



PROGRESS MADE IN 10 YEAR AND CHALLENGES AHEAD

Detailed Fact Sheet

On October 10, the World Coalition Against the Death Penalty and abolitionists worldwide will celebrate the 10th anniversary of World Day against the Death Penalty. This year's World Day focuses on the achievements and progress made toward abolition. Around the world, countries have ended or restricted their use of the death penalty. In addition, they have signified their support of ending this practice by ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty and by voting in favour of United Nations (UN) resolutions for a moratorium on the death penalty. The World Coalition welcomes these steps forward as it also remains vigilant for the challenges ahead.

[1] The Worldwide Trend toward Abolition: Progress of the Past 10 Years

Significant progress on the road to end the death penalty has been made over the past 10 years. Since 2002, **21 countries have abolished the death penalty for all crimes** (Albania, Argentina, Armenia, Bhutan, Burundi, Cook Islands, Cyprus, Gabon, Greece, Kyrgyzstan, Latvia, Mexico, Montenegro, the Philippines, Rwanda, Samoa, Senegal, Serbia, Togo, Turkey and Uzbekistan)¹.

Global momentum continues to build toward complete abolition

The last decade has seen a large increase in countries that have officially abolished the use of the death penalty, have eliminated the use of the death penalty in practice, or have restricted its application:²

- 141 countries are abolitionist in law or in practice;**³
- 97 countries have abolished the death penalty for all crimes;**⁴
- 8 countries have abolished the death penalty for ordinary crimes;**⁵ and
- 36 countries have abolished the death penalty in practice.**⁶

1 See: <http://www.amnesty.org/en/death-penalty/countries-abolitionist-for-all-crimes>, last visited June 25, 2012.

2 These figures are based on Amnesty International's data for 198 countries, which include Taiwan, Palestinian Authority, South Sudan, Cook Islands, and Niue.

3 Amnesty Int'l, Death Sentences and Executions 2011, 27 March 2012 (hereinafter Death Sentences and Executions) at Annex II, p 57. Since the publication of Amnesty International's Death Sentences and Executions, Mongolia has been reclassified from retentionist to abolitionist in practice. The definition of "abolitionist in practice" for purposes of this fact sheet is based on Amnesty International's definition, which states "Countries which retain the death penalty for ordinary crimes such as murder but can be considered abolitionist in practice in that they have not executed anyone during the past 10 years and are believed to have a policy or established practice of not carrying out executions. The list also includes countries which have made an international commitment not to use the death penalty." See Abolitionist and Retentionist Countries, Amnesty International, <http://www.amnesty.org/en/death-penalty/abolitionist-and-retentionist-countries>, last visited June 5, 2012.

4 Albania, Andorra, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Belgium, Bhutan, Bosnia-Herzegovina, Bulgaria, Burundi, Cambodia, Canada, Cape Verde, Colombia, Cook Islands, Costa Rica, Cote D'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Djibouti, Dominican Republic, Ecuador, Estonia, Finland, France, Gabon, Georgia, Germany, Greece, Guinea-Bissau, Haiti, Holy See, Honduras, Hungary, Iceland, Ireland, Italy, Kiribati, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Macedonia, Malta, Marshall Islands, Mauritius, Mexico, Micronesia, Moldova, Monaco, Montenegro, Mozambique, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niue, Norway, Palau, Panama, Paraguay, Philippines, Poland, Portugal, Romania, Rwanda, Samoa, San Marino, Sao Tome And Principe, Senegal, Serbia (including Kosovo), Seychelles, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Sweden, Switzerland, Timor-Leste, Togo, Turkey, Turkmenistan, Tuvalu, Ukraine, United Kingdom, Uruguay, Uzbekistan, Vanuatu, Venezuela.

5 Bolivia, Brazil, Chile, El Salvador, Fiji, Israel, Kazakhstan, Peru.

6 Algeria, Benin, Brunei, Burkina Faso, Cameroon, Central African Republic, Congo (Republic of), Eritrea, Gambia, Ghana, Grenada, Kenya, Laos, Liberia, Madagascar, Malawi, Maldives, Mali, Mauritania, Mongolia, Morocco, Myanmar, Nauru, Niger, Papua New Guinea, Russian Federation, Sierra Leone, South Korea, Sri Lanka, Suriname, Swaziland, Tajikistan, Tanzania, Tonga, Tunisia, Zambia

• Worldwide Look at Domestic Trends and Legislation

Death Sentences and Executions Have Decreased

Compared to one decade ago, the number of countries actually carrying out a death sentence has decreased by more than one-third: in 2011, 21 countries recorded executions⁷ compared to 31 countries which carried out executions a decade ago.⁸ Similarly, the number of death sentences imposed has decreased.⁹ The number of people on death row has also decreased in some countries, following commutation of death sentences.

CUBA

Most death sentences were commuted in 2008; the remaining 4 death row prisoners had their sentence commuted at the end of 2010. As part of the country's Universal Periodic Review (UPR) process¹⁰ in February 2009, the Cuban delegates told the UN that the decision to commute the sentences "was adopted as a sovereign act, in keeping with the humanitarian and ethical conduct that has characterized the Cuban Revolution since its inception" and that "[p]hilosophically speaking, Cuba is against application of the death penalty ... Even if the death penalty is prescribed in the national legislation, Cuba understands and respects the arguments of the international movement that proposes its elimination or a moratorium. For that reason, our country has not rejected initiatives in the United Nations having this aim."¹¹

MYANMAR

On 16 May 2011, under the President's Office Order No. 28/2011, 657 people, including 16 women, had their death sentences commuted to life imprisonment. Further commutations were made in January 2012.

