

**Forum:** General Assembly 4<sup>th</sup> Committee

**Issue:** The Question of Capital Punishment

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**Position:** Chair of the GA4 committee

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## Introduction

Capital punishment has been established by law since the Eighteenth Century BC by order of King Hammurabi of Babylon<sup>1</sup>. As of 2016, capital punishment (also known as the death penalty) remains legal and is utilized in 57 countries worldwide (such as The United States of America and China), 30 countries retain the death penalty but have not executed an offender in 10 years and 7 countries retain the death penalty for serious crimes only, such as war crimes. 104 countries have made capital punishment illegal (such as all states in the European Union)<sup>2</sup>.

Capital punishment can only be used by a recognized state. If a Non-Governmental Organization declares that they have executed someone or used capital punishment, it actually stands as murder under the law. Capital punishment is usually applied in cases of murder, mass murder, or serial killings, but has and can be used for crimes such as treason, rape, types of fraud. In some states things such as sexuality, adultery and gender identity are considered capital crimes<sup>3</sup>.

A convict can be executed in many ways. The ones used worldwide today are (but not limited to) lethal injections (usually consisting of Midazolam, Vecuronium Bromide and Potassium Chloride<sup>4</sup>), electrocution, gas chambers (cyanide or nitrogen gas), firing squad, hanging and beheading<sup>5</sup>.

## Definition of Key Terms

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<sup>1</sup> <https://deathpenaltyinfo.org/part-i-history-death-penalty>

<sup>2</sup> <https://www.amnesty.org/en/what-we-do/death-penalty/>

<sup>3</sup> <http://www.bbc.co.uk/ethics/capitalpunishment/intro.shtml#top>

<sup>4</sup> <https://lifehacker.com/what-lethal-injection-drugs-actually-do-1794704545>

<sup>5</sup> <https://deathpenaltyinfo.org/descriptions-execution-methods>

**Capital punishment (also known as the death penalty):**

the sentencing and execution of an offender after conviction by a court of law<sup>6</sup>.

**Offender/ convict:**

a person who has been accused or convicted of a crime. A convict is someone who has or is serving a jail sentence, and the word convict is synonymous with “prisoner” or “inmate”.

**War crimes:**

serious violations of the laws and customs applicable in international armed conflict and serious violations of the laws and customs applicable in an armed conflict not of an international character<sup>7</sup>.

**Death row:**

A unit of a prison that houses convicts awaiting execution. There is no real limit to how long a prisoner can be held on death row, with prisoners tending to delay their executions through filing multiple appeals.

**Juvenile:**

An individual over 10 years of age but under 18 years of age. There is a different kind of legal system for juveniles called juvenile court.

**Minor:**

An individual under 18 years of age.

**Murder:**

The intentional, premeditated or malicious act of taking another person's life. There are different classifications of murder in court. First degree is the most serious and requires clear premeditation to be classed as first degree, second degree requires malice but no clear premeditation. Felony murder is a murder that happens during the course of a felony, unintentionally.

**Pardon:**

The release of a person from their sentence, to let an offense pass without punishment.

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<sup>6</sup> <https://www.britannica.com/topic/capital-punishment>

<sup>7</sup> [https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1\\_rul\\_rule156](https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule156)

**Parole:**

The release of an offender back into society supervised after completing part of/all of their sentence. Convicts are released under the supervision of a parole officer, so someone whose job it is to watch over released convicts.

**Treason:**

The act of committing disruptive, disloyal or criminal acts against one's government (reasons to be charged with treason vary from state to state, with some being much more harsh than others)<sup>8</sup>.

**Crime:**

An act punishable by law. This could be anything from jaywalking to first degree murder.

**Lethal injection:**

The injection of certain chemicals into the offender's body, causing the shutdown of vital systems. This is one of the most used practices of capital punishment.

**Felony:**

A crime which carries a sentence of over a year in prison and/or a sentence to death.

**Abolition:**

The removal of the death penalty and the termination of executions as a form of punishment<sup>9</sup>.

**Background**

As previously mentioned, the first known record of the death penalty being used as a lawful punishment is from the 18th century BC in the Code of King Hammurabi of Babylon. By the 10th century AD, hanging had become the most common method of execution and capital punishment was recognized legally all around the globe.

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<sup>8</sup> <https://deathpenalty.procon.org/view.resource.php?resourceID=001634>

<sup>9</sup> [http://tcadp.org/wp-content/uploads/2011/04/Death\\_Penalty\\_Basics1-111.pdf](http://tcadp.org/wp-content/uploads/2011/04/Death_Penalty_Basics1-111.pdf)

The first stirrings of an abolitionist movement were in colonial times, with Cesare Beccaria's 1767 paper *On Crimes and Punishment* having a strong impact on the growth of the abolitionist movement. The first country to abolish the death penalty was Portugal in 1976<sup>10</sup>.

