

Forum: Youth Assembly

Issue: The question of death penalty

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INTRODUCTION

The death penalty has caused great controversy in the political world for a long time with no common ground yet found. Also known as capital punishment, it is a death sentence attributed to an offender carried out after judged appropriate by a court of law. There are many ways that the sentence can be executed, however the most used techniques are death by lethal injection, which is considered a less painful process and death by electrocution, by being sentenced to the electric chair. In some Less Economically Developed Countries (LEDCs) the methods that are preferred are the least expensive ones. These techniques can range from shooting to even a very painful and slow process, such as hanging or beheading.



Illustration of an inmate of death row.

However as time passes and civilisations evolve the outlook people and governments have on the death penalty changes. People such as Albert Camus have shown through¹ their writing a strong advocacy against the death penalty in the 1940s. This is because it has been noted to be unjust and unfair as the fate of the people who get prosecuted largely depends on their race and wealth and sometimes discrimination can occur. It also provides no public safety benefit as it does not encourage a decrease in crime incidents. Studies have shown that states that have ruled the death penalty illegal, have lower homicide rates than those that still practice the the aforementioned sentence. Another reason why the death penalty is considered by the international community as an unfair punishment is because sometimes either due to discrimination or lack of evidence an innocent person can be executed. Government organs are responsible for solving a crime. However sometimes investigation may not lead them to success often wish to show that their investigation has led them to the criminal who

Source of picture: <https://globalpressjournal.com/africa/zambia/neighbors-ban-death-penalty-zambia-252-counting-death-row/>

committed the crime, and resort to executing a person, charged with an insufficient amount of evidence just to portray this false picture of successfully closing a case.

Amnesty International recorded at least 2,531 death sentences in 54 countries in 2018, a slight decrease from the total of 2,591 reported in 2017.² However the issue is still not resolved and the conversation is bigger than ever. At least 19,336 people were known to be under the sentence of death globally at the end of 2018. A shocking fact that causes many abolitionists to advocate more is that 60% of the world's population lives in nations, where death penalty is protected under the national legal system.³ Nowadays however almost 170 nations have abolished the death penalty. Although so many nations have proceeded doing so there still remain other countries

that continue to perform it. In particular, Asia is where 70% of the world's executions take place. China, Iran, Saudi Arabia, Vietnam and Iraq are the leading countries statistics on which estimate that most executions worldwide take place there. All in all, the conversation started, because people questioned the morality, reliability, accuracy and results of the death penalty.



Investigation of a hanging scene in Pakistan after two inmates were executed.

DEFINITION OF KEY-TERMS

Death Penalty/Capital Punishment

Death penalty, also known as capital punishment, is the execution of a prisoner by government organs and the country's officials after judged as an appropriate punishment by a court of justice.

Execution

The carrying out of a death sentence.

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

³ Source of facts: <https://www.amnesty.org/en/what-we-do/death-penalty/>

Source of picture: <https://deathpenaltynews.blogspot.com/2015/09/pakistan-can-hang-paralyzed-prisoner.html>

Capital Offence

A crime carried out by an individual that can be considered punishable with death. Such offences can range from murder all the way to genocide or treason. Other crimes punished with the death penalty are drug trafficking and corruption.

Abolitionist

An individual, who advocates for the abolition of a practice. This term can also specifically refer to advocates against capital punishment. These individuals advocate for the abolition of the death penalty and thus they are known as “Abolitionists”.



Abolitionists advocating against the death penalty.

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Moratorium

A legally authorized period of a suspension of an activity.

Lethal Injection

The executing method with lethal injection is the one which is most commonly used. In a case when a prisoner is executed with a lethal injection he is laid down on a medical bed and a doctor or a guard injects a poisonous substance in the inmate's body causing immediate and painless death. However sometimes complications can occur and the inmate might not die immediately causing a slow and painful death



The last image an inmate, who is arranged to be executed via lethal injection, sees.