Even among countries with the most executions, there has been progress toward curbing the death penalty.¹²

UNITED STATES OF AMERICA

The USA, one of the biggest supporters of the death penalty, has also shown progress towards abolition as 17 of the 50 USA states have abolished the death penalty in law. In the past 10 years this included New York (in 2007), New Jersey (in 2007), New Mexico (in 2009), Illinois (in 2011), and Connecticut (in 2012).¹³ California, the State with the largest death row population in the USA, may be next. In November 2012 Californian citizens will vote on a referendum to abolish the death penalty in the state's legislation.

CHINA

In China, even if official figures are not available, recent reforms have restricted the use of the death penalty and executions are reported to have decreased from about 10,000 in the early 2000s to 5,000 in the 2010s¹⁴. In 2007, a legal reform required that every capital sentence be reviewed by the SPC. In 2010 the Supreme People's Court reviewed 12,086 cases. Furthermore, in 2011, China abolished the death penalty for 13 non-violent offences and banned capital punishment for offenders over the age of 75.

7 Afghanistan, Bangladesh, Belarus, China, Egypt, Iran, Iraq, Malaysia, North Korea, Palestinian Authority, Saudi Arabia, Singapore, Somalia, South Sudan, Sudan, Syria, Taiwan, United Arab Emirates, USA, Viet Nam, Yemen.

8 Death Sentences and Executions, p. 4. These numbers, however, may not contain the full picture of all executions and death sentences because there still remains much secrecy surrounding the accurate reporting of executions worldwide with many governments not disclosing information to international government institutions or nongovernmental organizations (NGOs).

9 Death Sentences and Executions, p. 7. These sentencing and execution rates, from Amnesty International, do not reflect statistics on China since 2009, as Amnesty International has not published estimates on death penalty use in China, because such statistics are treated as a state secret.

10 The Universal Periodic Review (UPR) is a unique process of the UN Human Rights Council which involves a review of the human rights records of all 192 UN Member States once every four years.

11 U.N.G.A. Human Rights Council, Report of the Working Group on the Universal Periodic Review (Cuba), U.N. Doc. A/HRC/11/22, Add., para.13.

12 The countries with the greatest numbers of executions include China, Iran, Saudi Arabia, Iraq, Yemen and the United States. Death Sentences and Executions, p. 5.

13 Connecticut, Illinois, New Jersey, and New Mexico have abolished death penalty by law. New York's Supreme Court ruled the death penalty to be unconstitutional.

14 Hands Off Cain, THE MOST IMPORTANT FACTS OF 2010 (and the first six months of 2011), last accessed June 27, 2012. <http://www.handsoffcain.info/bancadati/index.php?tipotema=arg&idtema=15309657>

Growing Use of a Moratorium

A moratorium is the temporary suspension of executions and, in some circumstances, of death sentences. It is provisional and often depends on the will of a key decision maker, such as a president or minister. Several countries that have not legally abolished the death penalty have at least ended it in practice, either by declaring an official moratorium or by not carrying out executions. The emergence of moratoria on the use of the death penalty has also gained momentum in the past 10 years. For example, Sierra Leone and Nigeria have declared a moratorium on executions¹⁵ and Tajikistan has had a moratorium on both death sentences and executions since 2004.¹⁶ In April 2007, the King of Jordan issued an instruction that executions were on hold until further notice.¹⁷ Oregon Governor Kitzhaber in the USA declared a moratorium in 2012 and announced he would not allow any further executions during his term.¹⁸

Other countries have not executed any individual. For example, countries such as Antigua and Barbuda, Trinidad and Tobago, and Algeria have not carried out executions in recent years, a hopeful indication of their eventual movement towards complete abolition.¹⁹ In another example, Swaziland described its status to the UN Human Rights Council as “retentionist in law, abolitionist in practice.”

Growing Restrictions on the Scope of the Death Penalty: Elimination of Mandatory Death Sentences

A mandatory sentencing scheme is one where a death sentence is automatically imposed upon conviction of a certain offence. The court (or other sentencing authority) retains no discretion to take into consideration the facts of the offence or the characteristics of each individual offender; instead, each offender is sentenced to death regardless of any mitigating circumstances that may reduce the sentence. For instance, in countries that have the mandatory death penalty for drug trafficking, a court would not be permitted to consider a defendant’s lack of criminal record or the desperate circumstances that may have contributed to his decision to traffic in narcotics before imposing sentence.²⁰ The following countries have recently abolished mandatory death sentences for all crimes: The Bahamas (2006), Belize (2002), Dominica (2005), Malawi (2007), Saint Kitts and Nevis (2002), Saint Lucia (2002), Saint Vincent and the Grenadines (2002), Swaziland (2005), Taiwan (2006), and Uganda (2005).²¹ In 2006, Pakistan eliminated the mandatory death penalty for gang rape to encourage the prosecution of suspected rapists.²² In 2010, Kenya abolished the mandatory death penalty for murder.²³ In July 2011, the Bombay High Court struck down the mandatory death penalty for drug offences.²⁴

Growing Restrictions on the Scope of the Death Penalty: Crimes

For those countries that have refused to fully abolish the death penalty or implement a moratorium on its use, some have taken incremental steps in restricting the scope of crimes eligible for the death penalty. These countries have restricted the death penalty to only the most serious crimes or reduced the number of offences eligible for the death penalty. For example:

- Following a 2001 Eastern Caribbean Supreme Court decision, **Grenada** restricted the use of the death penalty to the crime of aggravated murder.²⁵
- In 2003, **Tajikistan** amended its penal code, abolishing the death penalty for drug trafficking, drug possession for trafficking, forcible seizure of power and attempts on the lives of statesmen and public figures, some forms of robbery, banditry, and terrorism, and some violations of international humanitarian law.²⁶

15 Death Sentences and Executions, pp. 5, 23, 30.

16 “Tajikistan,” Death Penalty Worldwide, Accessed June 26, 2012. <http://www.deathpenaltyworldwide.org/>.