The first international manifesto calling for the abolition of the death penalty from all governments was the Declaration of Stockholm. Amnesty International held the conference in which it was declared in Sweden in 1977<sup>11</sup>. Almost every country in Europe has banned capital punishment and has both signed and ratified (excluding Armenia who has not ratified its signature and both Azerbaijan and the Russian Federation, who have neither signed nor ratified their signatures) the treaty known as Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms<sup>12</sup>, which concerns the abolition of capital punishment in all circumstances. Belarus is the only country in Europe that retains the death penalty<sup>13</sup>, with the last execution being held in Belarus in 2016<sup>14</sup>.

Not all states in the United States utilize capital punishment. In the United States, 31 states retain the death penalty. The remaining 19 states have abolished the death penalty<sup>15</sup>, with Delaware being the latest to abolish it in 2016. Capital punishment is most utilized in China, Iran, Saudi Arabia, Iraq and the United States, with China's estimated number of executions carried out in the thousands and the recorded number of executions in the United States being 220<sup>16</sup>.

The death penalty is used scarcely in many states but loosely in others. It is mostly used as a sentence for murder in the United States, but also can be used as a sentence for treason or espionage. In other states, the death penalty can be used as a sentence for things such as sexual orientation, adultery, drug related crimes or robbery.

Capital punishment is seen as a problem due to one main concern: the unethicality of it. The arguments against capital punishment vary in wording but all boil down to the same main point: capital punishment is unethical due to the fact that the sentence means taking a human life. Other arguments include points such as racism and how the system can be affected by it,

<sup>10</sup> <https://deathpenaltyinfo.org/abolitionist-and-retentionist-countries>

<sup>11</sup> <https://www.amnesty.org/en/what-we-do/death-penalty/>

<sup>12</sup> <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/187/signatures>

<sup>13</sup> <http://www.telegraph.co.uk/travel/maps-and-graphics/countries-that-still-have-the-death-penalty/>

<sup>14</sup> <https://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Belarus>

<sup>15</sup> <https://deathpenalty.procon.org/view.resource.php?resourceID=001172>

<sup>16</sup> <https://www.theguardian.com/news/datablog/2011/mar/29/death-penalty-countries-world>

deterrence and cost, with cost being another huge argument used against the death penalty a lot, seeing as though in most cases life in prison is less expensive than capital punishment (primarily due to the higher costs of capital punishment trials, automatic appeals, and the heightened security on death row with lower staff-to-prisoner ratios).

There have been many records of complications in the system of carrying out capital punishment. Some convicts sit on death row for up to 40 years before they are executed, such as Gary Alvord, a Florida death row inmate who died of natural causes after being on death row for 40 years. The typical time from sentencing to execution in the United States is a decade (10 years).

Complications in the execution of convicts are not unusual either. There are plenty of stories of the lethal injection not working the way it should and people being paralyzed but conscious as the injections other components work, or of how electrocution didn't take properly and the convicts heart not stopping as fast as it should, leaving the fully conscious as they are electrocuted.

## Key member states and NGOs

### Amnesty International

Amnesty International has played a key role in the abolition movement since its start as an organization in July 1961. The organisation has been against the death penalty and has made its views very clear multiple times, with the organization's actions making an impact on the current situation of the death penalty globally<sup>17</sup>. Amnesty has run campaigns in countries with power that have already abolished the death penalty, such as France, and attempted to get France to use its power in the General Assembly to fight the death penalty<sup>18</sup>.

### China

China has a huge role in the discussion of the question of capital punishment as one of the more developed countries who still use and actively support the death penalty. Capital punishment is legal and used commonly in China, with the government refusing to release their information on the use of capital punishment in the country<sup>19</sup>, but Amnesty International's estimates placing the number of executed people in the thousands annually.

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<sup>17</sup> <https://www.amnesty.org/en/what-we-do/death-penalty/>

<sup>18</sup> <https://www.dandad.org/en/d-ad-amnesty-international-death-death-penalty-social-good/>

<sup>19</sup> <https://www.deathpenaltyworldwide.org/country-search-post.cfm?country=China>

## Human Rights Watch

Human Rights Watch are an organization working for human rights and believe the death penalty to be a violation of basic human rights. They work to abolish the death penalty and work along the same guidelines as Amnesty International, with campaigns such as the open letter campaign to the Pakistani government on their resumption in executions<sup>20</sup>.

## United States

As previously mentioned, the United States retains the death penalty in certain states but not in all. There is controversial views inside the country but the government retains capital punishment as legal for extreme crimes.

## Iran

Iran utilizes the death penalty regularly with loose capital punishment laws. Iran is one of the world's leading countries in the use of the death penalty, with approximately 980 people being executed in 2016<sup>21</sup>.

## The Democratic People's Republic of Korea (DPRK)

It is impossible to estimate how many executions have taken place in DPRK in 2017. Reports say that five officials were executed in February<sup>22</sup>, however, due to there being no independent media in the DPRK, it cannot always be relied on. DPRK retains the use of the death penalty and with no way of knowing what goes on in the country, a true number of executions is impossible to estimate.

