

Towards a Universal Moratorium on the Use of the Death Penalty

[Strategies, Arguments and Perspectives

Author:
Caroline Sculier

STOP THE DEATH PENALTY: THE WORLD DECIDES

**WORLD
COALITION**
AGAINST THE DEATH PENALTY

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[**Strategies, Arguments and Perspectives**

February 2010

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— AGAINST THE DEATH PENALTY —

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[**Preface**

Stop the death penalty! The world decides

Five years after its creation, the World Coalition Against the Death Penalty has been facing one of the most important decisions in its young history: the one to support the resolution of the General Assembly of the United Nations for a moratorium on the use of the death penalty in 2007.

The purpose of the WCADP is to promote universal abolition of the death penalty by all means. Until 2007, the moratorium was one of the means of the Coalition to achieve this goal, together with reducing the scope of capital punishment or guaranteeing fair trials. The moratorium is characterized by a temporary suspension of executions and, more rarely, of death sentences. It is provisional and often depends on the will of a key decision maker (President, Minister of Justice ...). Conversely, the abolition is permanent as enshrined in law.

Several attempts to pass a resolution against the death penalty at the General Assembly of the United Nations before the 2007 resolution had failed, as in 1997. In 2007 the momentum was different because a trend towards the universal abolition had begun. Two-thirds of the world had abolished the death penalty or ceased to apply it, and the number of executions declined each year.

The time had come to encourage a majority of states to adopt the principle that “the use of the death penalty undermines human dignity” calling “upon all States that still maintain the death penalty to establish a moratorium on executions with a view to abolishing the death penalty”, and the Coalition decided to take action for this historic resolution. This decision also marked a watershed in the history of the WCADP as it is its first international campaign of advocacy directed towards states and international organizations.

For the first year of the campaign, the Coalition has actively participated in the advocacy for the adoption of the resolution by dedicating the 5th World Day against the death penalty on this issue. It brought together more than 160,000 signatures for a petition and contacted 105 countries. In 2008 it continued its efforts and led a campaign to increase support for the new resolution and to ensure its implementation.

Today, the movement for abolition grows larger and larger. More states have abolished the death penalty, more moratoria on executions have been implemented and proposals for abolition in law have proliferated

throughout the world. 104 countries have now abolished in law, 35 countries have a moratorium and out of the 58 countries where the death penalty is still applied, 25 countries execute prisoners every year. In December 2010, a new resolution for a moratorium on the use of the death penalty will be presented for a vote and the Coalition will continue its action.

This report offers strategies and prospects for increased support for the new resolution and its implementation. It also feeds the report of the UN Secretary General for December 2010 on progress made in the implementation of resolutions 62/149 and 63/168. It is released for the 4th World Congress against the death penalty, organized by ECPM with the partnership of the WCADP in Geneva, headquarters of UN bodies for human rights.

The World Coalition against the Death Penalty

The World Coalition Against the Death Penalty was created in Rome in 2002. It includes over 100 organizations in 38 countries on 5 continents, including NGOs, professional organizations, trade unions and local authorities.

Executive Secretariat: ECPM

Steering Committee members: Amnesty International, Arab Coalition Against the Death Penalty, Collectif Unitaire National de Soutien à Mumia Abu-Jamal, Coalition nationale pour l'abolition de la peine de mort au Maroc, Community of Sant'Egidio, Death Penalty Focus, Culture pour la Paix et la Justice, Ensemble contre la peine de mort, International Federation of Human Rights Leagues, Fédération Syndicale Unitaire, International Federation of Action by Christians for the Abolition of Torture, Lawyers For Human Rights International, Murder Victims' Families for Human Rights, National Association of Criminal Defence Lawyers, Paris Bar, Penal Reform International, Puerto Rico Bar Association, Taiwan Alliance to End the Death Penalty, Texas Coalition to Abolish the Death Penalty, Tuscany Region.

Other members: ACAT France, Advocates for Human Rights, ALIVE, American Friends Service Committee, Association for the Rights to Live, City of Andoain, Association Marocaine des Droits Humains, Bahrain Human Rights Society, Belarusian Helsinki Committee, City of Braine l'Alleud, Centre for Prisoner's Rights, Centre marocain des droits humains, Coalition nationale tunisienne contre la peine de mort, Collectif des Organisations des Jeunes Solidaires du Congo-Kinshasa, Comité des Observateurs des Droits de l'Homme, Comitato Paul Rougeau, Comité Syndical Francophone de

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l'Education et de la Formation, Conférence Internationale des Barreaux, Congolese Youth Movement, Conseil National pour les Libertés en Tunisie, CURE, Death Watch International, City of Dijon, Droits et Paix, Federation of Liberal Students, Forum Africain contre la Peine de Mort, Forum 90 Japan, Forum marocain pour la Vérité et la Justice, Foundation for Human Rights Initiative, Hands Off Cain, Hope & Justice, Human Rights Watch, Human Rights Commission of Pakistan, HURLAWS, International Organization for Diplomatic Relations, Iranian Human Rights Activists Groups in EU and North America, Iraqi Alliance for the Prevention of the death penalty, Iraqi Center for Human Rights and Democracy Studies, Italian Coalition to Abolish the Death Penalty, Journey of Hope, KontraS, Law Student's Forum, Legal and Human Rights Centre, Lifespark, Ligue des Droits de l'Homme, Ligue ivoirienne des Droits de l'Homme, Lutte Pour la Justice, City of Matera, MEDEL, Mêmes droits pour tous, Mothers Against Death Penalty, Mouvement contre le Racisme et pour l'Amitié

entre les Peuples, National Coalition to Abolish the Death Penalty, National Lawyers Guild, Nigerian Humanist Movement, Observatoire marocain des prisons, Observatoire National des Prisons, Ordine Provinciale dei Medici-Chirurghi e degli odontoiatri di Firenze, Ordre des avocats du Barreau de Liège, Ordre des avocats de Genève, Ordre des avocats des Hauts de Seine, Ordre des Barreaux francophones et germanophones de Belgique, Organisation marocaine des droits humains, Pacific Concerns Resource Centre, Palestinian Centre for Human Rights, Pax Christi Uvira asbl, People of Faith Against the Death Penalty, Puerto Rican Coalition against the Death Penalty, RADHOMA, RAIDH, City of Reggio Emilia, Rights and Democracy, ROTAB, Stop Child Executions, SYNAFEN, Union Chrétienne pour le Progrès et la Défense des Droits de l'Homme, Unis pour l'abolition de la peine de mort, US Human Rights Network, City of Venice, Victorian Criminal Justice Coalition, Women's Information Consultative Center, World Organisation against Torture.

The UN Resolutions on a Universal Moratorium

The debate over the death penalty is probably as old as the United Nations Organisation itself. Sixty years on from the Universal Declaration of Human Rights, the trend around the world is in favour of its abolition. International conventions on basic human rights have limited the uses of the death penalty over time. Various United Nations resolutions⁴ and both international and regional treaties have placed either explicit or implicit restrictions on its use. These included the resolutions of the former UN Commission on Human Rights⁵ and a number of treaties and conventions with both international and regional scope⁶ such as the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and the African Charter on Human and Peoples' Rights. Other treaties are clearly abolitionist. The Second Optional Protocol to the International Covenant on Civil and Political Rights, which was adopted by the United Nations General Assembly in 1989 and came into force on 11th July 1991, seeks statutory abolition of the death penalty and bans executions in the State parties. Three further texts have the same aim in view but are regional in scope. They are protocols 6 and 13 to the European Convention on Human Rights concerning the abolition of the death penalty and the protocol to the American Convention on Human Rights to abolish the death penalty, which was adopted by the General Assembly of the Organization of American States in 1990. Mention should also be made of the Rome Statute, which was adopted on 17th July 1998 and which created the International Criminal Court. Although it deals with the most serious crimes, such as genocide, crimes against humanity and war crimes, the Rome Statute does not include the death penalty among the punishments it permits. Hence, an issue that was originally considered to fall within the purview of individual countries' legal systems has come to be seen as a matter of basic universal human rights.

On 18th December 2007, an historic resolution in favour of a universal moratorium⁷ on executions was adopted by the United Nations General Assembly (UNGA). Resolution 62/149 invited all states which still retained the death penalty to declare a moratorium on executions with a view to eventual abolition. The United Nations Secretary General (UNSG) was mandated to prepare a report on what progress had been made towards imple-

menting the Resolution with a view to further consideration of the issue the following year. Fifty-one member states provided information to the UNSG to that effect and a number of non-governmental organisations (NGOs) supplied additional information.

UNGA Resolution 63/168, which was passed in December 2008 and which repeated the call for a moratorium, confirmed the trend and a further examination of the issue is scheduled for the sixty-fifth UNGA in December 2010.

The UN resolutions mentioned above, which I will refer to from now on as the "Resolutions for a universal moratorium", are generally felt to constitute the culmination of a growing international move away from the death penalty in recent years. Some consider them historic. In December 2007, one hundred and four states voted in favour of the text and eighty-seven went so far as to co-sponsor it; in 2008 one hundred and six states voted in favour and there were eighty-nine co-sponsors. Although the texts are not binding for the State parties, they nevertheless carry significant moral and political weight. Other declarations⁸ have followed where the UN Resolutions led. On 24th November 2008, for instance, the African Commission on Human and Peoples' Rights adopted a resolution calling on African states to observe a moratorium on executions. On 14th and 15th July 2009, civil society organisations from the Arab world met in Madrid to debate the issue of the death penalty as it applies to their countries and to urge their governments to curb its use⁹. On 3rd July 2009, the Parliamentary Assembly of the Organisation for Security and Cooperation in Europe (OSCE) repeated its recommendation in favour of a moratorium and the abolition of the death penalty.

The momentum in favour of abolition met opposition from retentionist countries¹⁰, however. On 11th January 2008, fifty-five countries circulated a *Note Verbale*¹¹ dissociating themselves from the moratorium. This document expressed officially the categorical opposition of the countries concerned to any attempt to impose a moratorium or the abolition of the death penalty and adduced the principle of non interference in states' internal affairs in support of this stance¹². The following year, a second *Note Verbale* was circulated in response to the second UN Resolution and retentionist states again

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expressed their opposition. Fifty-three states signed the *Note Verbale* on this occasion.

At the same time, several countries joined the ranks of the abolitionists. These included Albania, Kazakhstan (for ordinary crimes only) and Rwanda (2007), Uzbekistan and Kyrgyzstan (2008), Burundi and Togo (2009).

Where are we, then, on the subject of the death penalty as we prepare to look again at the issue at the 2010 UNGA? What impact have the UN Resolutions calling for a universal moratorium had on retentionist countries and those which are unsure about the issue? Have they encouraged the global trend towards abolition or have they, instead, contributed to the creation of an anti-abolitionist front?

This report attempts to answer these questions by briefly reviewing the situation in seventeen countries where some progress towards abolition is evident but where, with the exception of Togo, no formal decision has been made on the subject. The countries are divided into three groups. The first group of countries which have a moratorium on executions, some of them have held this status for a long time, voted in favour of the Resolutions for a universal moratorium (Algeria, Benin, Burkina Faso, Madagascar, the Russian Federation). The second group of countries also have a moratorium on executions but abstained during the vote on the Resolutions and did not sign the *Note Verbale* (Ghana, Liberia, Morocco, the Republic of Korea, Togo¹³). Finally, there are the countries whose position on the subject is ambiguous (Jordan, Lebanon, Kazakhstan, Belarus, Nigeria, India, the United States).

One step away from Statutory Abolition

In Algeria, Benin, Burkina Faso, the Democratic Republic of Congo, Gabon, Madagascar, Mali, Nauru, Russia, Sri Lanka and Tajikistan, the fight for abolition is already well advanced. These countries all have a moratorium on executions in practice and voted in favour of the two UN Resolutions for a universal moratorium. A number of them even co-sponsored the Resolutions. This was the case for Gabon, Benin, Algeria and Sri Lanka, the last being the only Asian country with a moratorium on executions to do so. Five of these countries are only one step away from enshrining abolition in law. Although, in theory, this should be the easiest hurdle to clear, in political terms it is, in fact, the most difficult.

[ALGERIA

- **Number of death sentences handed down: 121 new death sentences between April and December 2009¹⁴**
 - ***De facto* moratorium on executions since 1993**
 - **Last execution in 1993**
 - **Voted for and co-sponsored the two UN Resolutions for a universal moratorium**
 - **Supplied information for the 2008 UNSG's report**
-

There has been a moratorium on the application of death penalty in Algeria since 1993. However, there has also been a very high number of death sentences handed down. In fact, Algeria ranks among the countries which hand down most death sentences alongside China, Iran and Pakistan. Exact figures are hard to bydefine but there have been between one hundred and one hundred and fifty death sentences a year on average since the year 2000¹⁵; Amnesty International reports two hundred death sentences in 2008 and around one hundred new death sentences were handed down between April and November 2009¹⁶, primarily to People belonging to Islamist groups in terrorism cases.