17 “Jordan,” Death Penalty Worldwide, Accessed June 26, 2012. <http://www.deathpenaltyworldwide.org/>.

18 Death Sentences and Executions, p.10.

19 Death Sentences and Executions, pp. 10, 15, 33.

20 Cited in “Mandatory Sentencing,” Death Penalty Worldwide, Accessed June 26, 2012. <http://www.deathpenaltyworldwide.org/mandatory-death-penalty.cfm>

21 Death Penalty Worldwide, Accessed June 26, 2012. <http://www.deathpenaltyworldwide.org/>

22 “Pakistan,” Death Penalty Worldwide, Accessed June 26, 2012. <http://www.deathpenaltyworldwide.org/>.

23 *Godfrey Ngotho Mutiso v. Republic* [2010] eKLR.

24 Harm Reduction International, Death Penalty for Drug Offences, p. 14.

25 “Grenada,” Death Penalty Worldwide, Accessed June 26, 2012. <http://www.deathpenaltyworldwide.org/>.

26 “Tajikistan,” Death Penalty Worldwide, Accessed June 26, 2012. <http://www.deathpenaltyworldwide.org/>.

- In 2006, the **Democratic Republic of the Congo** abolished the death penalty for the crime of rape resulting in death.²⁷
- **Jordan** amended its penal code in 2006 to abolish the death penalty for certain drugs crimes²⁸, and again in 2010, to eliminate the death penalty for arson and armed rebellion against constitutional authorities.²⁹
- **Kazakhstan** eliminated the death penalty for ordinary crimes in 2007.
- In 2009, **Belarus** restricted the use of the death penalty to crimes involving aggravated murder.³⁰
- In 2009, **Vietnam** abolished the death penalty for rape, smuggling, counterfeiting, organizing the illegal use of narcotics, hijacking, bribery, the destruction of military weaponry, and the appropriation of property by swindling.³¹
- As of 2009, **Saint Vincent and the Grenadines** has restricted the use of the death penalty to aggravated murder and treason.³²
- In 2010, the **Central African Republic** abolished the death penalty for witchcraft and crimes involving public property.³³
- As of 2010, **Kuwait** reported that its courts have restricted use of the death penalty to the most serious crimes.³⁴

Noor Atiqah M. Lasim, MALAYSIA

Noor Atiqah M Lasim was arrested in an airport in 2009 and charged with drug trafficking, a crime that carries a mandatory death sentence in Malaysia.³⁵ She was transporting clothes for a friend and has denied any knowledge of the drugs. Nevertheless, Lasim, who is a single mother, was sentenced to death by hanging in 2011.³⁶ On January 20, 2012, a panel of three judges reduced the sentence to twelve years for possession. While the verdict fell short of exoneration, Lasim is no longer on death row and will be eligible for parole within five years.³⁷

Growing Restrictions on the Scope of the Death Penalty: Certain Categories of Persons

Many countries have restricted the application of the death penalty as a sanctioned punishment for certain categories of persons, including offenders under the age of 18, pregnant women, persons suffering from mental illness, and persons who are intellectually disabled. Such prohibitions fall in line with the standards set forth in the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty.³⁸ These safeguards recommend a prohibition on the imposition of the death penalty on juvenile offenders who committed a crime before the age of 18, pregnant women, and the insane. These restrictions reflect the standards set forth by other international and regional law and jurisprudence, and over the last decade, many retentionist countries have implemented these safeguards.

Persons Suffering from Mental Illness:³⁹ In a series of annual resolutions urging full compliance with the Economic and Social Council Safeguards, the UN Commission on Human Rights called on retentionist countries

27 "Democratic Republic of the Congo," Death Penalty Worldwide, Accessed June 26, 2012. <http://www.deathpenaltyworldwide.org/>.

28 Harm Reduction International, Death Penalty for Drug Offences, p. 13.

29 "Jordan," Hands Off Cain, accessed June 26, 2012. <http://www.handsoffcain.info/bancadati/schedastato.php?idstato=16000105>.

30 "Belarus," Death Penalty Worldwide, Accessed June 26, 2012. <http://www.deathpenaltyworldwide.org/>.

31 "Vietnam," Death Penalty Worldwide, Accessed June 26, 2012. <http://www.deathpenaltyworldwide.org/>.

32 "Saint Vincent and the Grenadines," Death Penalty Worldwide, Accessed June 26, 2012. <http://www.deathpenaltyworldwide.org/>.

33 "Central African Republic," Death Penalty Worldwide, Accessed June 26, 2012. <http://www.deathpenaltyworldwide.org/>.

34 "Kuwait," Death Penalty Worldwide, Accessed June 26, 2012. <http://www.deathpenaltyworldwide.org/>.

35 "Death Penalty Database: Malaysia," Death Penalty Worldwide, accessed June 19, 2012. <http://www.deathpenaltyworldwide.org/>.

