

UNHRC

Capital punishment and the implementation of safeguards
guaranteeing the rights of those facing the death penalty



GECMUN III

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LETTER FROM THE CHAIRS

Dear delegates,

We wholeheartedly welcome you to GECMUN III and the United Nations Human Rights Council.

This is your head chair Sehwa Ryu, currently a senior in Branksome Hall Asia and Diane Kang, your vice chair from Korea International School Jeju.

We are very excited to have you to the committee to discuss about the death penalty. The chairs have tried to come up with new, fresh topic which is unseen but crucial; the public is not much aware of the human rights violation occurring from death penalty. The UN has been working to abolish death penalty by devising resolutions, but most were not considered practical as many countries are still in active practice of death penalty. Therefore, the committee aims to seek measures to protect human rights in those regions where death penalty is still in practice.

Not all convicted are sentenced death penalty through fair trials since many are executed despite their age, pregnancy, and mental state even though it is a clear violation of the international laws. Regarding the abuse of human rights, convicts need their rights to be protected from arbitrary trials and false confessions made by unfair tortures and threats.

The chairs wish the committee to have active discussions throughout the conference, and are willing to assist all the delegates if the delegates have any questions regarding the agenda and the process of the debate. We encourage delegates for active participation during all sessions, as the chairs will also try hard to include all the delegates during sessions. Lastly, we strongly recommend the delegates to closely read the Research Guide to be well prepared for the conference.

We look forward to meet you, and if you have any questions, feel free to contact us.

Sincerely,

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LIST OF PARTICIPATING COUNTRIES

China

Iran

Iraq

United States

Saudi Arabia

Sudan

Singapore

Pakistan

DPRK

Yemen

Indonesia

Bangladesh

Libya

Nigeria

Somalia

India

Oman

Malaysia

GLOSSARY OF KEY TERMS AND ACRONYMS

Gas asphyxiation

Exposing a prisoner to a condition where oxygen is depleted.

Lethal injection

An injection for the purpose of killing such as euthanasia and death penalty.

Firing squad

Also called fusillading, firing squad is a method of capital punishment common in the military or during war. Several soldiers or law enforcement officers surround the prisoner and simultaneously shoot the prisoner.

Stoning

Stoning is a primitive way of killing by throwing rocks or stones to a prisoner.

Special Rapporteur

Independent expert appointed by the Human Rights Council to examine and report back on a country situation or a specific human rights theme.

De jure

The country which abolished death penalty de jure for all criminals, it means the country rightfully, legally abolished death penalty.

De facto

The country have capital punishment for ordinary crimes, but have not used it for 10 years or more.

Mandatory death penalty

The death penalty that is automatically imposed upon a criminal without any background or circumstances.

INTRODUCTION TO THE COMMITTEE

UNITED NATIONS HUMAN RIGHTS COUNCIL

United Nations Human Rights Committee serves to promote human rights and freedom in the UN by monitoring the States based on the International Covenant on Civil and Political Rights, which was established by General Assembly, 1966. The committee founded the First and Second Optional Protocol in 1976 and 1989. The First Optional Protocol is the extent of the Covenant while the Second Optional Protocol directly refers to death penalty, which is included in capital punishment. In the Second Optional Protocol, death penalty is considered as the opposing factor of human dignity and rights.

In this conference, UNHRC aims to seek universal measures to protect the fundamental human rights of those sentenced under the death penalty and implement ethics in the method of practicing death penalty. Delegates are highly encouraged to consider elements such as the standard of crimes which should be punished with the death penalty, age of the criminals sentenced under the death penalty, the form of the death penalty and more. In addition, delegates must be aware that the committee will be in progress only taking those countries practicing death penalty into account, and will not be debating upon whether or not death penalty should be abolished.