Abolition in Algeria has been expected ince 2004, when the country ratified the new Arab Charter on Human Rights¹⁷. Many attempts have been made to get an abolition bill passed. In 2006, one such attempt was made by Farouk Ksentini, Chair of the National Consultative Commission for the Promotion and Protection of Human Rights (CNCPPDH) and a fervent supporter of abolition. The bill received more support but met with opposition from the vast majority of members of parliament with the exception of those belonging to the workers' party. The last such attempt was made by MP Ali Brahimi of the secular party *Rassemblement pour la culture et la démocratie* (the Union for Culture and

Democracy). The government rejected the bill citing security reasons relating to the fight against Islamist terrorism and organised crime and because the public opinion was not in favour of the measure. A heated debate in the press ensued with secular abolitionists on one side and anti-abolitionist Islamists on the other. The latter consider abolition of the death penalty to be against both the letter and the spirit of the Koran.

Among those fighting against the death penalty, with the tacit support of parts of the media, are associations set up to defend human rights such as the *Ligue algérienne des droits de l'Homme* (the Algerian Human Rights League) and the *Ligue algérienne de défense des droits de l'Homme* (the Algerian Human Rights Defence League); the CNCPPDH (National Consultative Commission for the Promotion and Protection of Human Rights National Consultative Commission for the Promotion and Protection of Human Rights), which has expressed its support for the abolition of the death penalty several times since it was set up by presidential decree in 2001; and a number of well-known figures such as the lawyer and former Chair of the *Ligue algérienne des droits de l'Homme*, Miloud Brahimi, who argues in particular for the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), aiming at the abolition of the death penalty. In the political arena, it is *Rassemblement pour la culture et la démocratie* which drives the issue forward. On 10th October 2009, the *Ligue algérienne de défense des droits de l'Homme* put together an alliancecoalition against the death penalty and an initial meeting was held in which individuals representing a variety of different schools of thought took part. Algeria is also a member of the regional coalition against the death penalty, which was launched in Jordan in July 2007. Nevertheless, the level of mobilisation in Algerian society is lower than in neighbouring countries.

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Algeria was the only Arab country to support the moratorium when the historic votes on the UN Resolutions took place in December 2007 and 2008. It even sponsored the Resolutions and provided the UNSG with the information it requested for his report. When Algeria went through the UN Council on Human Rights' Universal Periodic Review¹⁸ procedure, it was congratulated on its attitude. Abolition, however, has not yet been achieved. The authorities claim they have other priorities, such as rebuilding the country, attending to the difficult process of national reconciliation and fighting terrorism, and some members of parliament are cautious given the position of Islamists who support capital punishment as part of Sharia law¹⁹.

[BENIN

- Number of death sentences handed down: last death sentence in 1999
 - *De facto* moratorium on executions since 1993
 - Last execution in 1993
 - Voted for and co-sponsored the two UN Resolutions for a universal moratorium
 - Supplied information for the 2008 UNSG's report
-

Since independence in 1960 Benin has only executed prisoners sentenced to death on three occasions, the last of which was in 1993. The most recent death sentence was handed down in 1999 following a bank robbery in Cotonou. The list of crimes which are subject to the death penalty by law remains long, however.

In 1999, Benin's Constitutional Court found that use of the death penalty was permissible under the country's constitution. In 2006, the government and a large number of members of the National Assembly decided to keep the death penalty on the country's statute books simply as a deterrent to avoid Benin "*becoming a refuge for crooks and criminals whether home grown or from abroad*". During the debate, the Minister of Justice said that "*the death penalty should stay on the statute book as a warning to criminals, if it does not the law will lose something of its weight and impact*²⁰". There has been no change in the situation since then and those in government, parliament and legal circles use the argument

that public opinion is not in favour of abolition to justify their position. President Yayi Boni, who took office in 2006, has not yet given his view on the issue except for a comment made during a visit to Spain, when he indicated publicly that he would "*undertake to work on that*."²¹

Benin voted in favour of and co-sponsored both UN Resolutions for a universal moratorium.

[BURKINA FASO

- Number of death sentences handed down: last two death sentences in November 2009
 - *De facto* moratorium on executions since 1988
 - Last execution in 1988
 - Voted for the two UN Resolutions for a universal moratorium
 - Did not supply information for the 2008 UNSG's report
 - *On 19th March 2009 Burkina Faso committed itself, before the United Nations' Human Rights Council, to become a de jure abolitionist state by the time of its next UPR in 2013 ; In May 2009, the country gave a commitment, before the African Commission on Human and Peoples' Rights, to ratify the Second Optional Protocol to the ICCPR in the near future.*
-

Burkina Faso has only used the death penalty twice (in 1984 and 1988) and has not, therefore, carried out an execution since 1988. The death penalty is still on the statute books, however, and the list of crimes subject to capital punishment is long. Burkinabe courts handed down death penalties in February 2008²² and November 2009²³.

Burkinabe legislation stipulates that those sentenced to death should be treated humanely. However, such legal guarantees are rarely complied with in practice due to lack of resources. Few people in Burkina Faso are in favour of abolition. Cases of mob justice are not uncommon even for minor crimes such as stealing and these sometimes lead to the death of the offender. Most peo-

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ple feel that, since the death penalty is no longer used, there is no problem. There is still a gap separating the values of the people from the values that the State is attempting to espouse.

In 2007 and 2008, Burkina Faso voted for the Resolutions for a universal moratorium. Following on from the country's Universal Periodic Review in December 2008, on 19th March 2009, Burkina Faso's Human Rights Minister Mme Salamata Sawadogo, announced to the United Nations Human Rights Council that she believed Burkina Faso would have become a *de jure* abolitionist country by the time of its next UPR four years later²⁴. In May 2009, Burkina Faso promised the African Commission on Human and Peoples' Rights that it would shortly ratify the Second Optional Protocol to the ICCPR. A commission was established to review and amend the penal code to bring it into line with the country's international commitments. It will present its findings in March 2010. Given the tenor of its work so far, however, some commentators feel that it is unlikely, in the end, to remove the death penalty from the statute books.

The Burkinabe authorities are generally in favour of abolition but say they prefer parliament to take the initiative on the subject. However, most members of parliament still support the death penalty²⁵. To date two abolition bills have been presented to parliament but did not receive government support due to rising crime levels in Burkina Faso. The issue of rising crime levels and, in particular, the problem of highway bandits has persuaded members of parliament who were wavering not to speak in favour of abolition. In addition, the fact that 2010 is an election year in Burkina Faso does not help the abolitionist cause since members of parliament will refuse to give a view to avoid alienating parts of their electorate. Some commentators feel that the support of the public must be obtained before abolition can go forward. Many NGOs (such as Mouvement burkinabé des droits de l'Homme et des peuples the Burkinabe Human and Peoples' Rights Movement) are fighting for abolition. One would think, therefore, that support for the measure was clear. However, it would seem that in Burkina Faso the death penalty is a useful way of keeping the public happy.

[MADAGASCAR

- **Number of death sentences handed down: unknown**
 - ***De facto* moratorium on executions since 1958**
 - **Last execution in 1958**
 - **46 prisoners on death row in September 2007, 57 in March 2009, 54 in May 2009²⁶**
 - **Voted for the two UN Resolutions for a universal moratorium**
 - **Did not supply information for the 2008 UNSG's report**
-

Madagascar's penal code allows for capital punishment and the death penalty is regularly handed down by the country's courts. However, no executions have taken place since 1958. A death sentence may not be carried out until a petition for a pardon has been rejected and even when the prisoner has not petitioned for a pardon, the death penalty is not carried out unless there is an explicit refusal to grant a pardon.

Until recently, those on death row in Madagascar were subject to treatment which did not conform to basic acceptable minimum standards and there were cases of prisoners starving to death as recently as September 2009²⁷. However, the conditions under which prisoners are detained in the country is now the subject of attention from a number of associations and other players, and reform of the prison system is underway.

In 2006, an abolition bill was presented to Parliament by the Ministry of Justice. Progress was very slow and the bill finally became bogged down in the Senate's legal committee and never received a reading at a plenary session.

The governmental authorities were, and say that they still are, largely in favour of abolition. The difficulty, they say, is that some members of parliament are not. These members of parliament argue that the death penalty is a deterrent and, in addition, it helps them to maintain support among their client networks. The issue seems to be linked to the recurring problem of the *dahalo* or zebu rustlers who wreak havoc in some parts of the country. In Madagascan culture, the zebu is sacred and its worth, therefore, goes far beyond its market value. It would seem that, in the collective consciousness, a

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threat to the zebu merits harsh punishment. Many *dahalo* are remanded in custody prior to trial and left there for long periods²⁸ and cases have been reported of zebu rustlers being deprived of food and attention to their other basic needs in prison. The traditional form of community justice, known as *Dina*, should also be mentioned. Although *Dina* is now controlled by legislation, it has produced cases of summary execution and continues to do so, even today, particularly in cases involving *dahalo*.

When presenting its report to the Human Rights Committee in accordance with the requirements of the ICCPR in 2005, and again in its report to the Human Rights Council for the Universal Periodic Review in February 2010, the Madagascan government contented itself with pointing out the country's long moratorium and the fact that the death penalty is systematically commuted to imprisonment. Madagascar voted for the two Resolutions on a universal moratorium but did not co-sponsor them. Neither has it ratified the Second Optional Protocol to the ICCPR.

For the moment, matters have reached an impasse. Very little is being done to move the issue along, either by the government or the media, which occasionally carry comments that lean towards favouring the death penalty, or by civil society organisations, which are generally rather weak. Only Action des Chrétiens pour l'abolition de la torture (ACAT) seems to be active on the subject. The most recent event it organised was a demonstration in the country's capital to coincide with the International Day against the Death Penalty on 10th October 2008.

In theory, Madagascar is prepared to consider abolition and if it is possible to encourage treatment of the *dahalo* issue on the basis of the facts alone, there is no reason, beside the political crisis into which the country has descended since the beginning of 2009, why Madagascar should not join the ranks of Africa's abolitionist countries.

[THE RUSSIAN FEDERATION

- **De facto moratorium on executions since 1996 and on death sentences since 2000 on the basis of a decision of the Constitutional Court on 2nd February 2000, which was extended by a further decision on 19th November 2009**
 - **Last execution in 1996**
 - **Voted in favour of the two UN Resolutions for a universal moratorium.**
 - **Did not supply information for the 2008 UNSG's report**
-

The death penalty is no longer carried out in Russia but has never been abolished in spite of Russia's obligation to ratify Protocol 6 to the European Convention on Human Rights concerning the abolition of the death penalty within three years of joining the Council of Europe, which it did in February 1996. Russia has signed the protocol but the Duma (the Russian parliament) is still studying the text and has not yet ratified it. Russia is the last member state of the Council of Europe which have not ratified this Protocol 6.

In order to comply with Russia's international obligations, the then-president, Boris Yeltsin, imposed a moratorium on executions in accordance with presidential decree no. 724, which refers to "less and less use of the death penalty in accordance with the obligations that Russia has taken on in joining the Council of Europe". In practical terms, the President now considers virtually no cases and by law a death sentence cannot be carried out until the president has rejected a petition for a pardon.

The last execution took place on 2nd September 1996. On 1st January 1997, a new penal code came into force to replace the 1960 penal code. The new code considerably reduced the number of crimes for which a death sentence can be handed down. It can now only be used for extremely serious crimes against the person and cannot be used for women, minors or men over sixty-five years of age. Russian courts continued to hand down death sentences until 1999. On 3rd June 1999, a presidential decree commuted the sentences of all seven hundred and three prisoners who were under a death sentence in the country. On 2nd February 2000, the Constitutional Court decided that the death penalty was unconstitutional until a system of courts with juries could be rolled out across the country to comply with the new

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procedures outlined for the criminal justice system. Since Chechnya was not due to move to the jury system until 1st January 2010 (having announced the move in 2007), the effect of the Constitutional Court's decision was to ban the death sentence until 2010. Meanwhile, on 20th February 2008, the legislative commission of the Duma presented a bill entitled "Regarding the abolition of the death penalty in the Russian Federation". However, there have been no further developments since then²⁹.