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Electrocution

A death by electrocution is conducted by the inmate being seated on the electric chair. It is the second most used technique.

Hanging

⁴ Source of picture: <https://www.newyorker.com/news/news-desk/justice-breyer-against-the-death-penalty>

⁵ Source of picture: https://en.wikipedia.org/wiki/Capital_punishment_in_California

A death by hanging can be considered very violent and slow. The inmate is let loose from a high point with a rope around their neck. This technique is usually preferred in LEDC's taken into account its low cost.

Decapitation

Decapitation is the complete separation of the head from the body, also widely known as beheading. The national laws of Saudi Arabia, Yemen, and Qatar permit beheading, but Saudi Arabia is the only country that continues to behead its offenders regularly.

Stoning

Stoning is throwing rocks and stones at the person charged with the crime. This technique is usually preferred in Saudi Arabia and is considered one of the most inhumane ways to conduct the death penalty, since the death is very slow. Brunei, a monarchy nation in Asia, implemented a new penal code based on their Islamic value, which includes death by stoning for gay sex or for adultery.

Fire Squads

This method of execution is more common amongst the military or in times of war. There is usually more than one person shooting to avoid identification of the member. In addition, the condemned person will usually be wearing a blindfold.

BACKGROUND INFORMATION

The morality of the death penalty according to the international community

For many people the one question that rises is whether the death penalty is morally appropriate and in accordance with the Human Rights Convention by the United States as well as the Universal Declaration of Human Rights (UDHR). By issuing death sentences, governments essentially violate one's human rights taking into consideration the fact that one of the fundamental human rights is the right to life. Many stand by the death penalty by using the argument that when one takes someone's right to live then one should immediately have that taken away as well. According to this argument real justice requires people to suffer for their wrongdoing, and to suffer in a way appropriate for the crime.

Moreover, there are certain ethics conveyed by the death penalty. For example, the wrong person is



Nick Anderson judging in a cartoon the death penalty as racially biased.

sometimes executed. In the USA alone in 1976, 183 people were wrongfully executed.⁶ Wrongful executions can be a product of discrimination, racism and profit. Innocent people can be wrongfully profiled because they are of the African or Mexican descent (just to state some examples, where discrimination can occur), in order for another person to not have to face the execution. In addition poor evidence may show one person as guilty but in the future it can be proven that further investigation would have indicated otherwise. A case which still shocks the world is the one of Ruben Cantu. Cantu was 17 at the time the crime he was accused of committing a murder. Cantu was convicted of capital murder, and in 1993, the Texas teen was executed. About 12 years after his death, investigations showed that Cantu most likely didn't commit the murder.⁷ That alone shows that the death penalty can not be worthy of trust. However keep in mind that such mistakes do not happen very often.⁸

The death penalty has also done nothing to deter crime. Various studies carried out through the years have yet to prove that where the death penalty is still practiced the crime rates have fallen. Many people believe that for crime to be deterred people should be informed of what is punishable by the law and what the punishment could be. Therefore it is ineffective and lives are lost with no result.

The change in execution numbers since the 1900s.

Although the prevalence of this issue has definitely increased the number of executions has decreased in comparison to that of the 20th century. That is the result of the abolition movement. More and more nations are becoming abolitionist due to the change of the outlook people have on capital punishment. Specifically in 2011, at least 1923 people were sentenced to death and in 2012 that number decreased to 1722. Alarming, in 2014 the number of executions that took place rose as the number of executions in Nigeria and Egypt sparked due to political instability.