HISTORICAL BACKGROUND

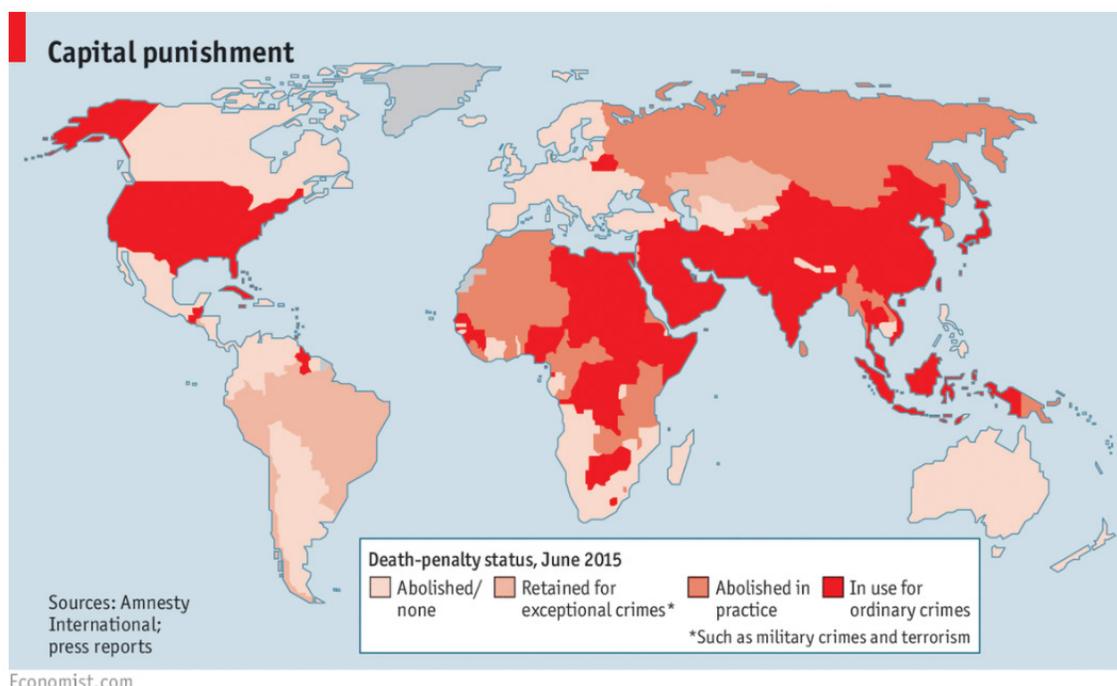


Figure 1. Countries in practice of death penalty in the world 2015 (Amnesty International)

Until the 20th century, capital punishment has been used in most parts of the world, while currently the majority of the countries abolished the practice due to concerns regarding human rights. Death penalty being criticized by its risk of executing innocent people and the absence of proof that it works as an effective deterrent to crimes, it has been called on the member States to abolish or discontinue the practice of the death penalty by the UN Secretary General Ban Ki-Moon on 2014. Currently, 37 countries retain the death penalty in both law and practice, being a highly controversial issue as it constitutes a violation of human rights. In addition, as each individual countries follow different law and standard for the death penalty, this becomes a complex issue to be addressed.

PAST UN ACTIONS

Universal Declaration of Human Rights(UDHR) was inaugurated in 1948 by the General Assembly. The document grants the fundamental rights to the Member States and those under their jurisdictions. The death penalty violates the rights mentioned in the document, such as the Article 3, “the right to life” and Article 5, “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

European Convention on Human Rights was signed in 1950. In the Protocol 13, the death penalty is abolished as a whole, under any circumstances. All European member states have ratified the Protocol 13, except for three countries: Armenia, Russia, Azerbaijan.

International Covenant on Civil and Political Rights (ICCPR) was established in 1966, and it permits the death penalty in the Article 6. Despite of its allowance of the capital punishment, it strictly rules that this document should not be called upon to “prevent the abolishment of capital punishment by any State.” Also, it permits the use of the death penalty and limits the penalty to those who are less than 18 years old and are pregnant.