As the legal moratorium was about to come to an end, the Constitutional Court took a further decision on 19th November 2009. It will not, therefore, be possible to carry out death sentences when the moratorium comes to an end even if the jury system is operational across the country. The President of the Court, Valery Zorkin, has said that the ball is now in the Duma's court since the Constitutional Court cannot force the Duma to ratify Protocol 6 concerning the abolition of the death penalty.

The Russian President's representative at the Constitutional Court, Michael Krotov, has let it be known that the executive favours abolition but cannot impose its view on the Duma. Boris Gryzlov, the Duma's spokesman, reacted by saying that the parliament would find it hard to ratify the protocol in the absence of a consensus in favour of the move among the public. The latest surveys show that around two thirds of Russians still support the death penalty.

During its Universal Periodic Review in February 2009, Russia indicated that ratification of the Second Optional Protocol to the ICCPR would depend in large part on public opinion on the issue³⁰. At a press conference held in Moscow on 11th March 2009, the Co-Rapporteur of the Parliamentary Assembly of the Council of Europe, Theodoros Pangalos, questioned the argument that Russian public opinion was not yet ready for the move. Russia often refers to this argument to defer abolishing the death penalty.

The Constitutional Court has, therefore, banned carrying out death sentences and the decision, according to the Court's president, is final. It is a decision which has been welcomed by Russian experts and representatives of the orthodox church, which wields significant influence in Russia. Their hope is that Russian public opinion will change and that a time will come when it supports abolition³¹. The Court has, in fact, instituted *de facto* abolition. It is now up to the Duma to confer legal legitimacy on the decision and this may take time³². The good will of Russian authorities which finally accepted to ratify Protocol 14 of the European Convention on Human Rights in January 2010 gives hope to civil society about a potential abolition of the death penalty.

[Group 2

Countries which are Abolitionist in Practice but Resist Making their Position Official

Cameroon, Ghana, Kenya, Liberia, Malawi, Morocco, the Republic of Korea, Togo, Tanzania and Zambia are all abolitionist in practice and some have been so for many years. However, their courts continue to hand down death sentences and they are reluctant to move any further along the road towards abolition. Togo alone has recently passed pro-abolition legislation (in 2009), while, at the opposite extreme, Liberia has reintroduced the death penalty having previously abolished it. All of these countries abstained during the votes on the UN resolutions for a universal moratorium. However, none of them signed the *Note Verbale* to dissociate themselves from the Resolutions. Five of these countries are discussed below.

[**GHANA**

- **Number of death sentences handed down: 3 death sentences in 2009**
 - ***De facto* moratorium on executions since 1993**
 - **Last execution in 1993**
 - **104 prisoners on death row in 2008³³**
 - **Abstained during the vote on the two UN Resolutions for a universal moratorium**
 - **Did not supply information for the 2008 UNSG's report**
 - ***Made a statement before the Human Rights Council during its 2008 UPR according to which the government intended to review the Constitution after the 2008 elections and to raise the issue of abolition in that context.***
-

Ghana seems to have settled comfortably into a *de facto* moratorium and the former president, John Kufuor, lent weight to the belief that this is the case by regularly granting pardons and amnesties as he is permitted to do by the country's constitution. There have been no executions since twelve prisoners were put to death for armed robbery and murder in July 1993. In April 2000, one hundred death row inmates had their sentences commuted to life imprisonment. In June 2003, one hundred and seventy-nine prisoners who had been awaiting their fate on death row for at least ten years were granted an amnesty. To mark the fiftieth anniversary of Ghana's independence, the President freed or reduced the sentences of one thousand two hundred and six prisoners, including thirty-six death row inmates. On 6th January 2009, just before he stepped down as president, Mr. Kufuor granted pardons to over five hundred prisoners. The measure applied primarily to prisoners on death row whose sentence was to be commuted to life, or to twenty years imprisonment for those who had already served ten years in prison.

Aside from the pardons and amnesties which were awarded with increasing frequency by a president who liked to be referred to as the "gentle giant of Africa", the official position has not progressed. However, in February 2001, Nana Akufo-Addo, then Justice Minister and currently Minister for Foreign Affairs, expressed his opposition to the death penalty publicly. But on 31st March 2009, the current Justice Minister and Chief Public Prosecutor Betty Mould-Iddrisu announced that the government did not intend to introduce any reforms that would affect the death penalty during its current term and referring only to the possibility that the subject might be looked at again at some future date³⁴.

Although Ghana's penal code stipulates the death penalty as a punishment for armed robbery, treason and first degree murder, the President exercised his right to pardon in January 2009. In recent years, a number of influential figures have also spoken out on the issue. These include Joe Ghartey, a former Minister of Justice and Chief Public Prosecutor³⁵.

In spite of these efforts, Ghana abstained during the vote on the two UN resolutions and its courts continue to hand down the death sentence. A twenty-three-year-old farmer was sentenced to death on 8th June 2009³⁶ and a thirty-two-year-old farmer and another forty-two-year-old man received the same sentence on 4th August. All were sentenced for murder but in two separate incidents, with the last two men being sentenced by the same court, the Ho High Court, at which Kofi Essel Mensah presides. Some commentators feel, therefore, that there are prospects for abolition in Ghana. During the country's UPR in May 2008, Ghana's Minister of Justice said that the article in the country's constitution which deals with capital punishment can only be amended by referendum in a process which takes six months, but that the government intended to review the Constitution after the 2008 elections and that the issue of abolition would be raised again then.

[Group 2

Countries which are Abolitionist in Practice but Resist Making their Position Official

[**LIBERIA**

- **Number of death sentences handed down: 1 death sentence in 2009**
 - **De facto moratorium on executions since 2000. Last execution in 2000**
 - **Ratified the Second Optional Protocol to the ICCPR banning executions in 2005, but a 2008 law reintroduced capital punishment**
 - **Abstained from the vote on the two UN Resolutions for a universal moratorium**
 - **Did not provide information for the 2008 UNSG's report**
-

After fourteen years of a bloody civil war which had left the country on its knees, a peace agreement signed in September 2003 established the national transitional government and mandated it to rebuild the country's institutions. In September 2005, the government ratified the Second Optional Protocol to the ICCPR, which aims at the abolition of the death penalty. The treaty immediately acquired legal status on Liberian soil. More than eighty international treaties were ratified on the same day.

The ratification of the Second Optional Protocol forbids all executions and encourages State parties to abolish capital punishment within their jurisdiction. However, despite this international commitment, on 22nd July 2008 President Ellen Johnson Sirleaf promulgated a law that had been adopted on 15th July of the same year by the Liberian parliament, reintroducing the death penalty by hanging for three crimes: armed robbery, terrorism and stealing of vehicles if the theft resulted in the death of a person. The President was unable to resist the pressure of public opinion and her political opponents who, in the absence of a police force adequately trained and equipped to curb serious crime, were demanding harsher punishments. At the time, the President had reiterated her commitment to abolition and had decreed that no execution would take place while she was in office. She had also promised a review of the situation in 2009, but it would appear that this review has not taken place. Quite the contrary, as, in September 2009, a man was sentenced to death at Tubmanburg in the county of Bomni for the murder of his two children and the attempted murder of his wife.³⁷

While we must await further developments in the above-mentioned case, the sentence shows that, in a Liberia that remains politically fragile and which will hold presidential elections in 2010, a return to formal abolition of the death penalty is not likely to occur in the near future.

Given the reintroduction of capital punishment, one might have expected the country to oppose the UN Resolutions for a universal moratorium. However, Liberia chose to abstain and did not sign the *Note Verbale*. Liberia will undergo Universal Periodic Review during the ninth session of the Human Rights Council in December 2010.

[**MOROCCO**

- **Number of death sentences handed down: 4 death sentences in 2009³⁸**
 - **De facto moratorium on executions since 1993**
 - **Last execution in 1993**
 - **Abstained from the vote on the two UN Resolutions for a universal moratorium**
 - **Provided information for the 2008 UNSG's report**
-

The debate over the death penalty in Morocco is one of the most advanced in the Middle East & North Africa and extends beyond the restricted circle of human rights associations. The last execution dates back to 1993. Since coming to power in July 1999, King Mohamed VI has not signed a single execution decree despite a May 2003 law against terrorism that increased the number of crimes subject to the death penalty to such an extent that lawyers can no longer agree on how many there are.

In general, the situation in Morocco remains ambiguous. As early as 2004, the Justice Minister spoke in favour of abolition, provided it was introduced by stages. In 2008, two government measures confirmed this intention: firstly, a new draft penal code that sought to reduce to eleven the number of crimes punishable by the death penalty, and secondly, the signing of bilateral extradition agreements which replaced the death penalty with the severest sentence that could be awarded by the courts of the State to whom the extradition request was being made. As a general rule, magistrates show restraint and

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apply article 146 of the penal code, which allows them to reduce a sentence if they consider it to be too harsh.

Yet these positive signs are contradicted by more conservative attitudes. Terrorism remains the authorities' main justification for the increase in death sentences handed down in recent years. The increase has taken place in spite of the fact that the King, the leader of the faithful, whose authority exceeds that of the High Council of Oulemas (theologians), regularly demonstrates clemency. On 18th November 2005, ten thousand prisoners received a royal pardon, and among them were twenty-five who saw their death sentence commuted to life imprisonment. On 28th February 2007, to celebrate the birth of the King's daughter, an amnesty was granted to nine thousand prisoners including fourteen prisoners on death row, a gesture which at the time was interpreted as implying support for the formal abolition of the death penalty. Yet during the same period, four death sentences were confirmed. In July 2009, thirty-two prisoners on death row saw their sentence commuted to life imprisonment for the tenth anniversary of the King's accession to the throne, yet, a few months earlier, the courts in Meknès had once again sentenced three people to death for murder.

The main motivation behind the movement in favour of abolition in Morocco may be the desire to break with the era of King Hassan II and to reinforce Morocco's image as a country that respects human rights. The Consultative Committee on Human Rights (CDDH) was created in 1999. This is a national institution which has been given a royal mandate to act in an advisory capacity, to propose action and to drive forward progress on human rights. It is one of the most active players on the issue of the abolition of the death penalty and the ratification of the ICCPR. In terms of civil society, the abolitionist movement is led primarily by the Coalition marocaine contre la peine de mort (Moroccan Coalition against the Death Penalty), which was created on 10th October 2003 and brings together seven NGOs. Individually, the members of the coalition are very active in favour of abolition and organise events which are generally widely reported. The media is also supportive on the issue, seeing the struggle against the death penalty as a precursor to democracy.

At the political level, the religious argument that is often used in other countries in the region to oppose aboli-

tion of the death penalty seems less relevant in Morocco since the country's legislation does not include any reference to religion. The most important Islamic party in the country, the Parti de la justice et du développement (Justice And Development Party), has long been silent on the issue, although it did recently oppose the proposal to include a ban on capital punishment in the Constitution.

It would seem, therefore, that conditions are ripe for the abolition of the death penalty in Morocco in the near future. However, legislation has not yet been forthcoming and the risk of stagnation is real. In 2007 and 2008, Morocco abstained during the votes on the UN Resolutions. In October 2008, the Justice Minister, Abdelwahed Radi, sought to justify this abstention by declaring that the current *de facto* moratorium demonstrates that the country is "in a phase of reflection."³⁹ The challenge for Morocco is not to confuse giving due consideration to an issue with playing a waiting game. As indicated previously, its neighbour, Algeria, has co-sponsored the resolutions for a universal moratorium.

[**REPUBLIC OF KOREA (SOUTH KOREA)**

- **Death sentence handed down in 2009⁴⁰**
 - ***De facto* moratorium on executions in place since 1998**
 - **Last execution in 1997**
 - **58 people on death row on 1st January 2008.**
 - **Abstained during the vote on the two UN Resolutions for a universal moratorium**
 - **Did not provide information for the 2008 UNSG's report**
-

Since 1997, when the execution of twenty-three prisoners was ordered by the former president, Kim Young-Sam, a number of bills in favour of abolition have been introduced. The first attempt dates from December 1999 and the latest, tabled by former Member of Parliament Yoo In Tae, has just expired, despite having received the support of one hundred and seventy-five members of parliament. Two new proposals, known as 'special bills', are currently going through parliament. One was intro-

Countries which are Abolitionist in Practice but Resist Making their Position Official

duced in September 2008 by Seon Young Park of the Liberty Forward Party and the second, in October of the same year, by Bookyum Kim of the Democratic Party.