36 Lynn Lee, "Hanging Mules in Singapore," Asia Sentinel, April 25, 2011, http://www.asiasentinel.com/index.php?option=com_content&task=view&id=3148&Itemid=396.

37 Teo Cheng Wee, "Singapore Woman Escapes Gallows in Malaysia," The Jakarta Globe, Jan. 20, 2012.

<http://www.thejakartaglobe.com/international/singapore-woman-escapes-gallows-in-malaysia/492583>.

38 U.N. Economic and Social Council, res. 1984/50, annex, 1984 U.N. ESCOR Supp. (No. 1) p. 33, U.N. Doc. E/1984/84 (1984).

39 Mental illness is distinct from mental retardation. Mental retardation involves inherent deficiencies in intellectual functioning from birth and limitations in adaptive skill areas necessary to cope with the requirements of everyday life. Human Rights Watch, Beyond Reason: The Death Penalty and Offenders with Mental Retardation, <http://www.hrw.org/reports/2001/03/05/beyond-reason-0>, Mar. 5, 2011. By contrast, mental illness is defined by the National Alliance on Mental Illness as a medical condition that disrupts a person's thinking, feeling, mood, ability to relate to others and daily functioning. Serious mental illnesses include major depression, schizophrenia, bipolar disorder,

"[n]ot to impose the death penalty on a person suffering from any form of mental disorder or to execute any such person."⁴⁰ The European Union has likewise declared that the execution of persons "suffering from any form of mental disorder ... [is] contrary to internationally recognized human rights norms and neglect[s] the dignity and worth of the human person."⁴¹ In *Sahadath v. Trinidad and Tobago*, the U.N. Human Rights Committee made clear that the issuance of an execution warrant in the case of a mentally ill prisoner violates Article 7 of the International Covenant on Civil and Political Rights.⁴² A notable ruling issued by the U.S. Supreme Court prohibits the execution of a person who is incompetent at the time of his or her execution.⁴³

Intellectually Disabled Persons:⁴⁴ The International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities prohibits torture or to cruel, inhuman or degrading treatment or punishment and directs States Parties to take "all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others," from being subjected to this treatment.⁴⁵ The U.S. Supreme Court ruled that the death penalty cannot be imposed on persons who are intellectually disabled.⁴⁶

Joseph Murphy, UNITED STATES OF AMERICA

On September 26, 2011, Ohio governor John Kasich commuted the sentence of death row inmate Joseph Murphy, declaring that the death penalty was "not appropriate in this case."⁴⁷ Murphy was diagnosed as borderline intellectually disabled and had suffered from severe physical and sexual abuse as a child. Ohio Supreme Court Chief Justice Moyer described Murphy as "destined for disaster." The Ohio parole board unanimously recommended clemency in this case, stating that "there is no evidence of consistent or meaningful support shown to... [Murphy] during his entire existence." The decision was supported by the victim's niece, former Ohio Supreme Court Justice Herbert Brown and the National Association of Mental Illness.⁴⁸

Juvenile Offenders: Both the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child expressly prohibit the execution of a juvenile offender.⁴⁹

While a few countries, including Iran, Saudi Arabia, and Sudan, have executed an individual since the beginning of 2009 for a crime committed before the age of 18, Iran was the only country in 2010 and 2011 to still execute those under the age of 18 at the time the crime was committed. In 2009, one month after beheading two men for crimes committed as juveniles,²³ Saudi Arabia stated its acceptance of the Human Rights Council's recommendation that it not apply the death penalty for crimes committed by juveniles;²² it had not, however, commuted the death sentence of a maid who was convicted of a murder committed while under the age of 18. It is unclear if China has also executed juveniles because of the secrecy surrounding the country's reported

obsessive compulsive disorder (OCD), panic disorder, post traumatic stress disorder (PTSD) and borderline personality disorder. Cited in: "Mental Illness," Death Penalty Worldwide, accessed June 28, 2012. <http://www.deathpenaltyworldwide.org/mental-illness.cfm>.

40 U.N. Commission on Human Rights, Res. 2004/67, Question of the Death Penalty, UN Doc. E/CN.4/RES/2004/67 (2004).

41 European Union, Delegation of the European Commission to the USA, EU Memorandum on the Death Penalty, presented to U.S. Assistant Secretary of State for Human Rights, <http://www.eurunion.org/eu/EU-Memorandum-on-the-Death-Penalty-February-25-2000.html>, Feb. 25, 2000.

42 U.N. Human Rights Committee, *Sahadath v. Trinidad and Tobago*, Communication No. 684/1996, CCPR/C/74/D/684/1996, Apr. 15, 2002.

43 *Panetti v. Quarterman*, 551 U.S. 930, U.S. Supreme Court (2007).

44 The International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities defines a disabled person as including "those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others." Art. 1.

45 International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities,

G.A. Res. 61/106, Annex I, U.N. GAOR, 61st Sess., Supp. No. 49, p. 65, U.N. Doc. A/61/49 (2006), entered into force May 3, 2008, Article 15.

46 *Atkins v. Virginia*, 536 U.S. 304, U.S. Supreme Court (2002).

47 "CLEMENCY: Ohio Death Row Inmate Granted Clemency, Citing "Brutally Abusive Upbringing", Death Penalty Information Center, accessed June 19, 2012. <http://www.deathpenaltyinfo.org/clemency-ohio-death-row-inmate-granted-clemency-citing-brutally-abusive-upbringing>.