Safeguards guaranteeing protection of the rights of those facing the death penalty was adopted by ECOSOC in 1984. The document restricts the death penalty to be conducted on the serious crimes, based on conspicuous evidence. Also, the document broadens the scope of those who are protected from the death penalty to include insane people and new mothers. The document guarantee the right of the convict to seek pardon and commutation which is applied to all cases of capital punishment. After stating that the capital punishment should not be applied while pending the following juridical procedure, the document secures that the capital punishment should exercise the least amount of suffering upon the convict.

The Convention on the Rights of the Child was adopted in 1989 by the General Assembly. The document directly refer to the capital punishment in the Article 37(a), that no child should be tortured cruelly, and the capital punishment should not be applied on those below eighteen.

The General Assembly adopted the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) in 1989, to abolish the death penalty in all member states who already signed the Covenant. The Article 1(2) of the Protocol states “each State Party shall take all necessary measures to abolish the death penalty within its jurisdiction.”

In 2005, the Office of the United Nations High Commissioner for Human Rights(OHCHR) presented the Human Rights Resolution 2005/59. The document calls upon all states which have not abolished the death penalty “to abolish the death penalty completely and, in the meantime, to establish a moratorium on executions.” Also, the document states that the death penalty should only be charged for those who committed “the most serious crimes.” The document defines “the most serious crimes” that it “does not go beyond intentional crimes with lethal or extremely grave consequences.”

In 2013, the Secretary-General expressed concern about the death penalty, especially towards those who are unjustly imprisoned or executed without clear evidence. Then, he pointed out the problem which was the lack of transparency regarding the number of executions, that the problem is an obstacle for informed, proper debate surrounding the death penalty. Also, he urged the member states which have reintroduced the death penalty after years of moratorium to reconsider the cruel act.

In 2014, the Secretary-General conveyed his trouble upon fourteen states which still practice the death penalty upon children and large groups in mass trials. He proposed three possible ways to abolish the death penalty. The first way is to “ratify the Second Optional Protocol of the International Covenant on Civil and Political Rights,” the second is to “support the resolution on the moratorium on the use of the death penalty,” and the last is to “take concrete steps towards abolishing or no longer practicing this form of punishment.”

STATUS QUO

Death penalty is delivered in various forms, such as gas injection, electrocution, lethal gas, firing squad, stoning, gas chamber, and hanging. Certain forms of death penalty, including gas asphyxiation, hanging, lethal injection and stoning, involves serious pain and torture, which clearly violates International Covenant on Civil and Political Rights (ICCPR).

Individuals under the age of 18 are not allowed to be sentenced to death penalty according to the Convention of the Rights of the Child. However, some countries sentence death penalty to children, which is a clear violation to the international law. Also, the arbitrary trials and the death penalty imposed on those with mental disorder question the victims’ rights to receive fair trials. Many victims were and are under the capital punishment wrongly, and the incidents are listed below.

Edwin Turner was executed in 2012, America, despite of his mental illness. His mental illness was conspicuous since his family all had a history of visiting mental hospitals and trying to commit suicide. However, there is no law preventing death penalty upon those with mental illness unless the convict is proved to be mentally ill during the crime scene. Even though Turner’s mental illness was proven, he was still executed after robbing the grocery store and shooting the clerk.

Marvin Willson was executed in 2012, America. The U.S. Supreme Court prohibited courts from imposing death penalty upon those who lack knowledge. However, Texas executed Willson anyway, despite of his lack of IQ, which was 61, scoring the lowest of the U.S. population. According to the U.S. Supreme Court’s ‘retardation’ definition, Willson was protected from the death penalty. Texas suggested its own definition of ‘retardation’ and executed Wilson.

Mohammad Hassanzadeh was 14 years old Kurdish boy when he was convicted of murder in Iran, and hanged in 2008. Two years later, despite of his age of 16, Hassanzadeh was executed without any prior information to his father about his execution schedule; Iranic law require the notification to be sent out to parents about their child’s execution schedule 48 hours before the execution. There were many cases following after this, including the execution of juveniles. The international community condemned Iran for violating Convention of the Rights of the Child.

