

## **Forum: SOCHUM 2**

**Question of:** The death penalty

**Specialist chair:** Megan Driver

### **Introduction:**

The death penalty has caused controversy for centuries. In addition to political and scientific factors, issues such as religion, ethics and culture have a huge impact views on the use of capital punishment, making it a very sensitive topic. Around two-thirds of countries around the world are now abolitionist in law and/or in practice, a huge increase from just a few decades ago, when the vast majority of countries still carried out executions for civilians. In 2017, Mongolia abolished the death penalty for all crimes taking the number of countries to have fully abolished capital punishment to 106. Meanwhile, after Guatemala became abolitionist for ordinary crimes such as murder, the number of countries that have now abolished the death penalty in law and/or in practice stands at 142.

According to Amnesty International, executions were carried out in 23 countries in 2017, and the total number of executions dropped by 4% from 2016. 2591 death sentences were handed out in 53 countries, down 17% from 2016. Overall, 21,919 people are known to be on death row globally. These statistics, however, do not include thousands of the executions that are carried out in China each year, where death sentences are kept as a state secret.

The question of whether capital punishment should be used at all is of course at the centre of the debate concerning the death penalty. However, a number of other factors also come into play. One of the main points of discussion is who should be liable for execution, in regards to both age and mental capacity. In Iran, for example, the age of full criminal responsibility is merely outlined as 'the age of maturity,' with boys as young as 14 years and 7 months, and girls as young as 8 years and 9 months being subject to adult penalties, including the death sentence. Amnesty International has said that in 2015, at least 9 people were executed for crimes they committed when they were under the age of 18 – 5 in Pakistan and 4 in Iran. 80 more are currently on death row in Iran. Similarly, Teruhiko Seki was executed in Japan for a crime which he committed as a minor under Japanese law. There have been also been cases of people with diminished mental capacities being executed, which has caused controversy among certain groups, with cases of those with mental or intellectual disabilities being executed or sentenced to death in Japan, the Maldives, Pakistan, Singapore and the USA in 2017. Numerous human rights groups have voiced concerns over the execution of people who they deem to have significantly reduced understanding or control over their crimes, and many abolitionist states have encouraged retentionist states to make exceptions for children<sup>1</sup> and those with intellectual disabilities.

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<sup>1</sup> Article 1 of the United Nations Convention on the Rights of the Child (UNCRC), the most widely ratified human rights treaty in history, states that 'a child means every human being below the age of 18 years.'

The method of execution is another major point of disagreement. Some believe the most humane method possible should be used, whereas others feel that the method of punishment should ‘match’ the nature and severity of the crime. Human rights organisations have raised issues over this – they feel that methods such as stoning are brutal, degrading, and out of place in the 21<sup>st</sup> century. Article 5 of the Universal Declaration of Human Rights states that ‘no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.’ Similar concerns have been raised over public executions, which still take place in Saudi Arabia, North Korea and Somalia. These nations have been widely condemned in response to their continuation of public executions. In addition to the method of execution, the treatment of the condemned prior to execution in various countries has been criticised. For example, four Japanese prisoners were executed in 2017, with no warning given to the prisoners, their families or their legal representatives.

The judicial process is another major issue. There are international fair trial standards which must be met, however human rights groups have recorded a number of cases where these standards were not met, including cases involving the extraction on confessions through torture or other ill-treatment. These cases occurred in Bahrain, China, Iran, Iraq and Saudi Arabia, with some confessions even being broadcast live on television in Iran and Iraq – these allegations have not been verified by any of the nations involved. Amnesty International reports that the trials of three men executed on 15<sup>th</sup> January 2017 in Bahrain for terrorism-related acts did not meet international regulations, as their lawyers did not have access to all the evidence against them, and were not allowed to cross-examine the prosecution witnesses. The court also found two of the men guilty following coerced confessions which were admitted as evidence. In many nations, actions in court which lead to unjust executions are punishable by death.