As mentioned before, according to Amnesty International's statistics⁹, the countries that carry out most executions are China, Iran, Pakistan, Saudi Arabia and the United States of America. All of the previously mentioned countries report the numbers of executions to Amnesty International, which collects data and publishes statistics to inform the public on this crucial issue. That is with the exception of China, which

Amnesty International reporting on the crimes that are punishable through the death penalty in some countries, such as China.

org/IMG/pdf/report-death-penalty-us-2013.pdf

es.avvo.com/crime/murder/8-people-who-were-executed-and-later-found-

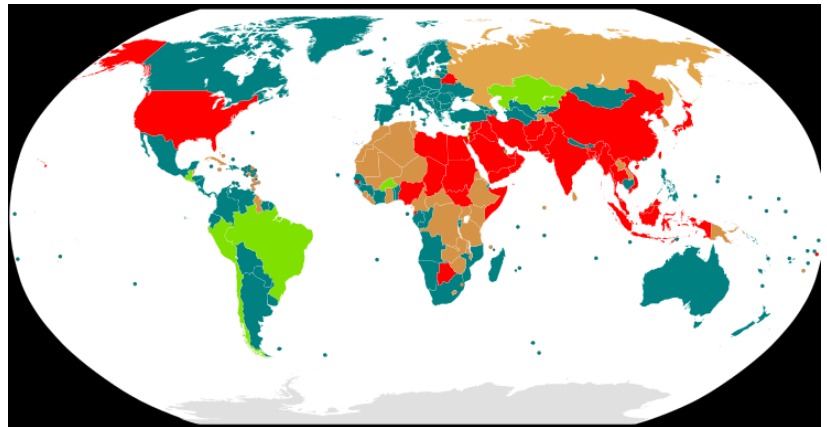
eeditorialcartoons.com/store/add.php?iid=65803

w.amnesty.org/en/what-we-do/death-penalty/

refrains from publishing the execution numbers because they consider them as a state secret. However due to the lack of transparency Amnesty International estimates that over a 1000 executions take place yearly in China and inmates are charged with the death penalty for crimes that are usually punished with a long sentence in prison and are considered punishable by death.

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Philippines is one of the nations that is thought to reintroduce the death penalty due to a rise in crime rates. If that actually happens, Amnesty International estimates that executing numbers will be increased. Additionally Sri Lanka has ended a moratorium on the death penalty and hired two hangmen to execute four persons convicted of drug offenses. Many news outlets say the government's move is regressive. Sri Lankan President Maithripala Sirisena recently announced the end of the moratorium on the death penalty that has been in force in the South Asian country since 1976.



The number of death penalties started to decrease after World War II, where it became apparent in Europe that the death penalty was a barbaric method of punishing someone for committing a crime. These views quickly spread to other parts of the world. This encouraged the abolitionist movement.

Abolitionist countries: 105

Abolitionist-in-practice countries (have not executed anyone during the last 14 or more years), and abolitionist-in-law for all crimes except those committed under exceptional circumstances (such as crimes committed in wartime): 7

Abolitionist-in-practice countries (have not executed anyone during the last decade or more and are believed to have a policy or established practice of not carrying out executions): 28

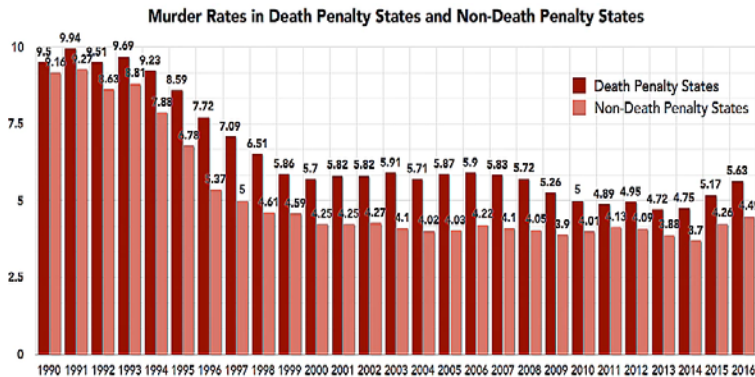
Retentionist countries: 55

The 53 countries that still obtain the death penalty are the following: Afghanistan, India, Nigeria, USA, Iran, Japan, Taiwan, Kuwait, Zimbabwe, Libya, Thailand, Guyana, Uganda, Bangladesh, Iraq, Indonesia, Botswana, United Arab Emirates (UAE), Bahamas, Cuba, Belarus, Yemen, Saudi Arabia, Vietnam, Syria, Egypt, South Sudan, Democratic Republic of Congo (DRC), Ethiopia, China, Sudan, Comoros, Somalia, Barbados, Malaysia, Chad, Pakistan, Oman, Singapore, St. Kitts and Nevis, St. Lucia, Bahrain, North Korea, Equatorial Guinea, St. Vincent and the Grenadines, Palestinian