The impose of death penalty on the mentally disordered is not granted, since 1999, the meeting regarding the UN Commission on Human Rights, which stated the nations should not “impose the death penalty on a person suffering from any form of mental disorder.” However, the death penalty still haven’t abolished neither the rights of the victims are being granted. Despite of the UN Commission on Human Rights, countries still impose death penalty wrongly, especially on children, pregnant women, and mentally disordered people. The international laws established regarding to death penalty are seen nonchalantly by some countries, that the countries even treat the convicted brutally before executing them, such as lashing and threatening. The chart below is the percentage of America’s botched capital punishment.

Method	Total Executions	Botched Executions	Botched Execution Rate
Hanging	2,721	85	3.12%
Electrocution	4,374	84	1.92%
Lethal Gas	593	32	5.4%
Lethal Injection	1,054	75	7.12%
Firing Squad	34	0	0%
All Methods	8,776	276	3.15%

Stances of UN Member States and Parties Involved

People's Republic of China

People's Republic of China is recorded as executing the highest number of people annually. Crimes that are sentenced under death penalty in China includes counter-revolutionary crimes, crimes against the person, crimes against national symbols and treasures and crimes that endanger the public security. In China, many of the executed criminals are being omitted from the officially recorded executions. According to Dui Hua Foundation, from 2008 to 2010, approximately 5,000 people were to be executed, while the number officially recorded fell to 2,400 in 2013. In addition, there have been foreigners executed in China, including individuals from countries that have abolished death penalty. In China, all classes of individuals have been applied the same standard for death penalty without any exceptions. In China, invalid motorization and record of death penalties types of crimes that are punished with death penalty and number of executions remain as crucial problems with death penalty.

Iran

With the government's underreporting of executions and confidentiality of holding executions, Iran's statistics on Death penalty is difficult to assess. Exact numbers are hard to obtain, but currently, it is estimated that about 2,000 individuals are sentenced to death penalty. About 80 death sentences are issued annually, though the actual figure will show a much higher number.

Iran holds mandatory death penalty for crimes such as murder, and seldomly the victims' family carry out the execution as part of the penal.

Iraq

Until now, Iraq has conducted 1,724 death penalty to prisoners. The United Nations Human Rights Committee has confirmed in 2015 that about 1,700 prisoners were on death row. Iraq conducts extrajudicial killings, which includes putting individuals that had same-sex relations under death sentence. With the presence of Kurdistan Regional Government, laws and legislations regarding death penalty constantly gets amended, which complicates the issue of fair and judicial capital punishment. Iraq has its main concern regarding the death penalty with the fact that the capital punishments are issued to juveniles, which violates the ICCPR, as well as putting individuals with less serious crimes under death sentence.

United States

The United States has different laws and status regarding death penalty according to different states. Out of 50, 19 states have abolished death penalty and 31 retaining them, even though only seven states have carried out capital punishment in 2014. In general, a crime that results in a death of an innocent individual, war crimes and terrorism-related offenses resulting in death gets punished by the execution. The country does not hold mandatory death penalty, as the Supreme Court has stated that mandatory death penalty is unconstitutional for any class of offense.

Saudi Arabia

Saudi Arabia ranks third in the world for the number of capital punishments. Public beheading is the most common form of death penalty in Saudi Arabia. It has been reported that in some occasions the body was exposed and abandoned to public after the execution of highway robbery. Also, the capital punishments include arbitrary, unfair trials and brutal tortures. Saudi Arabia charge death penalty upon foreigners, migrants, the poor, juveniles for profanity, drug, and sorcery. In 2016, 47 prisoners were executed.

Sudan

Sudan holds a retentionist stance towards death penalty as the number of individuals sentenced under death penalty is decreasing annually. In 2011, about seven individuals were punished by capital punishment.

Singapore

Singapore government does not release the official information on the death penalty, so accurate figure cannot be determined. Singapore laws maintain mandatory death penalty for some cases such as drug trafficking and terrorism related offenses that result in death.

Pakistan

Pakistan also does not provide official figures, but according to the figures provided by the organization Re-prieve, there have been 78 executions in July. Pakistan maintains mandatory death penalty for crimes such as aggravated murder, adultery, and robbery through force.