Additionally, people continue to be sentenced to death and executed for offences that do not meet the ‘most serious crimes’ threshold of ‘intentional killing’ as set out in international law. These non-violent offences include drug-related crimes, as well as adultery, economic crimes, apostasy and blasphemy. 15 countries gave death sentences in 2017 for drug-related crimes, and 12 carried out executions. In Singapore, 8 people were hanged in 2017 for drug trafficking or possession, and 40% of all executions in Iran and Saudi Arabia were for drug-related offences.

### **Capital punishment by country:**

#### Countries with death penalty (retentionist)

Country	Annual executions (2017)	Last recorded execution	Capital crimes <sup>2</sup>	Methods of execution
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<sup>2</sup> Not necessarily mandatorily punishable by death; additionally, all crimes listed other than murder are crimes which are punishable by death even when not resulting in death

Afghanistan	5 <sup>3</sup>	2018	Murder, arson, terrorism, treason, espionage, adultery, apostacy, homosexual sodomy	Firing squad, hanging
Bahrain	3	2017	Murder, arson, terrorism, treason, espionage, rape of a child, drug trafficking, military offences	Firing squad
Bangladesh	6	2017	Murder, terrorism, treason, espionage, rape, kidnapping, human trafficking, drug trafficking, possession of drugs	Firing squad, hanging
Belarus	2	2018	Murder, treason, war crimes	Firing squad
Botswana	0	2018	Murder, treason, espionage, aggravated piracy, military offences	Hanging, any method decided by President (military only)
Chad	0	2015 <sup>4</sup>	Murder, terrorism, treason, espionage, military offences	
China	Unknown <sup>5</sup>	Unknown	Murder, arson, terrorism, treason, espionage, rape, kidnapping, forced prostitution, aggravated assault, robbery, burglary, drug trafficking, economic crimes, prison riots, military offences	Firing squad, lethal injection
Egypt	35	2018	Murder, terrorism, treason, espionage, rape, kidnapping, drug trafficking, military offences	Hanging
Equatorial Guinea	0	2014	Aggravated murder, treason, espionage, robbery, piracy, war crimes, military offences	Firing squad (military only), hanging
Gambia	0	2012	Murder, terrorism, treason	Firing squad, hanging
India	0	2015	Aggravated murder, terrorism, treason, espionage, rape, kidnapping, drug trafficking, military offences	Firing squad (military only), hanging
Indonesia	0	2016	Murder, terrorism, treason, espionage, robbery, drug	Firing squad

<sup>3</sup> This figure is according to Afghan media and is not a reliable number

<sup>4</sup> This is when members of Boko Haram were executed; prior to this no executions had taken place since 2003

<sup>5</sup> The number of people sentenced to death each year is a state secret in China; however, human rights organisations estimate that China carries out thousands of executions each year

			trafficking, possession of drugs, corruption, war crimes, military offences, production/transfer/use of chemical weapons	
Iran	Unknown <sup>6</sup>	2018	Murder, terrorism, treason, espionage, rape, kidnapping, robbery, burglary, drug trafficking, possession of drugs, adultery, apostacy, homosexual sodomy, incestuous relations, fornication, publishing pornography, recidivist consumption of alcohol, blasphemy, political crimes, economic crimes, military offences	Firing squad, hanging, stoning, falling from a height
Iraq	125	2018	Murder, terrorism, treason, espionage, rape, kidnapping, drug trafficking, war crimes, military offences	Firing squad, hanging
Japan	4	2018	Murder, arson, terrorism, treason	Hanging
Jordan	15	2017	Murder, terrorism, treason, espionage, rape of a child, robbery, drug trafficking, war crimes	Hanging
Kuwait	7	2017	Murder, terrorism, treason, espionage, rape, kidnapping, forced prostitution, human trafficking, drug trafficking, military offences	Firing squad, hanging
Libya	0	2010	Murder, terrorism, treason, espionage, drug trafficking, military offences	Firing squad
Malaysia	4	2017	Murder, terrorism, treason, kidnapping, robbery, burglary, drug trafficking, trafficking of firearms, possession of multiple firearms, military offences	Hanging
Nigeria	0	2016 <sup>7</sup>	Murder, terrorism, treason, rape, kidnapping, robbery, adultery, apostacy, homosexual sodomy, incestuous relations, witchcraft,	Firing squad, hanging, stoning, crucifixion