## Portugal

As previously mentioned, Portugal was the first country to abolish the death penalty in 1976. Portugal called for all states with the death penalty to take a step towards complete abolishment in the UN (United Nations) in February 2017<sup>23</sup>.

## Timeline of Events

<sup>20</sup> <https://www.hrw.org/news/2013/08/16/joint-open-letter-regarding-resumption-executions-pakistan>

<sup>21</sup> <http://www.telegraph.co.uk/travel/maps-and-graphics/countries-that-still-have-the-death-penalty/>

<sup>22</sup> <http://www.deathpenaltyworldwide.org/country-search-post.cfm?country=north+korea>

<sup>23</sup> <https://deathpenaltynews.blogspot.fi/2017/02/portugal-calls-for-total-abolition-of.html>

<b>1622</b>	The first execution in the new American colonies <sup>24</sup>
<b>1846</b>	Michigan becomes the first US state to abolish the death penalty <sup>25</sup> .
<b>1976</b>	Portugal becomes the first state to abolish capital punishment.
<b>1977</b>	Amnesty International starts publicly fighting capital punishment <sup>26</sup> .
<b>April 28th 1983</b>	Protocol No.6 is made available for signing <sup>27</sup> .
<b>2005</b>	The death penalty for under 18-year-olds is ruled unconstitutional in the United States.

## UN Involvement, Relevant Resolutions, Treaties and Events

- *Moratorium on the use of the death penalty* 18 December 2014 69/186<sup>28</sup>.

A short resolution that highlights the concern of the ongoing use of the death penalty and calls upon states to tighten their laws around capital punishment and to make information about their use of the death penalty public.

- *Second Optional Protocol to the International Covenant on Civil and Political Rights*, adopted into resolution 44/128 of 15 December 1989<sup>29</sup>

A highly important resolution detailing the abolition of the death penalty and the right to life human beings have.

- *Protocols no. 06<sup>30</sup> and 12<sup>31</sup> European Convention on Human Rights* 01 November 1998 and 11 April 2000<sup>32</sup>.

<sup>24</sup> <https://deathpenaltyinfo.org/part-i-history-death-penalty>

<sup>25</sup> <http://www.clarkprosecutor.org/html/death/timeline.htm>

<sup>26</sup> <https://www.amnesty.org/en/what-we-do/death-penalty/>

<sup>27</sup> <http://www.capitalpunishmentuk.org/europe.html>

<sup>28</sup> <http://www.undocs.org/A/RES/69/186>

<sup>29</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/2ndOPCCPR.aspx>

<sup>30</sup> [http://www.echr.coe.int/Documents/Library\\_Collection\\_P6\\_ET5114E\\_ENG.pdf](http://www.echr.coe.int/Documents/Library_Collection_P6_ET5114E_ENG.pdf)

<sup>31</sup> [http://www.echr.coe.int/Documents/Library\\_Collection\\_P12\\_ET5177E\\_ENG.pdf](http://www.echr.coe.int/Documents/Library_Collection_P12_ET5177E_ENG.pdf)

<sup>32</sup>

[http://www.europarl.europa.eu/meetdocs/2014\\_2019/documents/droi/dv/904\\_deathpenalty\\_/904\\_deathpenalty\\_en.pdf](http://www.europarl.europa.eu/meetdocs/2014_2019/documents/droi/dv/904_deathpenalty_/904_deathpenalty_en.pdf)

Protocols 06 and 12 both delineate abolition of capital punishment and detail things such as capital punishment under circumstances of war and territorial application.

## Possible Solutions

Total abolition of the death penalty is seen as the end goal for many states. Not all states support this view of course, with some states saying that abolition and the call for total abolition is unreasonable. Many states have replaced capital punishment with life in prison without the opportunity for parole, with certain states and NGOs also vouching to push this on other states. Replacement of the death penalty falls under abolishment.

The tightening of laws around the use of capital punishment is another viable solution. In some states capital punishment is used for only extreme crimes and in others for crimes considered not so extreme. The tightening of the laws around the sentence could be offered up as a more acceptable solution to capital punishment than total abolition, seeing as though many states have refused to abolish the death penalty in the past.

A third option could be changing the way the convict is executed. The most used methods of capital punishment are electrocution and lethal injection. Both of these methods have been known to work effectively and are assured to be painless, but they have both been known to go wrong. A suggestion to a new method of execution, such as the death penalty being carried out by a robot instead of a human, could be seen as a viable option to making capital punishment a more humane practice.

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<https://www.deathpenaltyworldwide.org/country-search-post.cfm?country=Belarus>

<https://deathpenalty.procon.org/view.resource.php?resourceID=001172> (important to the United States)

<https://www.deathpenaltyworldwide.org/country-search-post.cfm?country=China>

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