48 Alan Johnson, "Governor spares life of condemned killer," The Columbus Dispatch, September 26, 2011.

<http://www.dispatch.com/content/stories/local/2011/09/26/kasich-approves-clemency-for-joseph-murphy.html>.

49 See International Covenant on Civil and Political Rights,

G.A. res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) p. 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976, art. 6; Convention on the Rights of the Child,

G.A. res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force Sept. 2, 1990, art. 37(a).

executions and the lax standards used to determine an offender's age.⁵⁰ Most recently, the Inter-American Commission on Human Rights (IACHR) concluded that the prohibition against the execution of juveniles, defined as those under the age of 18 at the time of the offence, was now of a sufficiently indelible nature to constitute a norm of *jus cogens*.⁵¹ Notably, in March 2005, the United States Supreme Court ruled that the death penalty was cruel and unusual punishment for those who had committed their crimes when under 18 years of age.⁵²

Hafez Ibrahim, YEMEN

In 2005, a Yemeni Judge sentenced Hafez Ibrahim to death for a killing that occurred when he was 16. The judge reportedly refused to hear from witnesses or the defence counsel, and Ibrahim was denied the right to appeal. Two years later, Ibrahim managed to access a mobile phone and notify World Coalition member Amnesty International of his imminent execution. After a prolonged campaign, Ibrahim was finally released in 2007. He has since taken up the study of law and dedicated his life to "campaigning against the death penalty and raising awareness about human rights."⁵³ The execution of juvenile offenders is prohibited under both the Yemeni Penal Code, the Convention on the Rights of the Child, and the International Covenant on Civil and Political Rights.⁵⁴

Ramdeo Chauhan, INDIA

The Indian Supreme Court upheld Ramdeo Chauhan's death sentence commutation in November of 2010.⁵⁵ Chauhan was sentenced to death in 1998 for a crime committed when he was approximately 15-years-old, despite an international prohibition on the execution of juvenile offenders.⁵⁶ The trial took six years, during which time Chauhan was held as an adult in violation of Indian law. After living for nearly two decades with no access to the outside world, he was finally released at the age of 34.⁵⁷

Pregnant Women: Many of the same international treaties prohibiting the use of the death penalty for juveniles and the mentally ill also recognize the inhumanity of applying such a punishment to pregnant women.⁵⁸ Additional Protocols of the Geneva Conventions and the UN Commission on Human Rights resolutions of 2003 and 2005 go further to call for the ban of the death penalty for pregnant women or mothers of young children.⁵⁹

- Certain countries, including Thailand, have recently abolished the use of the death penalty against pregnant women and mothers of small children.⁶⁰
- In its 2003 state report to the Human Rights Committee, Uganda stated that its laws prohibit the imposition of a death sentence on a pregnant woman. She will instead receive a sentence of life imprisonment.⁶¹

50 Human Rights Watch, Iran, Saudi Arabia, Sudan: End Juvenile Death Penalty, 9 October 2010, <http://www.hrw.org/news/2010/10/09/iran-saudi-arabia-sudan-end-juvenile-death-penalty>.

51 *Domingues v. United States*, Report No. 62/02 October 22, 2002.

52 *Roper v. Simmons*, 543 U.S. 551, U.S. Supreme Court (2005).

53 "Hafez Ibrahim, Yemen," Amnesty International, last modified March 13, 2010. <http://www.amnesty.org/en/50/inspirational-stories/hafez-ibrahim-yemen>.

54 "Urgent Call to End Hafez Ibrahim's Execution," FIDH, last modified August 20, 2007. <http://www.fidh.org/Urgent-call-to-annul-Hafez-Ibrahim?envoiamis=1>; "International Instruments," The International Justice Project, accessed June 18, 2012. <http://www.internationaljusticeproject.org/juvInstruments.cfm#iccpr>.

55 "India: Amnesty International welcomes commutation of death sentence of a child," Amnesty International, last modified November 25, 2010. <http://www.amnestyusa.org/news/press-releases/india-amnesty-international-welcomes-commutation-of-death-sentence-of-a-child>.

56 "International Instruments," The International Justice Project, accessed June 19, 2012. <http://www.internationaljusticeproject.org/juvInstruments.cfm#iccpr>.

57 Vishwajoy Mukherjee, "A Long Wait for Freedom," *Tehelka*, September 12, 2011.

http://www.tehelka.com/story_main50.asp?filename=Ws120911LAW.asp.

58 Int'l. Cmte. Of Red Cross, Customary International Humanitarian Law, http://www.icrc.org/customary-ihl/eng/docs/v2_cha_chapter39_rule134_sectionc.

59 Int'l. Cmte. Of Red Cross, Customary International Humanitarian Law, http://www.icrc.org/customary-ihl/eng/docs/v2_cha_chapter39_rule134_sectionc.

60 Death Penalty and Executions, p. 27; "Thailand," Death Penalty Worldwide, Accessed June 26, 2012. <http://www.deathpenaltyworldwide.org/>.

61 Consideration of Reports Submitted by States Parties under Article 40 of the Covenant, Initial Report to the Human Rights Committee: Uganda, Feb. 25, 2003, U.N. Doc. CCPR/C/UGA/2003/1, para. 141.