<sup>6</sup> The number of people sentenced to death each year is kept largely secret in Iran; however, human rights organisations estimate that Iran carries out many hundreds of executions each year

<sup>7</sup> The Legal Defence and Assistance Project (a Nigerian rights organisation) and Amnesty International both reported that 3 executions were carried out secretly in 2016; however, the last execution publicised by the Nigerian government took place in 2013

			practicing of indigenous religions, military offences	
North Korea	Unknown	2017	Murder, terrorism, treason, espionage, rape, kidnapping, assault, facilitating prostitution, robbery, circulating 'harmful' information, failure to discharge duty, religious offences, being a 'scoundrel', human trafficking, drug trafficking, possession of drugs, economic crimes, military offences	Firing squad, hanging <sup>8</sup>
Oman	0	2015	Murder, terrorism, treason, espionage, piracy, drug trafficking,	Firing squad, hanging
Pakistan	65	2017	Murder, terrorism, treason, rape, kidnapping, adultery, apostacy, blasphemy, drug trafficking, arms trafficking, military offences	Hanging
Palestinian Authority	6	2017	Murder, terrorism, treason, espionage, military offences	Firing squad, hanging
Saudi Arabia	146	2018	Murder, arson, treason, espionage, terrorism, rape, robbery, burglary, drug trafficking, possession of drugs, adultery, apostacy, homosexual sodomy, recidivist consumption of alcohol, sorcery/witchcraft, military offences	Beheading, stoning
Singapore	8	2018	Murder, terrorism, treason, kidnapping, drug trafficking, economic crimes, piracy, war crimes, military offences	Hanging
Somalia	12	2017	Murder, terrorism, treason, espionage, military offences	Firing squad
Sudan	0	2016	Murder, terrorism, treason, espionage, rape, robbery, drug trafficking, economic crimes, adultery, apostacy, homosexual sodomy, recidivist heterosexual sodomy, incestuous relations, war crimes	Hanging, stoning, 'in the same manner in which the offender caused death' (retributive sentences only)

<sup>8</sup> The method of execution is not mandated by legislation – it simply says 'extinguishing bodily life.' It has been reported by South Korean media that a senior party official was executed by flame thrower in 2014 and that a senior military official was executed with a mortar round in 2012; however, these statements are not reliable

Syria	Unknown	2014	Murder, terrorism, treason, espionage, inflicting torture during a gang-robbery, drug trafficking, possession of drugs, military offences, belonging to the Moslem Brethren (Muslim Brotherhood) Group, military offences	Firing squad (military only), hanging
Thailand	0	2018	Murder, arson, terrorism, treason, espionage, rape, kidnapping, drug trafficking, possession of drugs, economic crimes, illegal use of firearms, military offences	Lethal injection
UAE	1	2017	Murder, terrorism, treason, espionage, rape, drug trafficking, possession of drugs, adultery, import/storage/disposal of nuclear waste	Firing squad, stoning
USA	23	2018	Murder, terrorism, treason, espionage, drug trafficking, war crimes, military offences	Firing squad, hanging, lethal injection, electrocution, gas chamber
Vietnam	0	2016	Aggravated murder, terrorism, treason, espionage, rape of a child, robbery, drug trafficking, economic crimes, war crimes, military offences	Firing squad, lethal injection
Yemen	2	2018	Murder, terrorism, treason, espionage, rape, kidnapping, drug trafficking, possession of drugs, adultery, apostacy, homosexual sodomy, military offences, recidivist forcing/allowing of a wife or daughter into prostitution	Firing squad, stoning