North Korea

North Korea does not hold a mandated legislation of execution, but normally it suggests authorities to use both hanging and shooting by firing squad. Most of the executions are carried secretly while often there are public executions to serve as an example to others. Prisoners have reported that there are annually about fifteen to twenty public executions. In 2005, a video tape of public execution of two men was released. About 1,500 people gathered as spectators, and the prisoners were shot from the rear three times. Before the execution, an official announced the charges of their crime as 'being the traitors of the fatherland'.

Yemen

Yemen practices most of the execution by the means of shooting. Mandatory death penalty is held for those prisoners who have committed crimes such as murder, drug trafficking and more. However, if the family of the victim by any means forgive the offender, the courts are forbidden to practice death penalty to such individual.

Indonesia

Indonesia holds most of the death penalties public. Indonesia does not hold mandatory death penalty. Individuals below age 18, pregnant women, intellectually disabled and mentally ill are excluded from the death

Bangladesh

According to Amnesty International, at least 1,235 individuals were sentenced under death penalty in 2014. Bangladesh does not hold mandatory death penalty as The Supreme Court of Bangladesh has stated in 2015 that it is unconstitutional. According to the authorities, Articles 29, 31 and 32 of the Constitution were violated by the application of mandatory death penalty.

Libya

Libya only permits executions by shooting the offender to death as variety of other methods are considered too extreme. Libya has mandatory death penalty for offenders who are convicted of international homicides.

Nigeria

Nigeria have four methods of execution: hanging, shooting, stoning, crucifixion. Even though its execution is immoral and unconstitutional, its executions are justified by Sharia law- Islamic law derived from Islamic texts such as Quran. have unlawfully executed four people in 2013 when all of them still had appeals pending. Currently, there are 1,233 people under the death sentence, but the last execution was 2013.

Somalia

Somalia uses shooting and crucifixion for execution. However, the execution practiced by both the federal government and TFG, Somaliland, Puntland and militia. Among these, unrecognized the Republic of Somaliland practice shooting under the old Somali Penal Code. Somalia acknowledge the Sharia law, and the extrajudicial groups practice executions by beheading and stoning people. The extrajudicial groups, such as militias, execute people in order to bring the area under their control. The number of capital punishment is not well known because of Somalia's lack of transparency. The conspicuous fact is that people are executed every year.

India

India execute people by shooting and hanging, and these methods are technically legal under the Indian Criminal Procedure Code and 1950 Army Act. Every year, about 132 people receive death sentences and about 3 to 4 people actually get persecuted. The recent executions were in 2004, 2012, 2013, and 2015, where the criminals were charged due to the murder and rape of a young girl, terror attack, Parliament attack, and serial blasts(bombs). Despite of the number of death penalty charged to prisoners, many are then commuted to life imprisonment.

Oman

The death penalty in Oman is usually related with drugs, and this was introduced in 1999, and Oman was the last from Gulf States to adapt it, seeing drugs as the cause of social instability. In 2002, U.S. woman was put to death sentence- to be shot in the firing squad in Oman. She was convicted of murdering her husband with her son, but soon, it was found out that her husband was abusing her. However, some say she did not receive a

fair trial, since the trial was in Arabic solely.

Malaysia

The death penalty in Malaysia is imposed on these three: murder, drug trafficking, discharging of firearm. When one is accused of drug trafficking, one would have the exceeding amount of drugs than they may have. In Malaysia, those who are under 18, are pregnant, or mentally ill cannot be persecuted. If one is pregnant, the maximum punishment is being held in prison for 20 years.

Syria

Syria impose the death penalty upon those who murder, commit treason, rape, etc. (Those who trafficked drugs are imposed life imprisonment.)The number of executed are not clear, because of the ongoing civil war in Syria. The government passed a new law to counteract against terrorism, stating that anyone who provides weapons intended for the use of terrorism. When UN voted on the Resolution on a Moratorium on the Use of Death Penalty in 2014, Syria voted against it.