The African Charter on the Rights and Welfare of the Child also prohibits the death penalty for “mothers of infants and young children”.⁶²

• Recent International Legal Developments

Growing Support for the UN General Assembly Resolutions Calling for a Moratorium

The UN has also continued its efforts to encourage countries with the death penalty to abolish its use, invoke a moratorium or limit its scope. In 2007, 2008,⁶³ and 2010, the UN General Assembly adopted three resolutions calling on nations to:

- establish a moratorium on executions with a view to abolishing the death penalty;
- restrict the number of offences punishable by death;
- publish information on the use of the death penalty;
- respect international standards that provide safeguards guaranteeing the protection of those facing the death penalty; and
- not reintroduce the death penalty once it is abolished.⁶⁴

Since 2007, the moratorium resolution has continued to gain increased support, demonstrating the growing global support towards abolition of the death penalty.⁶⁵ Votes in favour of the moratorium resolution have increased with each year from 104 in 2007, 106 in 2008, and 109 in 2010. Votes against the resolution have subsequently reduced in each year from 54 in 2007, 46 in 2008, and 41 in 2010. In 2008, a significant change was observed in the Arab world. In 2010, one country (Algeria, who also co-sponsored the resolution) voted in favour, eleven abstained or were absent and only nine voted against the resolution. This was a noticeably better result than in 2007, when only one Arab League country voted in favour, six abstained or were absent and 14 voted against. No less than five countries in the Arab League have changed their position from voting against in 2007 to abstaining in 2010 (Bahrain, Comoros Islands, Jordan, Mauritania and Oman). In 2010, a significant change could also be observed in Asia, the largest retentionist area in the world. Mongolia and Thailand, which had previously voted against the resolution and signed a statement of dissociation, respectively voted in favour and abstained for the first time. Bhutan and Maldives, which had previously abstained from voting, voted in favour of the third resolution.

Indeed, the 2010 resolution received its strongest level of support with additional States voting in favour of the resolution, including Mongolia and Togo. Notably, Afghanistan and Nigeria changed their votes from opposition to abstention.

Increasing Ratifications of the Protocols to Abolish the Death Penalty

Countries increasingly have demonstrated their support for this position by ratifying key treaties. The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Second Optional Protocol), was adopted by the UN General Assembly in 1989. The Second Optional Protocol is a key international treaty that has enjoyed growing support. As of 10 July 2012, 75 countries are parties to the treaty, with 29 countries joining in the past decade only, including Benin, Mongolia, Brazil, Argentina, the Philippines, San Marino, and Turkey.⁶⁶ The USA, most of Africa, and most of Asia, however, has not ratified the Second Optional Protocol yet.

The World Coalition conducts a campaign to encourage target countries to ratify this important treaty. The target countries for the remainder of 2012 are: Angola and Armenia (September-October 2012) and Burundi and El

62 A.U. African Charter On The Rights And Welfare Of The Child, art. 30,e, A.U. Doc. CAB/LEG/24.9/49, Jul. 11, 1990.

63 The 2008 vote was on a procedural resolution reaffirming the 2007 resolution.

64 UN Resolution 62/149, Moratorium on the Use of the Death Penalty (2007), U.N. Doc. A/RES/62/149; UN Resolution 63/168, Moratorium on the Use of the Death Penalty (2008), U.N. Doc. A/RES/63/168; UN Resolution 65/206, Moratorium on the Use of the Death Penalty (2010), U.N. Doc. A/RES/65/206.

65 U.N. General Assembly, “General Assembly Adopts Landmark Text Calling for Moratorium on Death Penalty,” 62nd General Assembly, Plenary, 18 December 2007, <http://www.un.org/News/Press/docs/2007/ga10678.doc.htm>.

66 United Nations Treaty Collection, “Chapter IV: Human Rights,” accessed June 14, 2012. http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-12&chapter=4&lang=en.

Salvador (November-December 2012). Visit <http://www.worldcoalition.org/protocol.html> to download a ratification kit for each country.

In addition, countries have signified their support for relevant regional treaties from Europe and the Americas. Recent examples of those countries include Honduras, which became a State Party to the Protocol to the American Convention on Human Rights to Abolish the Death Penalty on 11 October 2011, and the Dominican Republic, which followed closely behind adopting the Protocol on 27 January 2012. In Europe, Latvia ratified Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms, abolishing the death penalty in all circumstances on 5 January 2012.

Growing International Statements

In line with the continued trend toward full abolition and restriction on the use of the death penalty, high-level officials continue to evince their support for moratoria and an end to the death penalty. On 22 September 2011, the UN Special Rapporteur on Torture called for an immediate moratorium on the death penalty, especially in drug-related and juvenile cases.⁶⁷ On 18 October 2011, the Special Rapporteur on Torture also called for a prohibition of prolonged solitary confinement of the kind that often attends death sentences. Even the highest representative of the United Nations, UN Secretary-General Ban Ki-Moon, called on Member States which use the death penalty to abolish this practice, stressing that “the right to life lies at the heart of international human rights law”, in July 2012.⁶⁸ This position is consistent with his prior statement that “there is a growing trend in international society, international law and domestic policies and practice to phase out the death penalty and I recognize that trend and encourage that trend.”⁶⁹

Certain aspects of the death penalty have also been recognized to constitute cruel and unusual punishment. Both hanging and stoning have been recognized by international and regional bodies to constitute cruel and unusual punishment.⁷⁰ The UN Special Rapporteur has recognized certain death row conditions, such as complete isolation, continuous handcuffs and shackling throughout detention can qualify as torture.⁷¹ Finally, over the last two decades, a rich body of jurisprudence has developed in support of the notion that prolonged incarceration on death row, also known as “death row phenomenon,” can constitute cruel, inhuman or degrading punishment.⁷²