Countries without the death penalty (abolitionist)

Country	Status <sup>9</sup>	Year or abolition	Last recorded execution
Albania	Abolitionist	2000	1992
Algeria	Abolitionist de facto <sup>10</sup>	n/a	1993
Antigua & Barbuda	Abolitionist de facto	n/a	1991

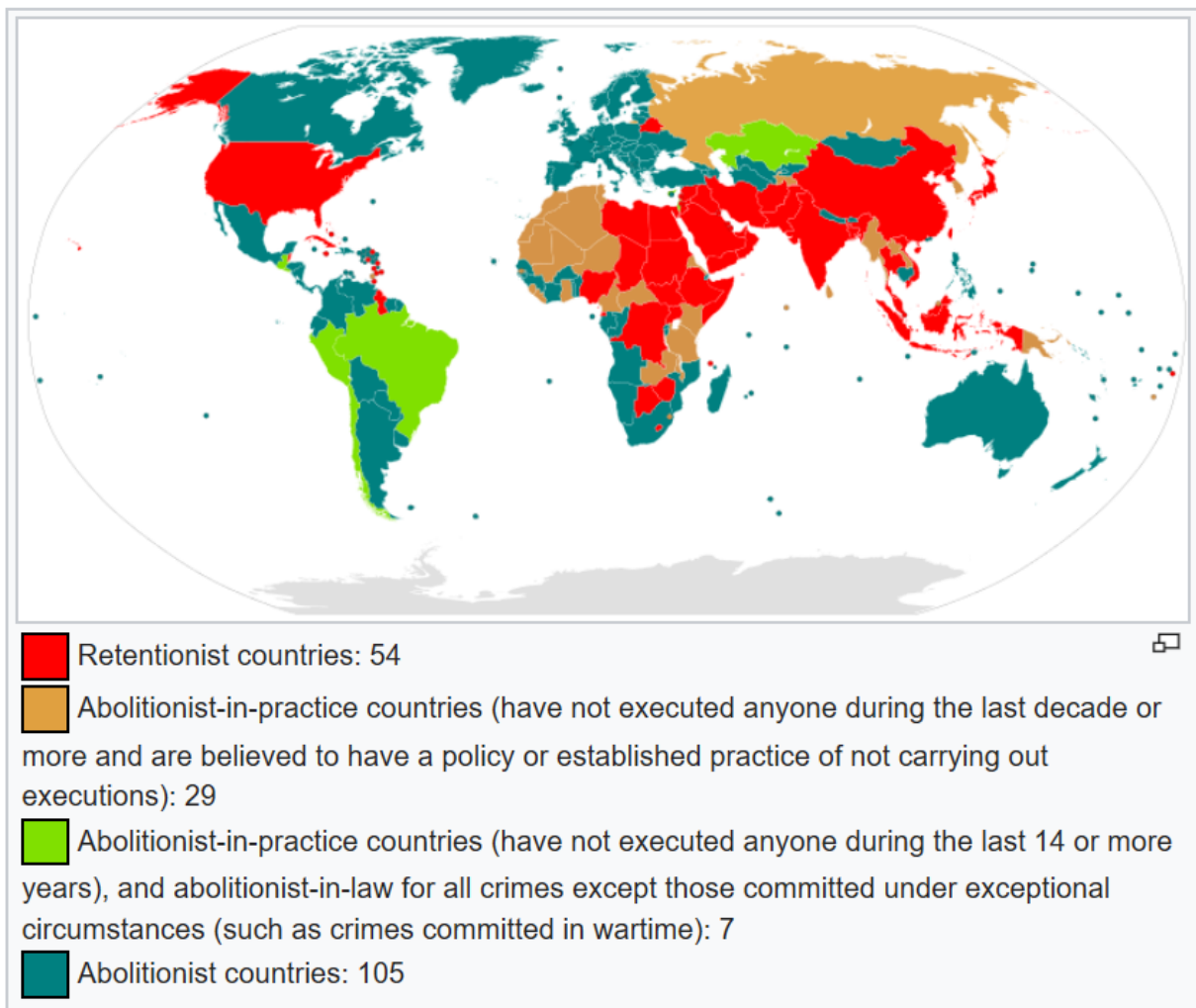
<sup>9</sup> According to Amnesty International