¹⁰ Source of picture: <https://www.amnestyusa.org/the-top-10-things-you-need-to-know-about-amnestys-death-penalty-report/>

territories, Trinidad and Tobago, Lesotho, Antigua and Barbuda, Belize, Dominica, Jamaica, Jordan, Sri Lanka.

United Nations' opposition through a moratorium



Statistics showing the percentage of murder rates in states with or without the death penalty. With dark red are the death penalty states and with light red are the non-death penalty states.

A UN moratorium is one that consists of a law that aims to reduce the death penalty. In 1994 the first moratorium was ever presented to the United Nations General Assembly (GA) by the Italian government but failed by 8 votes. Ever since, it has become Italy's goal in cooperation with the United Nations Commission of Human Rights (UNHCR) to pass a

resolution that will globally abolish

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capital punishment as they consider it inhumane and barbaric. More recently the UN's opposition has been observed again because of the fact that the current Secretary General, Antonio Guterres, has been loudly advocating against it and for its abolition.

MAJOR COUNTRIES AND ORGANIZATIONS INVOLVED

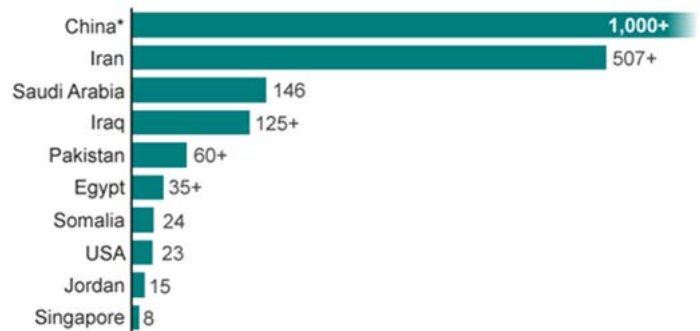
Amnesty International

¹¹ Source of picture: <https://deathpenaltyinfo.org/facts-and-research/murder-rates/murder-rate-of-death-penalty-states-compared-to-non-death-penalty-states>

Amnesty International is a non-governmental organisation (NGO), which strives to speak out everytime an abuse of the human rights is performed and tries to raise awareness on humanitarian issues. The organisation has advocated and worked to abolish the death penalty since 1977 when only 16 countries had abolished it. Amnesty International is claiming that since their decision to advocate against capital punishment this number has risen to 106 countries. Amnesty International has invested a lot of research, in order to inform people about the death penalty and the executions conducted yearly. According to Amnesty International the four countries that have performed the most executions are China, Iran, Saudi Arabia, Vietnam and Iraq in that specific order.¹² Amnesty International has expressed its absolute disagreement with the death penalty and has used arguments such as that capital punishment does not deter crime in any way and that it may be used within skewed justice systems.

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Executions around the world in 2017



*Official data unavailable, but Amnesty International estimates that executions in China were in the thousands

Source: Amnesty International

BBC

Diagramm showing the number of executions in nations with order of most to least.

China

China is a nation that still performs the death penalty. As with every other nation which executes criminal offenders, Amnesty International has tried publishing the number of yearly executions. However China is a nation not willing to share this information and their statistics remain a state secret. Amnesty international estimates that more than 1000 executions are carried out yearly by the state of China.

Japan

Japan carries out executions in a manner similar to China because like China they choose not to expose their execution numbers. However, what differentiates Chinese executions from those in Japan is that the Japanese inmates have no knowledge of their execution date and can not be prepared for such an emotionally heavy process.

