being abolitionist in practice, and 60 countries that are retentionist.

*Executions around the world*

According to Amnesty International reports, only six countries implemented 95% of all known





executions in 2007: China, Iran, Saudi Arabia, the United States, Pakistan and Iraq.

Below are informative tables from [deathpenaltyinfo.org](http://deathpenaltyinfo.org):

Countries with the Most Confirmed Executions in 2008

- |                       |                       |
|-----------------------|-----------------------|
| 1. China (1,718)      | 4. United States (37) |
| 2. Iran (346)         | 5. Pakistan (36)      |
| 3. Saudi Arabia (102) | 6. Iraq (34)          |

Countries with the Most Confirmed Executions in 2007

- |                       |                       |
|-----------------------|-----------------------|
| 1. China (470)        | 4. Pakistan (135)     |
| 2. Iran (317)         | 5. United States (42) |
| 3. Saudi Arabia (143) |                       |

Countries with the Most Confirmed Executions in 2006

- |                  |                       |
|------------------|-----------------------|
| 1. China (1,010) | 4. Iraq (65)          |
| 2. Iran (177)    | 5. Sudan (65)         |
| 3. Pakistan (82) | 6. United States (53) |

### History

Throughout history, the death penalty was used regularly in poor and authoritarian states, using capital punishment as a way to subdue the masses and obstruct their contesting voice. However, during the 1980s, Latin America's democratization increased the number of abolitionist countries. Soon after, the fall of communism in parts of Central and Eastern Europe further decreased support for capital punishment. Due to the fact that many of these Central and Eastern European states

strived to become a part of the European Union (the European Union strictly requires member states not to practice the death penalty), they became more adamant about decreasing their use of the death penalty. In contrast, the influx of industrialization in Asia has played a large role in increasing the number of countries that have chosen to retain the death penalty. This retentionist trend in Asia has been followed by some African and Middle Eastern countries, which maintain wide public support for the death penalty.

Countries around the world often vacillate on their position on the death penalty, as it is not uncommon for a country to suspend executions before resuming them just a few years later. For example the United States suspended all executions in 1967, yet resumed them in 1977. India performed no executions between the years of 1995 to 2004, and Sri Lanka recently declared that its moratorium period on executions has come to an end. The Philippines re-introduced the death penalty in 1993 after strictly abolishing it in 1987; however, they abolished it once more in 2006.

### The Case of a Juvenile Offender

It is rare for the death penalty to be used on criminals that were under 18 years old at the time of their crime. Yet juvenile executions still occur sporadically around the world. For example, since 1990 there have been nine countries that have executed juveniles: China, D.R. Congo, Iran, Nigeria, Pakistan, Saudi Arabia, Sudan, the United States and Yemen. Since then, China, Pakistan, Yemen and the United States have raised the





minimum age for capital punishment to 18. Between 2005 and May 2008, Iran, Pakistan, Saudi Arabia, Sudan and Yemen have been found guilty of executing child criminals; most of these executions have taken place in Iran.

According to the United Nations Convention on the Rights of the Child (under article 37), it is forbidden to charge the death penalty on juveniles. All countries, with the exception of Somalia and the United States, have signed and ratified this treaty. However, despite this UN convention, there are still aberrations to the law due to contesting state laws. For instance, under Japanese law, anyone under 20 is considered a juvenile. Henceforth, there are three men currently on death row in Japan for crimes they committed when they were 18 or 19 years of age.

*Methods:*

A list of methods of capital punishment used around the world:

- \* Electrocution
- \* Firing squad or other methods of shooting
- \* Stoning (mostly used in Islamic countries)
- \* Gas chamber
- \* Hanging
- \* Lethal injection

International Positions on the Death Penalty

*China*

China's existing laws state that all death

penalty rulings, should be first submitted to the Supreme People's Court for approval ( this reform was enacted in 2007). However, in cases of violent crimes i.e. murder, rape and robbery, provincial higher courts are at liberty to approve executions. China justifies the higher court's execution rights with the rationale that it is an effective way of preventing crime.

*Saudi Arabia*

According to research done by Amnesty International, Saudi Arabia is notorious for the discrimination and execution of vulnerable individuals. Specifically, almost half of the recorded total of the number of people executed in Saudi Arabia in the last 28 years, have been migrant workers from developing countries. Saudi women and juvenile offenders have also been sentenced to death, despite international law. In 2001, Saudi Arabia enacted some legal and judicial reforms, with the motive to better regulate how often, and for what reasons the death penalty is used. However, the number of executions in Saudi Arabia in 2007 had exceeded 100 for the first time since 2000. Also, when the UN General Assembly called for a global moratorium on the death penalty in 2007, Saudi Arabia deflected, and has henceforth refused to conform.

*Iran*

Iran is the biggest executioner of juvenile offenders; in fact, Iran's record of child executions has become so exorbitant that it has become the





focus of the Stop Child Executions Campaign. Iran condones child executions despite its signing of the Convention on the Rights of the Child; this behavior has riled international debate and criticism. Iran's juvenile executions make up two-thirds of the global total of such executions. Specifically, Iran is currently holding 140 people on death row for crimes committed as juveniles. The juvenile executions of Mahmoud Asgari, Ayaz Marhoni and Makwan Moludzadeh have gone down in infamy, becoming international symbols of Iran's judicial system's lack of adherence to international and humanitarian law.

*Questions to consider when researching your country*

#### *Timeline*

1948: The United Nations enacted the Universal Declaration of Human Rights (UDHR). This declaration proclaims that it is the right of every global citizen to have protection from deprivation of life.