<sup>10</sup> 'Abolitionist de facto' is the phrase used when a nation doesn't employ capital punishment practically, but has not legally abolished it. Any country which has not used the death penalty in the last 10 years is seen to be 'abolitionist de facto.'

Argentina	Abolitionist	2008	1916
Australia	Abolitionist	1985 / 2010	1967
Austria	Abolitionist	1985	1950
Bahamas	Abolitionist de facto	n/a	2000
Barbados	Abolitionist de facto	n/a	1984
Belgium	Abolitionist	1999	1863 / 1950 (wartime)
Belize	Abolitionist de facto	n/a	1985
Brazil	Abolitionist de facto	n/a	1876
Brunei	Abolitionist de facto	n/a	1957
Bulgaria	Abolitionist	1998	1989
Cameroon	Abolitionist de facto	n/a	1997
Canada	Abolitionist	1998	1962
Central African Rep.	Abolitionist de facto	n/a	1981
Comoros	Abolitionist de facto	n/a	1997
Croatia	Abolitionist	1990	1987
Cuba	Abolitionist de facto	n/a	2003
Cyprus	Abolitionist	2002	1962
Czech Republic	Abolitionist	1990	1989
Dem. Rep. Congo	Abolitionist de facto	n/a	2003
Denmark	Abolitionist	1993	1892 / 1945 (wartime)
Dominica	Abolitionist de facto	n/a	1986
Estonia	Abolitionist	1998	1991
Ethiopia	Abolitionist de facto	n/a	2007
Fiji	Abolitionist	2015	1970
France	Abolitionist	1981	1977
Georgia	Abolitionist	1997	1995
Ghana	Abolitionist de facto	n/a	1993
Germany	Abolitionist	1987 (East) / 1990 (upon reunification)	1981 (East) / 1951 (West)
Greece	Abolitionist de facto	n/a	1972
Hungary	Abolitionist	1990	1988
Iceland	Abolitionist	1940	1830
Ireland	Abolitionist	1990	1954
Italy	Abolitionist	1994	1997
Jamaica	Abolitionist de facto	n/a	1988
Kenya	Abolitionist de facto	n/a	1987
Laos	Abolitionist de facto	n/a	1989
Lebanon	Abolitionist de facto	n/a	2004
Lesotho	Abolitionist de facto	n/a	1995
Lithuania	Abolitionist	1999	1995
Madagascar	Abolitionist	2015	1958
Malawi	Abolitionist de facto	n/a	1992
Malta	Abolitionist	1991	1943
Morocco	Abolitionist de facto	n/a	1993
Myanmar	Abolitionist de facto	n/a	1988
Netherlands	Abolitionist	1982	1956