The only method of execution used in Japan is hanging. Prisoners are usually blindfolded and have their faces covered with a hood, before they are executed. Japan has executed 24 inmates sentenced to the death penalty between 2012 and 2016.

¹² Diagramm source: <https://www.bbc.com/news/world-45835584>

South Korea

South Korea is one of the countries that still reserves the right to execute criminals who have committed crimes judged appropriate of such a sentence according to their penal code. South Korean officials execute people who have been charged with the death penalty through hanging, which is the only method of execution used in South Korea.

The number of criminals charged with the death penalty in South Korea is currently 61 people. However, this contradicts the fact that the last execution that took place in South Korea happened in December 1997.

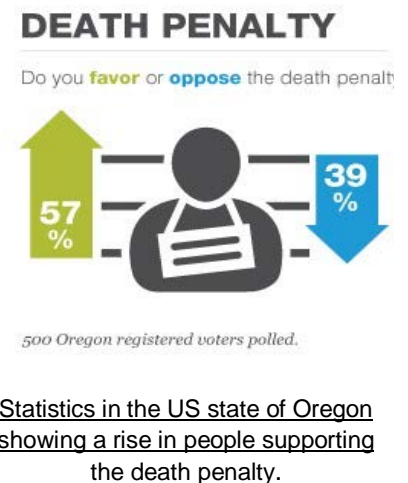
The United States

In the United States of America 30 states legally practice the death penalty. Currently there are thousands of inmates on death row. In 2018 25 prisoners convicted of criminal activities were executed and 42 prisoners also on death row weren't executed.

The death penalty was reenacted in the US back in the year 1976, and ever since, 1,493 deaths took place as a result of capital punishment sentences. Currently 63 prisoners have been charged with the death penalty. In the US there are five methods used in order to execute prisoners. These are, in the order of most common use, lethal injection, electrocution, lethal gas, hanging and firing squads.

Saudi Arabia

Saudi Arabia is a conservative nation in the western part of Asia. It is a nation that fully supports the use of the death sentence and uses it commonly. What differentiates Saudi Arabia's penal code from that of most countries is the reasons why an individual can be on death row. Saudi Arabia officials consider death an appropriate punishment for not only people who have committed murder but also for Homosexuals. The main techniques used in Saudi Arabia are beheading and stoning but there have also been reports of shootings taking place. After the execution Saudi Arabia officials and/or citizens will expose the corpse to public indignity and will use methods such as but not limited crucifixion. However this is most common to happen when the individual executed has committed a robbery.



committed a

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¹³ Source of picture: <https://www.opb.org/news/article/poll-shows-oregonians-still-support-capital-punishment/>

Council of Europe

The Council of Europe is an international organization of 47 member states whose main focus is promoting the respect for the Human rights in Europe. There has been a complete abolition of the death penalty in Europe after the Charter of the Fundamental Rights of the European Union (EU) is signed. The only country which retained from abolishing the death penalty is Belarus.



Activists calling for the abolition of the death penalty.

TIMELINE OF EVENTS

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DATE	DESCRIPTION OF EVENT
1764	Italian Jurist presents a Critique on the death penalty and influences the movement against it and the supporters of its abolition. It still remains one of the most influential attacks on this issue.
1790	The United States of America legalizes the death penalty and adds it to its penal code with all crimes being punishable by death. Later that year the first execution took place.
1854	Venezuela is the first nation to abolish the death penalty completely.

¹⁴ Source of picture: <https://www.ohchr.org/EN/Issues/DeathPenalty/Pages/DPIndex.aspx>

14 July 1976	The Canadian Parliament votes against the death penalty being the punishment for common law offence.
2007	The UN (United Nations) General Assembly (GA) approves the first United Nations moratorium on the death penalty. An important milestone is reached for the supporters of the death penalty's abolition
2009	All death penalty US states made lethal injection the primary method for execution as it is considered less painful for the individual sentenced.
2009	The Charter of Fundamental Rights of the European Union (EU) is signed and its context prohibits the use of the death penalty in Europe.
2015	By the end of 2015, 109 nations had completely abolished the death penalty.