Gilan Mohammadi, Gholamali Eskandari, IRAN

Gilan Mohammadi and Gholamali Eskandari were released from an Iranian prison in 2009 after their death sentences were overturned in a retrial.⁷³ They are believed to have been detained under charge of adultery since 2003 and were awaiting a brutal execution by stoning. Both Mohammadi and Eskandari were denied representation during the original trial. The head of the Iranian Judiciary declared a moratorium on the use of stoning in 2002, though its use has continued since then.⁷⁴

67 Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, U.N. Doc. A/HRC/19/61, Jan. 18, 2012. <http://www.ohchr.org/Documents/Issues/SRTorture/A-HRC-19-61.pdf>

68 “Remarks at High-Level Event on the Death Penalty”, UN News center, Jul. 3, 2012, http://www.un.org/apps/news/infocus/sgspeeches/search_full.asp?statID=1591

69 U.N. Secretary-General Ban Ki Moon, “Address at the Center for Strategic and International Studies and Q&A,” Latest Statements, Jan. 16, 2007, <http://www.un.org/sg/statements/?nid=2410>.

70 Human Rights Commission Res. 2003/67, para. 4(i); Res. 2004/67, para. 4(i); and Res. 2005/59 para. 7(i) (stating that execution by stoning as a “particularly cruel or inhuman means of execution.”); Eur. Ct. H.R., App. No. 61498/08 (2010) (stating that hanging “was an ineffectual and extremely painful method of killing, such as to amount to inhuman and degrading treatment”).

71 Report by the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak, U.N. Doc. E/CN.4/2006/6/Add.4 (2005), para. 53.

72 World Coalition against the Death Penalty, *International Jurisprudence: the death penalty and the prohibition of cruel, inhuman or degrading treatment or punishment* (2011), p. 5.

73 “Iran: Gilan Mohammadi and Gholamali Eskandari acquitted and released,” *Death Penalty News*, last modified November 15, 2009. <http://deathpenaltynews.blogspot.com/2009/11/iran-gilan-mohammadi-and-gholamali.html>

74 “Document - Iran: Death Penalty/Stoning,” Amnesty International, last modified January 16, 2009.

<http://www.amnesty.org/en/library/asset/MDE13/005/2009/en/cb0d3add-e6d4-11dd-a371-adcd1d2c1b57/mde130052009en.html>

Growing Abolitionist Movement

On 22 June 2001, the signatories of the Strasbourg Declaration pledged to “create a world-wide co-ordination of abolitionist associations and campaigners, whose first goal will be to launch a world-wide day for the universal abolition of the death penalty”. This Declaration was adopted in the hemicycle of the Council of Europe by the participants to the first World Congress against the Death Penalty, initiated and organised by the French NGO Together against the Death Penalty. After several preparatory meetings, most of the initiative’s protagonists met in Rome, Italy on 13 May 2002 to create officially the World Coalition Against the Death Penalty. 10 years later, the World Coalition has grown to become an independent NGO with more than 130 member organisations from all over the world and has become a key actor in the fight for universal abolition of the death penalty.

From the initial 19 founding members, there are now 132 members from 45 different countries and from a wide variety of actors (local activists, lawyers, murder victims’ families, judges, exonerees, doctors, international campaigners, academics, local governments and trade unions). The World Day against the Death Penalty, which was launched in 2003, has since then been joined by two other international campaigns: the campaign for a universal moratorium on the use of the death penalty (launched in 2007) and the campaign for the ratification of the UN Protocol to abolish the death penalty (launched in 2009). Regional networks in retentionist areas have also been created, such as the Anti Death Penalty Asia Network, the Arab Coalition against the Death Penalty, the Central African Coalition against the Death Penalty, and more recently, the Greater Caribbean for Life. National Coalitions have also developed in areas where abolitionist felt isolated, such as in Iraq, Niger, Singapore or Taiwan.

[2] Focus Forward: Challenges Ahead in the Next 10 Years

Despite the progressive restriction of the death penalty in these areas, this decade has also seen the expansion of the death penalty in other areas that create cause for concern:

Drugs: Specifically, 32 countries still have laws imposing the death penalty for drug offences.⁷⁵ Although numbers show that those executed for drug offences are in the hundreds, it is estimated that these figures rise above one thousand when including countries that practice secrecy in their executions.⁷⁶ Drug offenders make up the majority of those who are condemned to die in retentionist countries with the vast majority of those executions taking place in 12-14 countries.⁷⁷ For example:

- **Indonesia:** Past reports indicate that about half of the estimated 100 people on Indonesia’s death row are drug offenders and that 80 percent of those are foreign. In 2008, two Nigerians imprisoned for drug trafficking in an EU-US funded super-max prison in the country were executed by firing squad, with only one day’s notice of their deaths.
- **Saudi Arabia:** Approximately 53 of the 62 executions for drugs identified in 2007 and 2008 were of foreign nationals.
- **Singapore:** The government of Singapore has executed at least five people out of eleven for drugs since 2008.
- **Kuwait:** There have been at least 14 executions for drug offences since 1998.
- **Iran:** Of the 650-plus people executed in Iran in 2010, 590 were drug offenders.
- **China:** Credible reports indicate that in the week leading up to 26 June 2010, the UN International Day against Drug Abuse and Illicit Trafficking, China executed at least 59 people, including 20 in a single day.⁷⁸

75 Harm Reduction International, Death Penalty for Drug Offences, p. 5.

76 Harm Reduction International, New Report: Foreign Drug Offenders Facing Death in China, Saudi Arabia, Iran, Malaysia, Singapore, Indonesia, and Kuwait, Media Release, Sept. 14, 2011.