Under South Korean law, eighty-eight crimes are punishable by death, the crime of treason being the only one for which it is compulsory. In practice, however, judges elect to limit the death sentence to crimes where the acts have an impact on human life. The Constitutional Court has made a judgement on capital punishment only once. This happened in 1996, when the Court found that the death penalty was compatible with the Constitution by seven votes to two⁴¹. In 2009, the question of whether the death penalty was constitutional was once again raised before the Court and its judgement is awaited. This is the first time that a lower court has referred the matter to the Constitutional Court. To date, only human rights organisations had done so.⁴²

The National Human Rights Commission⁴³, established in November 2001, supports abolition and made a recommendation to that effect in 2005. In 2003, it commissioned a survey which showed that whilst public opinion remained generally in favour of the death penalty,⁴⁴ there was support for a reduction in the list of crimes subject to capital punishment. Religious groups, particularly Catholic groups,⁴⁵ play an important role in the abolition debate and regularly examine the conditions under which prisoners are detained.

It would seem that in South Korea the abolitionist movement is, above all, dependent on the political forces in power. The President, Kim Dae-Jung, who decreed a non-official moratorium on executions in February 1998, is a former dissident and was, himself, condemned to death in 1980. Yu In-Tae, the Member of Parliament who proposed the bill to outlaw the death penalty in 2004 was also sentenced to death under the regime of Park Chung-Hee in 1974.

In general, public opinion remains favourable to the suspension of executions but beyond a *de facto* moratorium no consensus is likely to be reached. On 31st December 2007, the then President, No Muhyeon pardoned six prisoners who had been sentenced to death⁴⁶. This decision, which was completely unexpected and which does not seem to be linked to the adoption of the first UN Resolution at around the same time, was con-

sidered by human rights organisations as a step in the right direction. In May 2008, the Korean Republic underwent the Universal Periodic Review process. The country's representatives contented themselves with explaining that a consensus had not yet been reached at a national level regarding whether capital punishment should be upheld and that at the time of the adoption of the UN Resolution in 2007, discussions about the death penalty had been held at ministerial level.

The country abstained during the votes on the Resolutions for a universal moratorium in 2007 and 2008. During the vote for the second Resolution, the government announced that it had not altered its 2007 position, because the declarations contained in the two Resolutions were, in their opinion, too radical, and did not correspond to public opinion in South Korea. Some consider this position to be disappointing, particularly as the country has been a member of the United Nations Human Rights Council since 2006. After a decade of *de facto* moratorium, the time was undoubtedly right to, at the very least, discuss making the moratorium official or, better still, to move to abolition. South Korea's decision can probably be explained partly by the pressure exerted by its two closest and most influential neighbours, Japan and China, both of which voted against the Resolutions for a universal moratorium⁴⁷. It also creates a dilemma for the current government, which is rather conservative but which, should it back-track on the subject, would certainly see its international image suffer, a situation which it would like to avoid⁴⁸.

[Group 2

Countries which are Abolitionist in Practice but Resist Making their Position Official

[**TOGO**

- **Death penalty abolished by law on 23rd June 2009**
 - **Last execution in 1978**
 - **1 prisoner on death row on 1st January 2009, whose sentence was commuted to life imprisonment following the passing of the abolition law**
 - **Abstained during the vote on the two Resolutions for a universal moratorium**
 - **Provided information for the 2008 UNSG's report**
-

As the last execution in the country dates back to 1978, Togo was considered to be *de facto* abolitionist. Only premeditated murder and high treason were capital offences. Komlan Agbéviadé is the only prisoner to have been sentenced to death since 1978. He was sentenced on 5th September 2002.

Abolition began to gain widespread support from December 2008. On 10th December 2008, the Council

of Ministers published a statement at the end of which it announced that it had just adopted the abolition bill presented by the Justice Minister. It explained that "*the choice that the country had made to establish fair justice that limits judicial errors, corrects, educates and guarantees the inherent rights of human beings is no longer compatible with a penal code that allows the death penalty and gives courts an absolute power with irreversible consequences. The abolition of the death penalty, which is considered to be a humiliating, degrading and cruel sentence by the community of nations respectful of human rights to which we belong, was part of the Togolese collective consciousness for the 30 (thirty) years of the moratorium, although the death penalty remained in the penal code.*"⁴⁹

On 23rd June 2009, the Togolese Parliament unanimously adopted the law abolishing the death penalty. Togo thus became the fifteenth African nation to abolish the death penalty. The country nevertheless had abstained during the vote on the two UN Resolutions.

[Group 3

Countries with an Ambiguous Stance

The United States voted against the two UN Resolutions, but did not sign the *Note Verbale*, unlike Nigeria, which has joined the ranks of the retentionist countries. Yet even within these two giants, positions are not unanimously held, with movement both toward and away from capital punishment. In the USA, the States of New Jersey and New Mexico recently abolished capital punishment, whilst at the same time Ohio is experimenting with a new execution technique; in Nigeria, whilst four states have chosen to broaden the scope of application of the death penalty, the Governor of the State of Lagos has pardoned three prisoners sentenced to death and commuted death sentences to life imprisonment for thirty-seven other prisoners. Despite disapproval from the OSCE, Belarus was still carrying out executions in 2008 but abstained during the vote at the United Nations and has not signed the *Note Verbale*. Jordan, which joined the camp of the retentionists in 2007, abstained in 2008. Kazakhstan and Kyrgyzstan, despite recently showing abolitionist tendencies, did not go so far as to sponsor the Resolutions, but did vote for them. The approaches of these various countries show, to differing degrees, certain doubts on the issue. This document will examine the cases of Jordan, Lebanon, Kazakhstan, Belarus, Nigeria, India and the USA.

[JORDAN

- Death sentences handed down: 14 death sentences in 2008⁵⁰
 - Last execution in April 2007⁵¹
 - 45 prisoners on death row on 1st January 2008
 - Voted against the first Resolution for a moratorium in 2007 and signed the *Note Verbale*; abstained during the vote on the second Resolution for a moratorium in 2008 and has not signed the *Note Verbale*.
 - Did not provide information for the UNSG report, but the Amman Centre for Human Rights Studies contributed in 2008.
-

The Jordanian penal code was modified in 2001 to add acts of terrorism to the list of crimes for which the death penalty could be applied. However, in August 2006 a number of crimes were removed from the list. A further change to the penal code is currently going through parliament and should limit the application of capital punishment to crimes of murder and rape of a minor.

Serious crimes are tried by the State Security Court which, according to Amnesty International and Human Rights Watch, does not meet the minimum conditions that guarantee a fair trial. Although the traditional *Djyya*⁵² system makes it possible to avoid certain executions, death sentences continue to be handed down in the country, mostly for acts of terrorism. Officially forty-one people were executed between 2000 and 2006. In 2007, at least eleven death sentences were recorded followed by fourteen in 2008.

The geopolitical context is not particularly favourable for abolitionist reform. Located at the heart of a turbulent Middle East, the country lives in fear of terrorist attacks and wants to retain harsh treatment for cases of suspected terrorism.

Nevertheless, a number of small incidents give grounds for optimism. In September 2005, a fatal judicial error caused uproar in the country. On that occasion King Abdullah gave an interview in the Italian daily newspaper *Corriere della Serra* (which was not reported by the national media) to announce that Jordan could soon become the first abolitionist country in the Middle East⁵³. Abolitionist groups in Jordan are increasing in number and are increasingly active. Associations for the defense of human rights remain the most active, in particular the Amman Centre for Human Rights Studies (ACHRS), which also strengthened its position as a leading voice in the debate over the death penalty at a regional level. In March 2007, a national coalition against the death penalty was formed with the support of Penal Reform International. A number of parliamentarians are making their voices heard and adopting a strategy for the gradual abolition of capital punishment, including members of parliament from the Al Akhaa el Watany (National Fraternity) Party, a group of young reformers, and the parliamentarian Mohamed Arslan who, in August 2006, voted for the amendments to the penal code reducing the number of crimes subject to the death penalty, and who is seeking to unite his colleagues in the Assembly. Dr. Mohamed Tarawneh, who is a judge at the Amman Court of Appeal, has quashed four death sentences and

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takes part in conferences on the subject. Amongst religious leaders, mention should be made of the regular participation of Sheikh Dr. Hamdi Mrad in demonstrations against the death penalty. He proposes an awareness-raising strategy to reduce the risks of confrontation with Islamic movements and to persuade them to promote the idea of reining in capital punishment. As a general rule, the religious authorities are entirely silent on the issue despite the fact that, as the punishment arises from religion, their influence is undeniable. Any confrontational debate with them would jeopardize the very idea of abolition. Other influential elements of Jordanian society remain fiercely opposed to abolition, including the Jordanian bar.

In December 2007, Jordan voted against the first UN Resolution for a moratorium and signed the *Note Verbale*. However, in 2008 it chose to abstain and has not since rejoined the ranks of the anti-abolitionists. During its Universal Periodic Review in February 2009, Jordan made it known that it only used capital punishment in strictly limited circumstances, that it was working to further reduce the scope of application of the death penalty and that no execution had taken place since April 2007, which equated to a moratorium of sorts⁵⁴, but Jordan refused all recommendations that it should establish a formal moratorium or ratify the Second Optional Protocol to the ICCPR. The country has ratified a number of other international treaties and is a party to the Rome Statute that created the International Criminal Court, which commits it to the idea of no longer applying the death penalty even for crimes considered to be amongst the most serious (genocide, war crimes, crimes against humanity). For many observers, these reforms indicate a gradual but inexorable slide towards abolition. A slow, silent slide which must rely on discretion if it is to have any success.

[**LEBANON**

- **Death sentences handed down: 4 death sentences in November 2009**
 - **Executions resumed in 2004 despite a *de facto* moratorium since 1998**
 - **302 prisoners on death row.**
 - **Abstained during the vote on the two UN Resolutions for a universal moratorium**
 - **Did not provide information for the 2008 UNSG's report 8**
-

Lebanon is a country which is usually classed as retentionist but which, in theory, is ready for abolition. It is primarily the political and military context that has blocked all attempts at abolition to date.

Capital punishment is part of the arsenal of sanctions in the penal code and death sentences can also be handed down by military tribunals. These have been criticised by the United Nations Human Rights Committee since 2001.

Executions were suspended for the first time between 1983 and 1994. From 1994 to 1998, fourteen people were executed. In 1998, a second moratorium on executions came into effect. Although the intense efforts made by Lebanese abolitionist organisations probably played an important role in this development, the moratorium was primarily the decision of the prime minister at the time, Mr. Selim Hoss. He was firmly opposed to capital punishment and systematically refused to sign execution decrees up until his resignation in 2000. Although President Emile Lahoud stated that he would respect the moratorium, three prisoners were executed for murder on 19th January 2004 during his term of office (1998 – 2007).

The abolitionist movement has never wavered in the Lebanon. The country can even claim to be the birthplace of the abolitionist movement in the Middle East with the 1983 creation by Dr Walid Slaybi and Dr Ogarit Younan of the oldest abolitionist movement in the region, Non violence et droits humains (Non-violence and Human Rights), renamed Mouvement pour les droits humains (Movement for Human Rights) in 1988. Once again, the efforts of human rights groups and well known

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national figures made possible the repeal of Law 302/94 in July 2001. They were also behind an abolitionist bill in response to the resumption of executions in 2004. In February 2006, a second proposal was presented by six members of parliament who were also members of the Parliamentary Human Rights Commission. This time, it was the war between Israel and Hezbollah during the summer of 2007 that prevented the bill from being passed. On June 6th 2007, political instability once again foiled attempts by the same parliamentary commission to present a third bill which, to avoid its getting bogged down, proposed a single article abolishing the death penalty from all texts and replacing it with life imprisonment.

The last attempt at abolition dates back to 10th October 2008 and the initiative from the Justice Minister Ibrahim Najjar. His political party, Lebanese Forces, took a clear stance in favour of abolition. Having become an essential voice on the issue, in March 2009 the Minister organised a meeting with the various political parties represented in parliament to defend his bill and a public awareness-raising campaign against the death penalty, a first for the Justice Ministry. On this occasion, Hezbollah clearly positioned itself against abolition, whilst others spoke in favour (including the Progressive Socialist Party led by Walid Joumblatt and the Free Patriotic Movement of General Aoun).

Although it suffers from a lack of legitimacy in the eyes of the opposition, the creation of an ad hoc international criminal court to try those responsible for the assassination of Prime Minister Rafic Hariri in February 2005 strengthened the abolitionist position as the statutes of this court exclude the use of capital punishment. In a declaration to an Egyptian newspaper, Al Ahram, on 22nd June 2006, the prime minister, Fouad Seniora announced that Lebanon was preparing to abolish the death penalty in order to align itself with the international court.