2019	Crimes punished with the death penalty include in some countries as of 2019, homosexuality.
2019	Sri Lankan President Maithripala Sirisena announces an end to a moratorium on the death penalty signs the death warrants for four drug convicts.

RELEVANT UN RESOLUTIONS, TREATIES AND EVENTS

United Nations General Assembly Resolution The Second Optional Protocol to the International Covenant on Civil and Political Rights 44/128.

This Protocol calls for the total abolition of the death penalty but allows states parties to perform the death penalty in time of war if they make a reservation to that at the time of ratification of the Protocol.

Protocol to the American Convention on Human Rights to Abolish the Death Penalty.

This Protocol has the exact same effect as the the Second Optional Protocol to the International Covenant on Civil and Political Rights.

Protocol No. 13 to the European Convention on Human Rights No.187.

This Protocol calls for the abolition of the death penalty in all circumstances, whether in times of peace or war.

Protocol No. 6 to the European Convention on Human Rights No.114.

This Protocol calls for the abolition of the death penalty in times of peace.

In 1989 the UN General Assembly adopted the Second Optional Protocol to the ICCPR. Member States which became parties to the Protocol agreed not to execute anyone within their jurisdictions.

In a series of four resolutions adopted in 2007, 2008, 2010, 2012 and 2013, the United Nations General Assembly urged States to respect international standards that protect the rights of inmates on death row, in order for its use to be restricted and ultimately abolished:

- United Nations General Assembly Resolution 62/149 December 2007
- United Nations General Assembly Resolution 63/168 December 2008
- United Nations General Assembly Resolution 65/206 December 2010
- United Nations General Assembly Resolution 67/176 December 2012
- United Nations General Assembly Resolution 69/186 December 2014

Commission on Human Rights Resolution 1999/61 April 1999.

This resolution was approved after merging the International Covenant on Civil and Human Rights and Convention on the Rights of a Child. Overall, this resolution aims to reduce the number of executed prisoners and eradicates executing minors under the age of 18.

United Nations Moratorium on the Death Penalty.

Recently, in 2012 the United Nations (UN) once again presented a global moratorium against the death penalty, hoping that this time all countries would move to a complete abolition of the death penalty. One of the operative clauses in the resolution urged all nations to “progressively restrict the use of the death penalty and reduce the number of offences for which it may be imposed”. This would be achieved by avoiding the execution of disabled individuals, pregnant women, people under the age of 18 and mentally unstable individuals. Countries were further asked to provide the Secretary General with information on the use of the capital punishment.

PREVIOUS ATTEMPTS TO SOLVE THE ISSUE

There are many international laws, which ban the use of capital punishment. The following do so except in times of war:

- The Second Optional Protocol to the International Covenant on Civil and Political Rights
 - Protocol No. 6 to the European Convention on Human Rights
 - The Protocol to the American Convention on Human Rights to Abolish the Death Penalty.
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- Another previous attempt includes the UN High Commissioner for Human Rights' facilitation of discussion panels on increasing transparency and changing the attitudes of death penalty supporters. Former Secretary General Ban Ki Moon coordinated film screenings on capital punishment and panel discussions with civil rights advocates to discuss a transparency framework that would gradually encourage the abolition of the death penalty.
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- In 1984, the UN Economic and Social Council adopted Safeguards guaranteeing protection of the rights of those facing the death penalty.