77 Harm Reduction International, Death Penalty for Drug Offences, p. 5.

78 Harm Reduction International, New Report: Foreign Drug Offenders Facing Death in China, Saudi Arabia, Iran, Malaysia, Singapore, Indonesia, and Kuwait, Media Release, Sept. 14, 2011.

Terrorism: Some countries are adopting or amending laws to provide for the death penalty for certain acts of terrorism, including offences which do not necessarily result in lethal consequences. For instance, Syria imposed the death penalty for people convicted of arming known terrorists in December 2011.⁷⁹ Bangladesh, India, and Nigeria have also adopted laws expanding the scope of the death penalty by including acts of terrorism among the offences punishable by death.⁸⁰ Five Guantanamo detainees suspected of involvement in the September 11, 2011 terrorist plot could face a death sentence in the USA.⁸¹ Often these types of offences are drafted in very broad and undefined language, meaning that they could be applied to a wide variety of activities.

Homosexuality: Some countries, including Liberia and Uganda, have launched efforts to impose the death penalty for acts of homosexuality.⁸² Currently, both national governments have claimed that the death penalty as a punishment has been removed from the respective legislation after much international outcry.

Resumption of Executions and Expansion of Death Penalty Scope: Recently, certain countries have defied international norms and pronouncements and have renewed a death penalty regime. Afghanistan, the United Arab Emirates, and Japan have resumed executions, reflecting a move away from the global trend of abolition.⁸³ The scope of the death penalty was also known to have been expanded in Bangladesh, China, Egypt, and India, among others, in contravention of international human rights standards.⁸⁴

Transparency: Lastly, some countries, such as Belarus, China and Viet Nam, refuse to release official statistics and information about the death penalty which continues to be classified as a state secret in contravention of international standards. In other countries, such as Belarus, Japan and Viet Nam, prisoners are not informed of their forthcoming execution, nor are their families and lawyers, and in countries like Iran, secret executions take place.⁸⁵ Transparency about capital punishment procedures and executions is critical to prevent errors or abuses and to safeguard fairness.

- **Further Work to Eradicate the Death Penalty**

Despite the notable progress toward abolition of the death penalty worldwide, significant work is still yet to be done in order to fully realize this goal. In addition to raising awareness and support of existing international and regional treaties, continued progress on total abolition must continue. One possible way to move towards full abolition is to have it enshrined in the constitution of the country.

TUNISIA:

No death sentences were imposed in 2011 and 140 death row inmates had their sentences commuted to life imprisonment in January 2012, however reports indicated that two men were sentenced to death in following the mass commutation in June 2012. Ousted president Zine al-Abidine Ben Ali was given a life sentence in absentia by a military court over the killing of protesters last year. Members of the newly elected National Constituent Assembly (NCA) have been tasked with drafting the new Constitution, providing a golden opportunity to abolish the death penalty in Tunisia.

79 Death Penalty and Executions, p. 43.

80 Death Penalty and Executions, pp. 19, 21, 50.

81 Brian Bennett, "Accused September 11 Plotters to Face Death Penalty Trial at Guantanamo," Los Angeles Times, 4 April 2012.

82 Death Penalty and Executions, at 53; Zoom Dosso, "Liberia Ex-First Lady Proposes Tough Anti-Gay Bill," American Free Press, Feb. 15, 2012.

83 Death Penalty and Executions, p. 9; Anti-Death Penalty Asia Network, Japan-Executions Resume, 29 March 2012, <http://adpan.net/2012/03/31/japan-executions-resume-adpan-appeals-for-an-end-to-the-death-penalty-and-fears-further-executions>.

84 Death Penalty and Executions, p. 9.

85 Death Penalty and Executions, p. 7.

GHANA:

On 11 January 2010, John Evans Atta Mills, President of the Republic of Ghana, inaugurated a Commission to review the 1992 Ghanaian Constitution. The Report of the Constitution Review Commission was made public on 15 June 2012 and the government of Ghana accepted the recommendation that the death penalty be completely abolished in article 13 of the Constitution. However, actual processes leading to the amendments are likely to be deferred after the presidential elections of December 2012.

The number of countries retaining the death penalty remains at 57.⁸⁶ Eight countries also retain the death penalty for crimes committed in times of war.⁸⁷ In this respect, we must press for the ratification of international treaties and the adoption of laws mandating the abolition of the death penalty for all crimes. In the meantime, persistent effort is needed to exclude more categories of people from the reach of the death penalty and to ensure procedural safeguards are followed in all death penalty cases. Finally, it is critical that opponents of the death penalty remain vigilant to defeat proposed bills that reinstate the death penalty or propose to expand its scope.

[End]

The World Coalition Against the Death Penalty

The World Day against the Death Penalty was created in 2003 by the World Coalition Against the Death Penalty to help activists worldwide rally to oppose the death penalty and unite behind the struggle for universal abolition. The World Coalition Against the Death Penalty is an alliance of more than 130 NGOs, bar associations, local authorities and unions. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. The World Coalition gives a global dimension to the sometimes isolated action taken by its members on the ground. It complements their initiatives, while constantly respecting their independence.



86 Death Penalty and Executions, Annex II, p. 57. Mongolia was reclassified to abolitionist in practice after the publication of the Amnesty International Report.

87 Death Penalty and Executions, Annex II, p. 57.