Theoretically, Lebanon is ready for abolition but the question remains mainly dependent on the geopolitical situation. On 21st October 2009, seven members of Fatej El Islam were sentenced to death for attacks against the Lebanese army and on 11th November, four other people received death sentences from a military court for the crime of collaboration with Israel.

The fact that Lebanon abstained during the votes on the UN Resolutions in December 2007 and 2008 further

illustrates the internal political stalemate that exists within the country. However, at the same time, in December 2008, representatives of the Ministry of Justice took part in the seminar against the death penalty organised by the Lebanese civil rights association and the Ministry declared itself in favour of a moratorium. Lebanon will undergo Universal Periodic Review during the ninth session of the Human Rights Council at the end of 2010.

[KAZAKHSTAN

- **Death penalty abolished for ordinary crimes in July 2009**
 - **Last execution in 2003⁵⁵**
 - **Following abolition, death sentences (some thirty handed down in 2008) have been commuted to penal servitude for life**
 - **Voted in favour of the UN Resolutions for a universal moratorium but did not sponsor them**
 - **Did not provide information for the 2008 UNSG's report**
-

Kazakhstan has begun a process toward abolishing the death penalty in stages. In 1997, the list of crimes punishable by the death penalty in the penal code was restricted. On 31st December 2003, an official moratorium on executions was introduced, and was to remain in force until the question of abolition had been resolved. In March 2004, life imprisonment was introduced into the law as an alternative to the death penalty. In May 2007, the Constitution was amended to abolish capital punishment for all crimes except acts of terrorism and crimes committed in wartime. On 10th July 2009, President Nazarbayev promulgated a law amending the penal code by the same terms as the aforementioned constitutional amendment.

On 3rd July 2009, some days before this law was promulgated, the OSCE Parliamentary Assembly had adopted a resolution calling on the State parties concerned to declare an immediate moratorium on executions. The text expressly called on Kazakhstan to amend its penal code in order to bring it into line with the Constitution.

The promulgation of the law limiting the scope of application of the death penalty was acclaimed by the inter-

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national community as a significant contribution in favour of the abolition of capital punishment.

This triumphant reaction was not entirely well founded. In reality, the law in question is the equivalent of a *de facto* abolition, since thus far it has been applied only to murders, and there have been no convictions for crimes committed in wartime or terrorist acts (not in wartime). Yet it is precisely this last exception which would now prevent any ratification of the Second Optional Protocol to the ICCPR, which provides for only one reservation “in time of war pursuant to a conviction for a most serious crime of a military nature committed during wartime”. The death sentence for acts of terrorism does not fall under this provision and would therefore prevent any ratification of the Protocol in its current state.

In 2007, a working group on the question of the death penalty had been formed, bringing together officials and representatives from civil society, including the very active Kazakhstan International Bureau for Human Rights and Rule of Law, and the Bill of Human Rights. It was found that the Supreme Court, the Ministry of Defence and the Office of the *Prokuratura* (prosecutor) were all in favour of abolishing the death penalty, while the Ministry of Justice and the Ministry of Foreign Affairs, certain NGOs and the Parliament were against abolition. In meetings, discussion arose regarding the abolition of the death penalty in the penal code in order to clear the way for ratification of the Second Optional Protocol to the ICCPR. But after two years of debate, the bill prepared by the Ministry of Justice merely brought the penal code into line with the Constitution as amended in 2007. Thus, the death penalty remained in the penal code, and the working group on the death penalty was dissolved.

Kazakhstan voted in favour of the UN resolutions but did not sponsor them. In February 2010, the country underwent Universal Periodic Review (UPR). In its report⁵⁶, the government stated that it is pursuing its policy to phase out the death penalty, recalled the constitutional amendment of May 2007, and asserted that public opinion on the issue is divided. In 2009, Kazakhstan became a member of the OSCE Troika, and in 2010, it assumed the Chairmanship. At this time, the country was chosen as the target for a campaign led by the World Coalition for ratification of the Second Optional Protocol to the ICCPR.

In conclusion, as the question of the death penalty stands in Kazakhstan today, abolition applies to ordinary crimes only since the 2009 decision of the President, whose authority is rarely contested; the issue is no longer a topic of debate in Kazakh society. The authorities keep the abolition project from moving forward and focus on the image they wish to portray of a state which upholds the highest standards of international law, since the current global and regional context fully justifies the exception of capital punishment for acts of terrorism as introduced into the penal code. Given that the presidential administration is against total abolition, and that there is no real political opposition in Kazakhstan, human rights groups are fairly pessimistic about the possibility of full abolition occurring in the near future.

[BELARUS

- **Number of death sentence handed down: unknown**
 - **Last execution in February 2008 - 400 executions since 1991 according to Amnesty International**
 - **Abstained from voting on both UN Resolutions for a universal moratorium**
 - **Provided information for the 2008 UNSG's report**
-

In Belarus, a retentionist country, there are no official data on the number of death sentences or executions. These statistics are classified as a “state secret”, in violation of the country’s commitments as an OSCE member state. The authorities suggest a figure of one hundred and sixty executions from 1997 to 2008, but according to estimates by Amnesty International, since the country gained independence in 1991, no less than four hundred people have been executed. The media reported the execution of four people in 2008.

International pressure put on this country, which is the last one to still execute prisoners on the European continent, is tremendous. Amnesty International and the Council of Europe information office in Minsk are conducting a campaign for abolition of the death penalty in Belarus. The OSCE Parliamentary Assembly and the European Union have repeatedly urged Belarus to abol-

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ish the death penalty. The UN Human Rights Committee has found that the methods of implementing the death penalty constitute inhumane treatment. The families are not informed of the execution date, neither the remains nor the personal belongings of the convicted person are returned to them, and the place of burial is not disclosed. People whose death sentences are confirmed by the Supreme Court are not able to submit a new appeal since the sentences are carried out very quickly. Fault has often been found with other aspects as well, such as the lack of independence of the judicial system and the bar, the use of torture, and the manifest imbalance between the full powers of the prosecution and the rights of the defence.

The community of human rights groups in Belarus is very active in promoting the abolition of capital punishment. In January 2009, the Belarusian Human Rights House launched a “Human Rights Activists against Capital Punishment” campaign which included the preparation of a petition to the authorities calling for abolition. As of 10th March 2009, eleven key public figures had already signed it⁵⁷.

On 23rd June 2009, the Parliamentary Assembly of the Council of Europe informed Belarus that it intended to restore the Belarusian Parliament’s special guest status (suspended since 1997 due to the country’s stance on the death penalty) on the condition that the country adopt a legal moratorium on executions or even abolish the death penalty.

The official reactions to this statement were generally in favour of the idea of a moratorium, considering that the low number of death sentences handed down in recent years meant the country was already close to meeting this requirement⁵⁸. Viktor Golovanov, Minister of Justice, asserted that the question of introducing a moratorium was a matter to be decided by all citizens, referring to the 1996 referendum on the question which had led to the provisional reintroduction of capital punishment. Piotr Miklachevitch, President of the Constitutional Court, took a similar stance. In an interview with an Italian newspaper *La Stampa* in November 2009, President Loukachenko did not give his personal opinion on the subject, but supported the idea of a referendum to decide the matter. He acknowledged that public opinion in Belarus supported capital punishment, but prom-

ised to launch an information campaign. The President based his position on the Constitution, which stipulates that a decision taken by referendum can only be changed via a new referendum. This position is contested by human rights groups who affirm that a moratorium or abolition fall within the scope of authority of the President and Parliament.

At the end of June 2009, the media reported that the ministers concerned were considering the need to establish a working group to draft proposals for a moratorium on the death penalty.

However, just as this news suggesting progress was released, two men were sentenced to death by the Belarusian courts. Vassily Youzeptchouk, aged 30, received a death sentence from the Brest Regional Court in June 2009. He filed a petition for judicial review by the Supreme Court on 2nd October 2009, but it was dismissed; at the time, the possibility of his imminent execution was met with outrage in the Council of Europe⁵⁹. The defendant submitted an individual complaint to the UN Human Rights Committee, which was received on 12 October. He claimed that the guarantee of a fair trial had not been respected, that his rights to the liberty and inviolability of his person had been violated, as had the prohibition against torture. On 22nd July 2009, the Minsk Regional Court sentenced to death Andreï Jouk for criminal acts and murder. The Supreme Court examined his petition for judicial review on 27th October and confirmed the sentence.

Belarus abstained from voting on the UN Resolutions for a universal moratorium. The country was again denounced in the OSCE resolution dated 3rd July 2009 which called on it to take immediate steps by promptly declaring a moratorium on all death sentences and executions with a view to subsequently abolishing the death penalty. Belarus will undergo Universal Periodic Review during the eighth session of the Human Rights Council in May 2010.

Countries with an Ambiguous Stance

[NIGERIA

- **Number of death penalty handed down: unknown**
 - **Last execution in 2007**
 - **736 convicted inmates on death row as of February 2008⁶⁰**
 - **Voted against the Resolutions for a universal moratorium and signed the statement of dissociation**
 - **Did not provide information for the UNSG report in 2008**
 - ***Nigerian commitment before the UN Human Rights Council (UPR in February 2009) to exercise a self-imposed moratorium***
-

In Nigeria, a retentionist country with a long history of capital punishment, at least one hundred and thirty-five people were sentenced to death before 1999, the year in which the military regime left power; at least four hundred and forty-four have received death sentences since then, including over a hundred in 2005 alone. The last known execution took place in 2007. The same year, fifty-six people were sentenced to death, and as of April the following year, eleven death sentences had already been recorded, including at least one for someone who was a minor at the time of the crime.

Nigeria's federal government has never officially encouraged an abolitionist stance, and has clearly opposed the UN Resolutions for a universal moratorium. However, the thirty-six federal states are not unanimous on the issue. While the three states of Imo, Ogun and Oyo have the highest numbers of death sentences, many governors no longer sign execution orders and grant pardons on the country's Independence Day each year. In August 2009, for humanitarian reason, the governor of the state of Lagos, Babatunde Fashola, granted clemency to three people who had been sentenced to death and commuted thirty-seven other death sentences to servitude for life. This state has exercised a *de facto* moratorium on executions for ten years and is currently in the process of revising its body of criminal legislation. Many organisations there are pressing for the abolition of capital punishment or at least a *de jure* moratorium. It is an altogether different situation in twelve states in the north of the country which apply Sharia law, under which the

death penalty has a broader scope of application than that determined by the Nigerian penal code. Four of these states (Abia, Anambra, Akwa Ibom and Enugu) even recently passed a new law under which capital punishment is applicable for kidnapping.

In 2004, the federal government created a national death penalty study group which recommended adopting a moratorium on executions while also conducting a review of Nigerian penal legislation. In July 2008, a parliamentary initiative strove to commute the death penalty for armed robbery to penal servitude for life⁶¹. But from the start of the debate, members of parliament firmly opposed the bill.

Generally speaking, Nigerian civil society is dynamic; it regularly initiates abolitionist actions and has assumed the role of informing the public and procuring reliable data on the issue in the face of the government's failings and obstruction in this area. Recently, the Legal Defence and Assistance Project (LEDAP) held a seminar in Lagos which had considerable impact in the NGO, legal, media and police sectors. What emerged was the understanding that most people still viewed capital punishment as an effective form of dissuasion, and that if the abolition movement were to gain widespread support beyond elite circles, thus placing real pressure on representatives to take action, a vast awareness campaign was needed⁶².

Nigeria is hardly exemplary in upholding the minimum standards for the treatment of prisoners facing the death penalty. In 2007, the Presidential Commission on the Reform of the Administration of Justice⁶³ expressed concern about the deplorable living conditions in which death row inmates were held.

The country, it would seem, remains staunchly positioned on the question of abolition. Aside from Independence Day pardons, few or no pardons or commutations of sentence are granted, nor does any legislative trend to restrict the application of capital punishment appear to be on the agenda. Nigeria has firmly opposed both UN Resolutions for a universal moratorium and twice signed the *Note Verbale* of dissociation.

Nevertheless, when questioned during the Universal Periodic Review in February 2009, the representatives

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of Nigeria denied allegations of secret executions. They claimed that although it had voted against the Resolutions, Nigeria had decided to exercise a self-imposed *de facto* moratorium⁶⁴ and established a national committee to examine the question of the death penalty, the conclusions of which would determine the government's position on the issue. In 2008, during the Universal Periodic Review of Argentina, Nigeria even saw fit to recommend that Argentina ratify the Second Optional Protocol to the ICCPR for the abolition of the death penalty, which Argentina had already signed. Even more recently, Nigeria undertook diplomatic efforts with Libya to plead for suspension of the execution of some twenty Nigerians sentenced to death for drug trafficking – an offence which is not punishable by the death penalty in Nigeria⁶⁵.