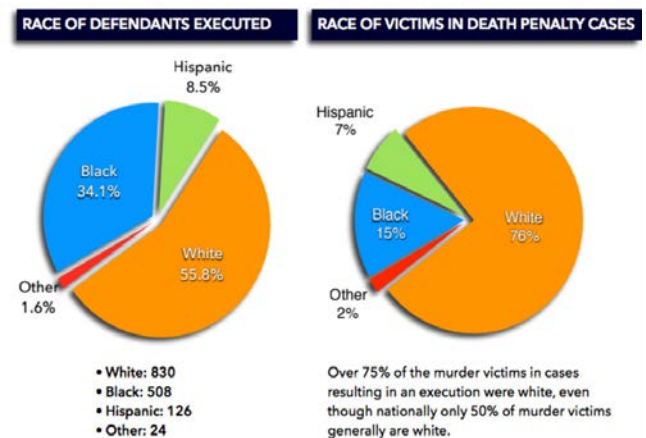


Diagramm showing the percentage of people of particular races on death row in Tennessee.

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POSSIBLE SOLUTIONS

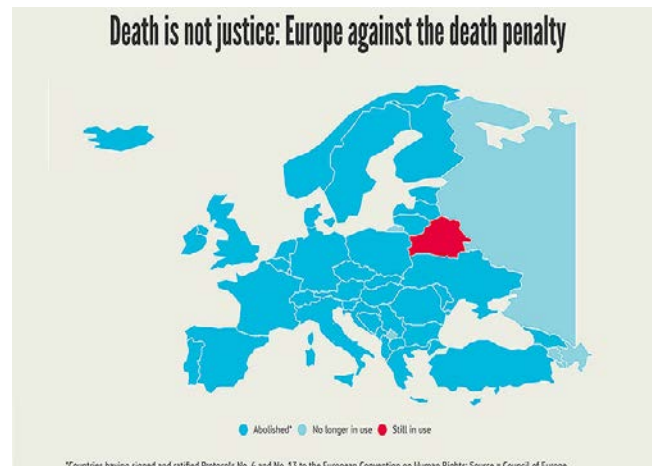
One way that we can achieve complete abolition of the death penalty is trying to reach a common ground. Instead of executing inmates alternatives can be found that will ensure society's safety and the acceptable punishment of a criminal. Possible alternatives for significantly violent and horrific crimes could be life imprisonment without the possibility of parole because of good behavior. For less significant crimes there could be a possibility for parole but not a guarantee. Moreover great controversy is usually caused when discussed, whether there should be exemptions for juvenile offenders, meaning underage offenders, and the mentally ill. These life-sentence alternatives are sufficient to hold offenders accountable and to protect society from further harm at their hands.

¹⁵ Source of picture: <https://www.nashvillescene.com/news/pith-in-the-wind/article/21036224/the-conversation-were-not-yet-having-about-tennessees-death-penalty>

Something very significant is informing the public by raising awareness. Some methods, through which the public can be informed about the abuse of the Human Rights by the death penalty are the initiation of social media campaigns and news coverage. Moreover, the death penalty should be discussed in schools, in order for kids to be informed and for the abuse of human rights to be known to children. Last but not least, civilians should be informed about the offences that might be punished with the death penalty, in order for them to avoid them.

The death penalty currently, under international law, is prohibited; however, it isn't legally binding. There is a difference between legally binding and non-legally binding laws. When a law is not legally binding then member states are encouraged to follow it but don't have to. On the other hand legally binding laws are mandatory to be followed. That difference between the two makes non-legally binding laws very ineffective. Having made that clear a solution could be proposing and implementing legally binding laws so that countries who want to implement the death penalty don't find a loophole to avoid following the law. In addition, all states should publicly announce the number of death penalties that take place annually to allow the public to see the figures.

After reading the study guide you probably will have understood that many nations choose not to follow the calls of the United Nations against the death penalty. When working on your resolutions you could propose possible solutions that need to address the issue of countries not complying with the United Nations' mandate and propose measures, in order to encourage nations to follow the United Nations' orders.



This picture shows where in Europe the death penalty is abolished. In dark blue it shows where it is abolished in light blue where it's not longer in use and in red where it is in use.

¹⁶ Source of picture: <https://www.coe.int/en/web/human-rights-rule-of-law/-/death-penalty-filling-europe-s-black-hole>

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