New Zealand	Abolitionist	1989	1957
Niger	Abolitionist de facto	n/a	1976
Norway	Abolitionist	1988	1876 / 1948 (wartime)
Papua New Guinea	Abolitionist de facto	n/a	1954
Poland	Abolitionist	1998 / 2002	1988
Portugal	Abolitionist	1911	1846
Qatar	Abolitionist de facto	n/a	2003
Russian Federation	Abolitionist de facto	n/a	1999
Romania	Abolitionist	1900 / 1994	1989
Serbia	Abolitionist	2001	1992
Sierra Leone	Abolitionist de facto	n/a	1998
Slovakia	Abolitionist	1993	Unknown
Slovenia	Abolitionist	1994	1959
South Africa	Abolitionist	1995	1989
South Korea	Abolitionist de facto	n/a	1997
Spain	Abolitionist	1995	1975
Sri Lanka	Abolitionist de facto	n/a	1976
St Lucia	Abolitionist de facto	n/a	1995
Suriname	Abolitionist	2015	1982
Swaziland	Abolitionist de facto	n/a	1983
Sweden	Abolitionist	1985	1910
Switzerland	Abolitionist	1987	1944
Tanzania	Abolitionist de facto	n/a	1994
Tonga	Abolitionist de facto	n/a	1982
Trinidad & Tobago	Abolitionist de facto	n/a	1999
Turkey	Abolitionist	1984	1983
Uganda	Abolitionist de facto	n/a	2005
Ukraine	Abolitionist	2000	1997
United Kingdom	Abolitionist	1998	1965
Vatican City	Abolitionist	1969	1870
Zambia	Abolitionist de facto	n/a	1997
Zimbabwe	Abolitionist de facto	n/a	2005

All figures concern the actions of the state only, and exclude the actions of any groups which are not recognised internationally, such as terrorist organisations which control certain regions.



### Through history / timeline:

The first ever recorded laws on the death penalty are contained in the Code of Hammurabi (a document from Ancient Babylonia – modern-day Iraq), which was written in the 1700s B.C. - 25 crimes were punishable by death, including adultery and helping slaves escape, but not including murder.

In 1767, Cesare Beccaria (considered by many to be the father of criminal law and justice) published his penology treatise 'On Crimes and Punishments' which condemned torture and the death penalty. This is said to have catalysed the early stages of the abolitionist movement.

During the World Wars of the early 20<sup>th</sup> century, there was a surge in executions. As has been the case in many major wars throughout history, thousands were executed for military offences.

## **Key organisations:**

### United Nations

Former Secretary General Ban Ki-moon said: 'The right to life is the foundation of all human rights. The taking of life is irreversible, and goes against our fundamental belief in the dignity and worth of every human being. I call on all world leaders, legislators and justice officials to stop executions now. There is no place for the death penalty in the 21st century.'

Former Assistant Secretary General for Human Rights Ivan Šimonovič said: 'Victim's perspectives, taken holistically, make a compelling case against the death penalty. When it comes to the death penalty, almost everyone loses.'

The Universal Declaration of Human Rights states in Article 3 that everyone has 'the right to life,' and says in Article 5 that no one should 'be subjected to torture or to cruel, inhuman or degrading treatment or punishment.' The UDHR was adopted by the General Assembly on 10<sup>th</sup> December 1948 with 48 of its then 58 members voting for, 0 voting against, 8 abstaining and 2 not voting. The United Nations Convention on the Rights of the Child, which is the most widely ratified human rights treaty in history, emphasises that every child has 'the right to life.'

### Amnesty International

Amnesty International, like many other human rights organisations, is strongly opposed to the use of the death penalty.

A statement on their website reads: 'At Amnesty International, we firmly believe that no one – including any government – has the right to take away someone else's life. We oppose the use of the death penalty in every single case. No matter what the crime, who the alleged criminal is, or the method proposed to execute them – we will always stand against it. We're working to end the use of the death penalty around the world, and won't stop until every country in the world has abolished it.'

Former Secretary General of Amnesty International Salil Shetty said: 'Strong leaders execute justice, not people. Despite strides towards abolishing this abhorrent punishment, there are still a few leaders who would resort to the death penalty as a quick-fix rather than tackling problems at their roots with humane, effective and evidence-based policies. The draconian anti-drug measures widely used in the Middle East and Asia-Pacific have totally failed to address the issue. The death penalty is a symptom of a culture of violence, not a solution to it.'

## **Useful sources:**

Cornell Centre on the Death Penalty Worldwide – database from Cornell Law School

'Death Penalty and the Victims' – report by UN OHCHR

Universal Declaration of Human Rights

United Nations Convention on the Rights of the Child

'Death Sentences and Executions in 2017' – report by Amnesty International