[INDE

- **Death penalty handed down in 2010⁶⁶**
 - **Date of last execution: 2004**
 - **Voted against the UN Resolutions for a universal moratorium but did not sign the *Note Verbale* of dissociation**
 - **Did not provide information for the 2008 UNSG's report**
-

The death penalty is available under the penal code and death sentences continue to be handed down regularly in spite of the Supreme Court stipulation, in the *Bachan Singh vs State of Punjab* ruling, that this radical sentence should only be issued in the “rarest-of-rare cases”.

On 14th August 2004, an execution took place, bringing a nine-year period of *de facto* moratorium to a close. Dhananjay Chatterjee, a thirty-nine-year-old man convicted of the rape and murder of a fourteen-year-old girl in 1990 was hanged at the Alipora prison in Calcutta, where he had been held for thirteen years. The last executions on record dated back to 1995, with the hanging of five people.

Since 2004, no further executions have been carried out, but death sentences are still frequently handed down. They are sometimes reviewed or annulled through appeals and petitions, which suggests failings in the

investigation procedures, and indicates a broad interpretation by the courts of the “rarest-of-rare” notion advocated by the Supreme Court⁶⁷.

As a general rule, the authorities take no initiative to restrict the application of capital punishment or simply to objectively inform the public about the issue. Indeed, in 1999, the government even brought forward a proposal to extend the application of the death penalty for the prevention of rape, which met with a barrage of criticism. Even now, support for capital punishment in cases of child rape is regularly voiced⁶⁸.

According to statistics from the National Crime Records Bureau, there were at least eleven hundred and forty people on death row in 2003⁶⁹. In 2008, more than one hundred and forty people received death sentences, including thirty-six in the highest-ranking state of Karnataka. From 2006 to 2008, a total of four hundred and fifty-six death penalties were handed down in India.⁷⁰ In 2009, forty-six people sentenced to death were still waiting for responses to appeals for clemency they had filed⁷¹.

India voted against the UN Resolutions for a universal moratorium but did not sign the *Note Verbale* of dissociation.

[UNITED STATES

- **Number of new death sentences in 2009: 106**
 - **Last execution: 2010 (52 executions in 2009)**
 - **Voted against the Resolutions for a universal moratorium but did not sign the *Note Verbale* of dissociation**
 - **Did not provide information for the UNSG report in 2008, but the American Civil Liberties Union did contribute in 2008**
-

The United States⁷² is certainly the example most frequently cited by both sides of the debate on capital punishment the world over. Calls to abolish capital punishment are continually made to the world superpower. The World Coalition Against the Death Penalty will dedicate the 2010 World Day against the Death Penalty

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(10/10/10) to the situation in the USA. On 3rd July 2009, an OSCE resolution again called on the United States to act in this regard. On 19th January of the same year, the International Court of Justice (ICJ) ruled on the request submitted by Mexico for interpretation of the ICJ's 31st March 2004 judgement which had ordered the United States to review the convictions of fifty-one Mexican nationals held on death row in ten American states. In a unanimous decision, the ICJ found that in executing a Mexican national on 5th August 2008 in spite of the Court's prior order to stay the execution, the United States had breached the obligation incumbent on it by virtue of this order. In addition, the Court reaffirmed that the obligations of the 2004 Avena Judgement were still binding for the United States.

Even within the borders of the United States, deep controversy flares with each execution⁷³. On 15th September 2009, the failed attempt to execute Romell Broom in Ohio made news around the world. Two months later, Kenneth Biros, aged 51, was the first person to be executed by the new modified lethal injection method implemented by Ohio. This new protocol used a single drug rather than the three drugs used in other jurisdictions.

Capital punishment has a long history in this country. The year 1972 marked a turning point on the issue when, the Supreme Court in *Furman v. Georgia* set the standard that a punishment would be "cruel and unusual" if it was arbitrary, too severe for the crime, offended society's sense of justice, or it if was not more effective than a less severe penalty⁷⁴. After a four-year moratorium and the revision of capital punishment legislation in several states, the Supreme Court in 1976 issued a series of judgements authorising and regulating executions. Executions resumed on 17th January 1977, beginning what is often called the "modern era" of capital punishment in the United States. While public support for the death penalty was at its height in the 1990s, it has fallen surprisingly in the years since, as has the number of executions (98 in 1999 to 37 in 2008.)⁷⁵ The lowest rate of death sentences issued was registered in 2009. This low rate was of particular note in Texas and Virginia, the two states with the highest execution rates. In 2009, eleven states debated whether it was appropriate to maintain the death penalty, one of which, New Mexico, became the fifteenth state to abolish capital punishment.

Connecticut voted in favour of abolition, but the law was vetoed by the governor. Similar laws came close to passage in Colorado, Montana and Maryland.

The United States may be entering a new era in its conception of capital punishment⁷⁶: it is not primarily a question of whether this form of punishment is morally defensible. Rather, the debate centers on whether the death penalty is implemented in an arbitrary way, in a way that is racially discriminatory, geographically discriminatory, discriminatory against the poor; on the number (now 139) of innocent people exonerated from death row, and the likelihood of sentencing innocent people to death; on the absence of evidence that the death penalty is a deterrent; and on the extremely high financial cost of the death penalty system. Regardless of their moral convictions, lawyers, journalists, activists and the general public are increasingly voicing concerns about possible wrongful convictions. The powerful American Bar Association joined the debate, stating that a moratorium was needed because the judicial system could not prove beyond all doubt that it was infallible. Even the influential American Law Institute, which wrote the Model Penal Code provision for the death penalty, has determined that the death penalty, ALI itself designed it following *Furman* in 1972, cannot be fairly implemented and does not comply with the required minimum rules for justice⁷⁷.

By 2006, public opinion in the United States favored the sentence of life without the possibility of parole over the death penalty by 48 to 47% when the alternative is presented.⁷⁸

On 17th August 2009, for the first time in fifty years, the Supreme Court granted the direct petition (i.e. not an appeal from a lower court) of Troy Davis, who had been sentenced to death by the state of Georgia, requesting a retrial based on the existence of new exculpatory evidence. In 2009, nine men who had been sentenced to death were found innocent and released, the second highest annual figure in the history of the United States.

But 2009 was also marked by the effects of the worldwide economic crisis, which hit the country very hard and which has not been without consequence in the debate over the death penalty. A new aspect to the debate centres on the massive cost involved in processing these types of cases, from the investigation stage

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through to execution, and often including numerous appeals. When the state of New Mexico abolished capital punishment after lengthy debate, governor Bill Richardson stated not only the death penalty's inconsistencies with the basic American principles of justice, liberty and equality, but also the cost of capital punishment as a "valid reason [for abolition] in this era of austerity and tight budgets". Within many state legislatures, the debate has questioned whether these excessive costs are justified by the meagre benefits they may provide for society, suggesting that the public funds be used in areas more effective in improving the safety of citizens. Even within the police community, a survey conducted in 2009 revealed that upper police management ranked

the death penalty last among the tools meant to reduce crime, and first among the most costly tools⁷⁹. In a letter to the California Commission on the Fair Administration of Justice, thirty police officers suggested replacing capital punishment with life imprisonment without parole, and using the money saved to investigate unsolved homicides, modernize police crime labs and implement effective violence prevention⁸⁰.

The US voted against both Resolutions for a universal moratorium but did not sign the *Note Verbale* of dissociation. On 19th March 2009, an American senator proposed a bill to abolish capital punishment at the federal level.

The UN Resolution reflects an international movement for universal abolition

The key characteristic of the moratorium resolution brought forward by the UN is its universality. Initially the motion was advanced by the European Union, and its first passing by the UN GA on 18 December 2007 is seen as historic. This is the first time that a political agreement of universal scope urged all UN member states to suspend executions and move towards abolition. As such, it represents a high point in the trend by which in recent years the death penalty has continued to recede internationally.

Is pushing for a further resolution on a moratorium the best tactic for achieving universal abolition?

Immediate and irrevocable abolition is the prime goal of the abolitionist movement. If the existence of a moratorium is sometimes a positive and even necessary step toward abolition because it fosters new attitudes and paves the way for future abolition, it is not an essential precondition for a decision to abolish the death penalty. There have been many examples where such a decision has been taken on principled grounds despite evidence that public opinion favoured capital punishment. The abolitionist movement is aware that in focusing campaigning effort on a universal moratorium on death sentences and executions, there is a risk of falling hostage to political timidity and inertia. Which approach to adopt is a matter of tactics, and depends on a good understanding of the specific country context in each country. Where time is needed for informing and fostering new attitudes among not only the general public but also among those with legislative decision making powers, a moratorium may be an unavoidable step towards abolition. A nominally temporary cessation in executions and death sentences can be positive in itself, in that it prolongs life and hope, and provides time for information and discussion. However, to lead to abolition, precise conditions have to be attached to the moratorium, including the time limit set for further review and decision making, the existence of a genuine campaign of public education and information, or discussion of legislation, and the treatment of those under sentence of death.

Focusing on a universal resolution risked entrenching opposition to abolition

Among abolitionist countries there are those who have challenged the appropriateness of this type of declara-

tion. Some claim that the resolution had a counterproductive effect, sparking a revolt by retentionist countries and deepening the divide between them and abolitionists. They consider that behind-the-scenes diplomacy based on persistence and discretion is more appropriate to this sensitive subject.

It is true that the first Resolution was not passed in the ideal climate of consensus; the debates were long and heated. The text of the moratorium resolution encountered resistance. Many States expressed criticism of the tone and intent of the Resolution's authors, perceiving an attempt to impose alien values. The vote also gave rise to mystifying manoeuvres, e.g. Ethiopia, a retentionist country, voted against the first Resolution and, after officially voting in favour of the second, announced that it had meant to vote against it. The Resolution resulted in some retentionist States taking a harder stance and uniting in a common front, rather than convincing them to join the abolitionists. In 2007 fifty-eight retentionist States collectively issued a *Note verbale* in which they not only condemned what they saw as interference in their internal affairs, but also questioned the authority of the UNGA to adopt a universal decision on this issue without international consensus. Following the 2008 resolution, fifty-three States signed a similar statement in 2009⁸¹.

State votes in favour of the Resolution did not necessarily translate into decisive moves domestically towards abolition

None of the States covered by this study has gone on to substantive change in the situation regarding the death penalty as a result of these Resolutions. In Algeria, the only Arab nation to vote in favour of the Resolutions, and also a sponsor, the Parliament rejected an abolition bill in 2009 ; Morocco tried to justify its abstention from voting on the Resolutions by saying that it was "reflecting" on the subject; the Republic of Korea, a member of the United Nations Human Rights Council, found the text of the Resolutions too radical; in Russia, a country which supported the UN text, abolition is still encountering resistance in the Duma and in Benin, which voted for and sponsored the Resolutions and contributed to the UNSG report, the death penalty remains in the Penal Code.

Overall, the effect of the resolution on a moratorium has been positive

Despite these disappointments, the fear that the movement of retentionist States would become increasingly organised and continue to expand has proved unfounded. The number of states signing the second *Note Verbale* was fewer in 2009, and only fifty States signed both statements. Several countries (United States, Belize, India) again voted against the Resolution in 2008, but did not sign the statement of dissociation. Others who voted against the resolution the first time, such as Jordan, Surinam and Mauritania, abstained from the second vote.

In the vote on the first Resolution, a dozen or so countries which had not signed the corresponding declaration of intent ultimately said that they in fact intended to sponsor the resolution⁸². In 2008, the text was sponsored by three more countries⁸³ than in 2007. Of the States reviewed in this report, some have gone on to show encouraging signs: Nigeria, for example, a staunch retentionist which opposed the Resolutions and signed the *Note Verbale* of dissociation, then officially declared before the Human Rights Council, in February 2009, that it would exercise a self-imposed *de facto* moratorium; Jordan has made slow but sure progress toward abolition, even though it firmly opposed the text in 2007; Liberia, which had reintroduced capital punishment in 2000, did not vote against the text or sign the statement of dissociation; Burkina Faso has increased its official commitments in favour of abolition. The cases of Togo and Mongolia are particularly noteworthy: the former abstained from both votes, but abolished capital punishment in 2009, and the latter voted against both Resolutions and signed both statements of dissociation, but adopted an official moratorium in January 2010.

While behind-the-scenes diplomacy has proven its effectiveness, it is sometimes to avoid international disgrace that some States choose to declare themselves in favour of abolition, or at least a moratorium, even if realizing the claims in these declarations of intent is often slow. The fact is, the strategies for abolishing capital punishment are varied, and they must supplement and draw on one another. The steady low-profile work done in the field by so many people and organisations dedicated to pushing back capital punishment must stimulate the

debates which unfold within the extraordinary forum the UN provides for the Nations, and vice versa.