Thailand

The death penalty is imposed in Thailand by lethal injections. Those who murder, rape, treason, traffick drugs, etc, are imposed the death penalty. Thailand is notorious for the prison only for those who are imposed on death penalty, which is Bangkokwan prison. Since Thailand is the main route for the drugs, the country is especially harsh on drug trafficking.

Vietnam

Vietnam had 21 crimes which are punishable by death penalty until reformation in 2010, reducing the punishable crimes by death. UN looked at Vietnam's constitution with strong disapproval and asked to revise Article 79, "activities aimed at overthrowing the people's administration," since this may be applied to both terrorism and exercise on freedom. In Vietnam, anyone who is pregnant or under age 3 are not to be imposed on death penalty.

Belarus

Belarus has harsh death penalty, because the country do not let people to receive the body of those who were sentenced to death and never reveals the burial site. Many international communities urged Belarus to cease from brutal capital punishment, especially UN. UN frowned upon Belarus capital punishment, because the country's violation to Optional Protocol to the International Covenant on Civil and Political Rights(ICCPR). because the country's violation to Optional Protocol to the International Covenant on Civil and Political Rights(ICCPR).

Ethiopia

Ethiopian constitution includes the right to life, but still keeps the death penalty. Despite of its existence,

Ethiopia rarely practice death sentence. The last execution was made in 2007, when the criminal murdered the head officer of secretary and immigration. The death penalty before 2007 was in 1998 when the criminal murdered a general. However, the information about death penalty is not transparent

Egypt

Egypt is known for unfair trials. Recently, this unfair death penalty have been abused by Egyptian government. In 2016, Egyptian government imposed death penalty on six journalists, accused as spying. Amnesty International urged the government to drop the death sentence, which was considered unreasonable. In Egypt, those who receive death penalty are hanged.

United Arab Emirates

The UAE's constitution is Sharia law, the Muslim law, which allows shooting, or rarely, stoning as the execution method. Despite of the existence of capital punishment, people are rarely executed; their punishments are commuted. In the UN General Assembly's voting on the Resolution on a Moratorium on the Use of the Death Penalty, the UAE abstained.

Conclusion and Possible Solutions

The imposition of death penalty is continuing to be a controversy due to its violation of human rights and several international human rights law. Also, because some countries' decision to sentence one to death does not follow a strict criteria, the rights of the minorities, which includes the poor, women, foreigners, children and LGBTs, are often the common targets of mistreatment.

Delegates should seek measures to protect the rights of convicts under such criteria:

1. Right not to be subjected to torture or inhuman or degrading treatment or punishment
2. Right to a fair trial and due process
3. Right to equal treatment and non-discrimination
 - Gender
 - LGBTs and more
 - Foreign nationals
 - Economically less privileged
4. Right to information

In addition, delegates should define 'serious crimes', 'punishment that does include torture and inhuman treatment', and the State authorities to exercise legal standards to imposing death penalty.

QUESTIONS TO CONSIDER

1. Countries where capital punishment is justified claims the use of it to be only applied on 'serious' crimes. What is the definition of 'serious' crimes? How can it be defined?
2. Some prisoners are sentenced to capital punishment due to arbitrary and unfair trials. How should such prisoners' rights be protected? What should be the consequence if a prisoner punished by capital punishment was proven to be innocent later?
3. Some countries practice capital punishment for religious reasons, such as blasphemy (the act of speaking sacrilegiously about God or sacred things). How can the rights of prisoners of such crimes be protected? Should they be punished at all? Should religion be a justifiable reason to sentence one under death penalty?
4. How should the rights of juveniles and women be protected from the capital punishment?
5. Every countries have different laws and policies regarding capital punishment. If a foreigner from a country where capital punishment was abolished commits a crime that violates the law that deserves capital punishment, how should such foreigner be judged? Who should judge the foreigner? How about immigrants?
6. Countries should reveal the authentic statistics of capital punishments and of practices of executions. What should be the incentives for those countries which refuse to divulge the actual number?

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