1966: The UN adopted the International Covenant on Civil and Political Rights (ICCPR). This covenant states that "no one shall be arbitrarily deprived of his life" (Article 6), and that the death penalty cannot be imposed on pregnant women or those persons who were under the age of 18 at the time they committed their crime.

1984: The UN Economic and Social Council (ECOSOC) adopted "Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty." These Safeguards ensure that anyone sentenced to death has the right to appeal and to petition for pardon or commutation of sentence.

1989: UN General Assembly decided to adopt the Second Optional Protocol to the ICCPR, in hopes of abolishing the death penalty.

1990: The General Assembly of the Organization of American States adopts the Protocol to the American Convention on Human Rights. This protocol includes the complete abolition of the death penalty,

**In this committee, our debate will be channeled in this direction: How do nations vary in their adherence to International Agreements on the death penalty and humanitarian law? What is your country's position: abolitionist for all crimes, abolitionist for ordinary crimes only, and abolitionist in practice or retentionist? Does your country adhere to their alleged position on capital punishment? What are the socio-economic, historic, religious, and cultural factors that play a role in your country's position on the death penalty? What procedures and methods should the international community consider in order to better regulate the death penalty in a way that is most beneficial to humankind?**





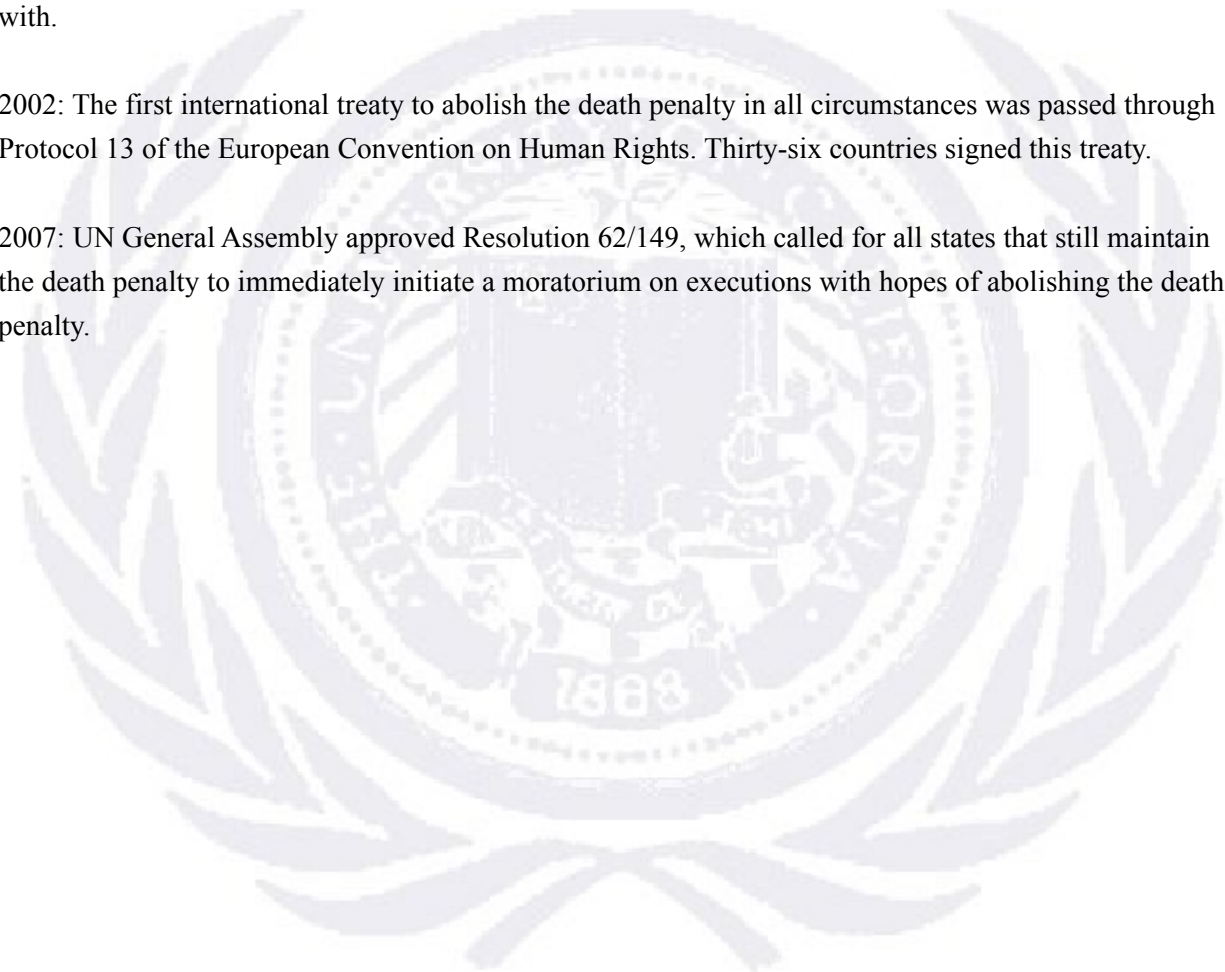
condoning its use solely during times of war.

1995: The UN Convention on the Rights of the Child came to fruition. Article 37 clearly outlaws the death penalty for persons under the age of 18 at the time of their crime.

1999: The UN Commission on Human Rights (UNHCR) called upon all states that still practice the death penalty, though a resolution, to progressively restrict the number of offenses for which it may be inflicted with.

2002: The first international treaty to abolish the death penalty in all circumstances was passed through Protocol 13 of the European Convention on Human Rights. Thirty-six countries signed this treaty.

2007: UN General Assembly approved Resolution 62/149, which called for all states that still maintain the death penalty to immediately initiate a moratorium on executions with hopes of abolishing the death penalty.





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