The vote expresses a majority trend towards abolition

The vote showed that the movement towards abolition is a majority one. Henceforth, the question of the death penalty will figure on the UNGA agenda every two years. It seems reasonable to assume that, like individuals, states need to be assigned clear and sometimes rigid goals in order to achieve results, rather than relying on their will alone. It is possible now to say that the eradication of capital punishment, on the grounds that it violates the very notion of human dignity, has become a goal to achieve for each member state. There will inevitably be hesitations, ambiguities, obstacles and regressions, but the process is under way.

UN General Assembly, Sixty-second session

Resolution adopted by the General Assembly
[on the report of the Third Committee (A/62/439/Add.2)]

62/149. Moratorium on the use of the death penalty

The General Assembly,

Guided by the purposes and principles contained in the Charter of the United Nations,

Recalling the Universal Declaration of Human Rights, 1 the International Covenant on Civil and Political Rights² and the Convention on the Rights of the Child,³

Recalling also the resolutions on the question of the death penalty adopted over the past decade by the Commission on Human Rights in all consecutive sessions, the last being resolution 2005/59 of 20 April 2005, 4 in which the

Commission called upon States that still maintain the death penalty to abolish it completely and, in the meantime, to establish a moratorium on executions,

Recalling further the important results accomplished by the former Commission on Human Rights on the question of the death penalty, and envisaging that the Human Rights Council could continue to work on this issue,

Considering that the use of the death penalty undermines human dignity, and convinced that a moratorium on the use of the death penalty contributes to the enhancement and progressive development of human rights, that there is no

conclusive evidence of the deterrent value of the death penalty and that any miscarriage or failure of justice in the implementation of the death penalty is irreversible and irreparable,

Welcoming the decisions taken by an increasing number of States to apply a moratorium on executions, followed in many cases by the abolition of the death penalty,

1. Expresses its deep concern about the continued application of the death penalty;

2. Calls upon all States that still maintain the death penalty:

(a) To respect international standards that provide safeguards guaranteeing protection of the rights of those facing the death penalty, in particular the minimum standards, as set out in the annex to Economic and Social Council resolution 1984/50 of 25 May 1984;

(b) To provide the Secretary-General with information

relating to the use of capital punishment and the observance of the safeguards guaranteeing protection of the rights of those facing the death penalty;

(c) To progressively restrict the use of the death penalty and reduce the number of offences for which it may be imposed;

(d) To establish a moratorium on executions with a view to abolishing the death penalty;

3. Calls upon States which have abolished the death penalty not to reintroduce it;

4. Requests the Secretary-General to report to the General Assembly at its sixty-third session on the implementation of the present resolution;

5. Decides to continue consideration of the matter at its sixty-third session under the item entitled "Promotion and protection of human rights".

76th plenary meeting

18 December 2007

1 Resolution 217 A (III).

2 See resolution 2200 A (XXI), annex.

3 United Nations, *Treaty Series*, vol. 1577, No. 27531.

4 See *Official Records of the Economic and Social Council, 2005, Supplement No. 3* and corrigenda (E/2005/23 and Corr.1 and 2), chap. II, sect. A.

UN General Assembly, Sixty-third session

Resolution adopted by the General Assembly

[on the report of the Third Committee (A/63/430/Add.2)]

63/168. Moratorium on the use of the death penalty

The General Assembly,

Reaffirming its resolution 62/149 of 18 December 2007 on a moratorium on the use of the death penalty,

Welcoming the decisions taken by an increasing number of States to apply a moratorium on executions and the global trend towards the abolition of the death penalty,

1. *Welcomes* the report of the Secretary-General on the implementation of resolution 62/149,¹ and the conclusions and recommendations contained therein;

2. *Requests* the Secretary-General to provide a report on progress made in the implementation of resolution 62/149 and the present resolution, for consideration during its sixty-fifth session, and calls upon Member States to provide the Secretary-General with information in this regard;

3. *Decides* to continue consideration of the matter at its sixty-fifth session under the item entitled "Promotion and protection of human rights".

70th plenary meeting 18 December 2008

UN General Assembly, Sixty-second session

Note verbale dated 11 January 2008 from the Permanent Missions to the United Nations of Afghanistan, Antigua and Barbuda, the Bahamas, Bahrain, Bangladesh, Barbados, Botswana, Brunei Darussalam, the Central African Republic, China, the Comoros, the Democratic People's Republic of Korea, Dominica, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Fiji, Grenada, Guinea, Guyana, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Japan, Jordan, Kuwait, the Lao People's Democratic Republic, the Libyan Arab Jamahiriya, Malaysia, Maldives, Mauritania, Mongolia, Myanmar, Nigeria, Oman, Pakistan, Papua New Guinea, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Solomon Islands, Somalia, the Sudan, Suriname, Swaziland, the Syrian Arab Republic, Thailand, Tonga, Trinidad and Tobago, Uganda, the United Arab Emirates, Yemen and Zimbabwe addressed to the Secretary-General

The Permanent Missions to the United Nations in New York listed below present their compliments to the Secretary-General of the United Nations and have the honour to refer to resolution 62/149, entitled "Moratorium on the use of the death penalty", which was adopted by the Third Committee on 15 November 2007, and subsequently by the General Assembly on 18 December 2007 by a recorded vote. The Permanent Missions wish to place on record that they are in persistent objection to any attempt to impose a moratorium on the use of the death penalty or its abolition in contravention to existing stipulations under international law, for the following reasons:

(a) There is no international consensus that the death penalty should be abolished. The votes on this resolution in the sixty-second session of the General Assembly have confirmed this fact, and the issue has proven to be a divisive one. Article 6 of the International Covenant on Civil and Political Rights states, *inter alia*, that "in countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime". This view was reflected previously in the joint statements contained in

Human Rights resolution 2005/59;

(ii) document E/CN.4/2004/G/54, in which 64 delegations disassociated themselves from Commission on Human Rights resolution 2004/67;

(iii) document E/CN.4/2003/G/84 in which 63 delegations disassociated themselves from Commission on Human Rights resolution 2003/67;

(iv) document E/CN.4/2002/198, in which 62 delegations disassociated themselves from Commission on Human Rights resolution 2002/77;

(v) documents E/CN.4/2001/161 and Corr.1, in which 61 delegations disassociated themselves from Commission on Human Rights resolution 2001/68;

(vi) document E/CN.4/2000/162, in which 51 delegations disassociated themselves from Commission on Human Rights resolution 2000/65;

(vii) document E/1999/113, in which 50 delegations disassociated themselves from Commission on Human Rights resolution 1999/61;

(viii) documents E/1998/95 and Add.1, in which 54 delegations disassociated themselves from Commission on Human Rights resolution 1998/8;

(ix) documents E/CN.4/1998/156 and Add.1, in which 51 delegations expressed their reservations prior to the adoption of Commission on Human Rights resolution 1998/8; and

(x) document E/1997/106, in which 31 delegations disassociated themselves from Commission on Human Rights resolution 1997/12;

(b) In his statement to the plenary of the Rome Diplomatic Conference of Plenipotentiaries on the Establishment of the International Criminal Court on 17 July 1998, the President of the Conference declared that the debate at the

Conference on the issue of which penalties should be applied by the Court showed that there is no international consensus on the inclusion or non-inclusion of the death penalty, and further that not including the death penalty in the Rome Statute would not in any way have a legal bearing on national legislations and practices with regard to the death penalty, nor should it be considered as influencing, in the development of customary international law or in any other way, the legality of penalties imposed by national systems for serious crimes. Accordingly, the Rome Statute of the International Criminal Court, which is only applicable to States parties, maintains that nothing in part 7 of the Statute affects

UN General Assembly, Sixty-second session

the application by States of penalties prescribed by their national law, nor the law of States which do not provide for penalties prescribed in this part;

(c) Capital punishment has often been characterized as a human rights issue in the context of the right of the convicted prisoner to life. However, it is first and foremost an issue of the criminal justice system and an important deterring element vis-à-vis the most serious crimes. It must therefore be viewed from a much broader perspective and weighed against the rights of the victims and the right of the community to live in peace and security;

(d) Every State has an inalienable right to choose its political, economic, social, cultural and legal justice systems, without interference in any form by another State. Furthermore, the purposes and principles of the Charter of the United Nations, in particular, Article 2, paragraph 7, clearly stipulates that nothing in the Charter shall authorize the United Nations to intervene in matters which essentially within the domestic jurisdiction of any State. Accordingly, the question of whether to retain or abolish the death penalty should be carefully studied by each State, taking fully into account the sentiments of its own people, state of crime and criminal policy. It is improper to make a universal decision on this question or to prescribe to Member States actions that fall within their domestic jurisdiction, or attempt to change, by way of a General Assembly resolution, the stipulations under international law that were reached through a comprehensive negotiation process;

(e) Some Member States have voluntarily decided to abolish the death penalty, whereas others have chosen to apply a moratorium on executions. Meanwhile, many Member States also retain the death penalty in their legislations. All sides are acting in compliance with their international obligations. Each Member State has decided freely, in accordance with its own sovereign right established by the Charter, to determine the path that corresponds to its own social, cultural and legal needs, in order to maintain social security, order and peace. No side has the right to impose its standpoint on the other.

The Permanent Missions to the United Nations listed below wish to request the circulation of the present note verbale as a document of the sixty-second session of the General Assembly.

1. Islamic Republic of Afghanistan
2. Republic of Antigua and Barbuda
3. Commonwealth of the Bahamas
4. Kingdom of Bahrain
5. People's Republic of Bangladesh
6. Barbados
7. Republic of Botswana
8. State of Brunei
9. Central African Republic
10. People's Republic of China
11. Union of the Comoros
12. Democratic People's Republic of Korea
13. Commonwealth of Dominica
14. Arab Republic of Egypt
15. Republic of Equatorial Guinea
16. State of Eritrea
17. Federal Democratic Republic of Ethiopia
18. Republic of the Fiji Islands
19. Grenada
20. Republic of Guinea
21. Republic of Guyana
22. Republic of Indonesia
23. Islamic Republic of Iran
24. Republic of Iraq
25. Jamaica
26. Japan
27. Hashemite Kingdom of Jordan
28. State of Kuwait
29. Lao People's Democratic Republic
30. Libyan Arab Jamahiriya
31. Malaysia
32. Republic of Maldives
33. Islamic Republic of Mauritania
34. Mongolia
35. Union of Myanmar
36. Federal Republic of Nigeria
37. Sultanate of Oman
38. Islamic Republic of Pakistan
39. Independent State of Papua New Guinea
40. State of Qatar
41. Federation of Saint Kitts and Nevis
42. Saint Lucia
43. Saint Vincent and the Grenadines
44. Kingdom of Saudi Arabia

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45. Republic of Singapore
46. Republic of Somalia
47. Solomon Islands
48. Republic of the Sudan
49. Republic of Suriname
50. Kingdom of Swaziland
51. Syrian Arab Republic
52. Kingdom of Thailand
53. Kingdom of Tonga
54. Republic of Trinidad and Tobago
55. Republic of Uganda
56. United Arab Emirates
57. Republic of Yemen
58. Republic of Zimbabwe

UN General Assembly, Sixty-third session

Note verbale dated 10 February 2009 from the Permanent Missions to the United Nations of Afghanistan, the Bahamas, Bahrain, Bangladesh, Barbados, Botswana, Brunei Darussalam, the Central African Republic, Chad, China, the Comoros, the Democratic People's Republic of Korea, Dominica, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Fiji, the Gambia, Grenada, Guinea, Guyana, Indonesia, Iran (Islamic Republic of), Iraq, Kuwait, the Lao People's Democratic Republic, the Libyan Arab Jamahiriya, Malaysia, Maldives, Mongolia, Myanmar, the Niger, Nigeria, Papua New Guinea, Qatar, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Singapore, Solomon Islands, Somalia, the Sudan, Swaziland, the Syrian Arab Republic, Thailand, Tonga, Trinidad and Tobago, Uganda, the United Arab Emirates, Yemen and Zimbabwe addressed to the Secretary-General

The permanent missions to the United Nations in New York listed below have the honour to refer to General Assembly resolution 63/168, entitled "Moratorium on the use of the death penalty", which was adopted by the Third Committee on 20 November 2008, and subsequently by the General Assembly on 18 December 2008 by a recorded vote. The Permanent Missions wish to place on record that they are in persistent objection to any attempt to impose a moratorium on the application of the death penalty or its abolition in contravention to existing stipulations under international law, for the following reasons:

(a) There is no international consensus that the death penalty should be abolished. The votes on this resolution in the sixty-third session of the General Assembly have once again confirmed this fact, and that the issue continues to be a divisive one. Article 6 of the International Covenant on Civil and Political Rights states, *inter alia*, that "in countries which have not abolished the death penalty, sentences of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime";

(b) This view was reflected previously in:

(i) The note verbale contained in document A/62/658, in which 58 delegations expressed their persistent objec-

tion to any attempt to impose a moratorium on the application of the death penalty or its abolition in contravention to existing stipulations under international law, following the adoption of General Assembly resolution 62/149;

(ii) The joint statement contained in document E/CN.4/2005/G/40, in which 66 delegations disassociated themselves from Commission on Human Rights resolution 2005/59;

(iii) The joint statement contained in document E/CN.4/2004/G/54, in which 64 delegations disassociated themselves from Commission on Human Rights resolution 2004/67;

(iv) The joint statement contained in document E/CN.4/2003/G/84, in which 63 delegations disassociated themselves from Commission on Human Rights resolution 2003/67L;

(v) The joint statement contained in document E/CN.4/2002/198, in which 62 delegations disassociated themselves from Commission on Human Rights resolution 2002/77;

(vi) The joint statement contained in documents E/CN.4/2001/161 and Corr.1, in which 61 delegations disassociated themselves from Commission on Human Rights resolution 2001/68;

(vii) The joint statement contained in document E/CN.4/2000/162, in which 51 delegations disassociated themselves from Commission on Human Rights resolution 2000/65;

(viii) The joint statement contained in document E/1999/113, in which 50 delegations disassociated themselves from Commission on Human Rights resolution 1999/61;

(ix) The joint statement contained in documents E/1998/95 and Add.1, in which 54 delegations disassociated themselves from Commission on Human Rights resolution 1998/8;

(x) The joint letter contained in documents E/CN.4/1998/156 and Add.1, in which 51 delegations expressed their reservations prior to the adoption of Commission on Human Rights resolution 1998/8; and

(xi) The joint statement contained in document E/1997/106, in which 31 delegations disassociated themselves from Commission on Human Rights resolution 1997/12;

(c) In his statement to the plenary of the Rome Diplomatic Conference of Plenipotentiaries on the

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Establishment of the International Criminal Court on 17 July 1998, the President of the Conference declared that the debate at the Conference on the issue of which penalties should be applied by the Court showed that there is no international consensus on the inclusion or non-inclusion of the death penalty, and further that not including the death penalty in the Rome Statute would not in any way have a legal bearing on national legislations and practices with regard to the death penalty, nor should it be considered as influencing, in the development of customary international law or in any other way, the legality of penalties imposed by national systems for serious crimes. Accordingly, the Rome Statute of the International Criminal Court, which is only applicable to States parties, maintains that nothing in part 7 of the Statute affects the application by States of penalties prescribed by their national law, nor the law of States which do not provide for penalties prescribed in this part;

(d) Capital punishment has often been characterized as a human rights issue in the context of the right of the convicted prisoner to life. However, it is first and foremost an issue of the criminal justice system and an important deterring element vis-à-vis the most serious crimes. It must therefore be viewed from a much broader perspective and weighed against the rights of the victims and the right of the community to live in peace and security;

(e) Every State has an inalienable right to choose its political, economic, social, cultural and legal justice systems, without interference in any form by another State. Furthermore, the purposes and principles of the Charter of the United Nations, in particular Article 2, paragraph 7, clearly stipulates that nothing in the Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State. Accordingly, the question of whether to retain or abolish the death penalty should be carefully studied by each State, taking fully into account the sentiments of its own people, state of crime and criminal policy. It is improper to make a universal decision on this question or to prescribe to Member States actions that fall within their domestic jurisdiction, or attempt to change, by way of a General Assembly resolution, the stipulations under international law that were reached through a comprehensive negotiation process;

(f) Some Member States have voluntarily decided to abolish the death penalty, whereas others have chosen to apply a moratorium on executions. Meanwhile, many Member States also retain the death penalty in their legislations. All sides are acting in compliance with their international obligations. Each Member State has decided freely, in accordance with its own sovereign right established by the Charter, to determine the path that corresponds to its own social, cultural and legal needs, in order to maintain social security, order and peace. No side has the right to impose its standpoint on the other.

The Permanent Missions to the United Nations listed below wish to request the circulation of the present note as a document of the General Assembly.

1. Afghanistan
2. Bahamas
3. Bahrain
4. Bangladesh
5. Barbados
6. Botswana
7. Brunei Darussalam
8. Central African Republic
9. Chad
10. China
11. Comoros
12. Democratic People's Republic of Korea
13. Dominica
14. Egypt
15. Equatorial Guinea
16. Ethiopia
17. Eritrea
18. Fiji
19. Gambia
20. Grenada
21. Guinea
22. Guyana
23. Indonesia
24. Iran (Islamic Republic of)
25. Iraq
26. Kuwait
27. Lao People's Democratic Republic
28. Libyan Arab Jamahiriya
29. Malaysia
30. Maldives
31. Mongolia
32. Myanmar
33. Niger

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34. Nigeria
35. Papua New Guinea
36. Qatar
37. Saint Kitts and Nevis
38. Saint Lucia
39. Saint Vincent and the Grenadines
40. Saudi Arabia
41. Singapore
42. Solomon Islands
43. Somalia
44. Sudan
45. Swaziland
46. Syrian Arab Republic
47. Thailand
48. Tonga
49. Trinidad and Tobago
50. Uganda
51. United Arab Emirates
52. Yemen
53. Zimbabwe

[Appendix 5] OSCE parliamentary assembly Resolution on a moratorium on the death penalty and towards its abolition

Resolution adopted at the eighteenth OSCE Parliamentary Assembly annual session in Vilnius on 3 July 2009

1. Recalling the Resolution on Abolition of the Death Penalty adopted in Paris at the Tenth Annual Session in July 2001,
2. Recalling the Resolution on The Prisoners Detained by the United States at the Guantánamo Base adopted in Rotterdam at the Twelfth Annual Session in July 2003, which “underlining the importance of the defence of democratic rights, not least confronted with terrorism and other undemocratic methods,” urged the United States of America to “refrain from the use of the death penalty”,
3. Recalling the Resolution on Strengthening Effective Parliamentary Oversight of Security and Intelligence Agencies, adopted in Brussels at the Fifteenth Annual Session in July 2006, which expressed alarm at “certain practices which violate most fundamental human rights and freedoms and are contrary to international human rights treaties, which form the cornerstone of post-World War II human rights protection” including “extradition to countries likely to apply the death penalty or use torture or ill-treatment, and detention and harassment on the grounds of political or religious activity”,
4. Recalling the Resolution on the implementation of OSCE commitments adopted in Kyiv at the Sixteenth Annual Session in July 2007, which “reaffirms the value of human life and calls for the abolition in the participating States of the death penalty, replacing it with more just and humane means of delivering justice”,
5. Noting that, on 18 December 2007, the United Nations General Assembly adopted the historic resolution 62/149 calling for a worldwide moratorium on executions with a view to abolishing the death penalty, which was adopted by an overwhelming majority, with 104 United Nations member States in favour, 54 countries against and 29 countries abstaining,
6. Noting that resolution 63/168 on the implementation of the 2007 General Assembly resolution 62/149 was adopted by the United Nations General Assembly on 18 December 2008, with 106 votes in favour, 46 against and 34 abstentions,
7. Recalling the inclusion of the issue of capital punishment in the catalogue of OSCE human dimension commitments by the 1989 Vienna Concluding Document and the 1990 Copenhagen Document,
8. Recalling paragraph 100 of the St. Petersburg Declaration of the OSCE Parliamentary Assembly of 1999 and paragraph 119 of the Bucharest Declaration of the OSCE Parliamentary Assembly of 2000,
9. Noting that the death penalty is an inhuman and degrading punishment, an act of torture unacceptable to States respecting human rights,
10. Noting that the death penalty is a discriminatory and arbitrary punishment and that its application has no effect on trends in violent crime,
11. Noting that, in view of the fallibility of human justice, recourse to the death penalty inevitably carries a risk that innocent people may be killed,
12. Recalling the provisions of Protocol No. 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which prohibits Council of Europe Member States from applying the death penalty,
13. Recalling the provisions of the Second Optional Protocol to the International Covenant on Civil and Political Rights of 1989, and the World Conference on Capital Punishment held in Strasbourg in 2001 as well as the Additional Protocol No. 6 to the European Convention on the Protection of Human Rights and Fundamental Freedoms aiming at the universal abolition of the death penalty,
14. Noting that the 1998 Rome Statute excludes the death penalty, even though the International Criminal Court, along with the International Criminal Tribunal for the Former Yugoslavia, the International Criminal Tribunal for Rwanda, the Special Court for Sierra Leone, the Special Panels for Serious Crimes in Dili, Timor-Leste, and the Extraordinary Chambers in the Courts of Cambodia, have jurisdiction over crimes against humanity, genocide and war crimes,
15. Noting that in October 2008 the European Union and the Council of Europe, in a joint declaration, established a “European Day against the Death Penalty”,
16. Recalling that at the OSCE Human Dimension Implementation Meetings in Warsaw, in 2006, 2007 and 2008, several civil society organisations, including Hands Off Cain, Amnesty International, Penal Reform International, the World Coalition Against the Death Penalty and the International Helsinki Federation for Human Rights, expressed their support for the Resolutions on a global moratorium on the death penalty presented to the United Nations General Assembly,
17. Noting that 138 States in the world have abolished

[Appendix 5] OSCE parliamentary assembly Resolution on a moratorium on the death penalty and towards its abolition

the death penalty de jure or de facto; of which 92 States abolished it for any offence, 10 keep it only for exceptional crimes such as those committed in wartime, and 36 have not carried out executions for at least 10 years or are committed to implementing a moratorium,

18. Welcoming Georgia's constitutional amendment regarding the complete abolition of the death penalty, signed on 27 December 2006,

19. Welcoming the abolition of the death penalty in Kyrgyzstan, as established by the new article 14 of the Constitution, approved on 15 January 2007,

20. Welcoming the abolition of the death penalty in Uzbekistan, with effect since 1 January 2008,

21. Noting that in some OSCE participating States the death penalty is retained in law, but that there is a moratorium on executions in Kazakhstan, the Russian Federation and Tajikistan, while executions may be carried out during wartime in Latvia,

22. Noting that an amendment of 21 May 2007 to the Constitution of the Republic of Kazakhstan abolished the death penalty in all cases save for acts of terrorism entailing loss of life and for especially grave crimes committed in wartime,

23. Noting that within the OSCE only two of the 56 participating States nevertheless continue to apply the death penalty,

24. Deeply concerned about the fact that people are still being sentenced to death and executions carried out in Belarus and in the United States of America,

25. Noting that, according to the report published by Amnesty International in March 2009, "Ending executions in Europe – Towards abolition of the death penalty in Belarus", in Belarus "there is credible evidence that torture and ill-treatment are used to extract 'confessions'; condemned prisoners may not have access to effective appeal mechanisms; and the inherently cruel, inhuman and degrading nature of the death penalty is compounded for death row prisoners and their relatives by the secrecy surrounding the death penalty. Neither prisoners nor their families are told the execution date in advance and prisoners must live with the fear that every time their cell door opens they may be taken for execution",

26. Noting that both the Parliamentary Assembly of the Council of Europe and the European Union have repeatedly urged Belarus to abolish the death penalty,

27. Noting that details about the death penalty in Belarus are secret and that, according to the Criminal Executive

Code, the death penalty is carried out in private by means of shooting, the administration of the detention facility informs the judge about the executions and the judge informs the relatives; the body of an executed person is not given for burial to his or her relatives and the place of burial is not communicated,

28. Noting that in Belarus capital punishment, under the Constitution, is an exceptional and provisional measure to be taken only in extreme cases, and that Belarus has taken substantial steps to limit the handing down of death sentences by halving the number of articles in the Criminal Code that provide for imposition of the death penalty,

29. Noting that, on 11 March 2004, the Constitutional Court stated that the abolition of the death penalty, or as a first step, the introduction of a moratorium, could be enacted by the head of state and by parliament,

30. Noting that Belarus has failed to publish comprehensive statistics about the number of death sentences passed and executions carried out, in contravention of its commitment as a participating State of the OSCE to "make available to the public information regarding the use of the death penalty" as stated in the Document approved at the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, on 29 June 1990,

31. Noting that, of the 50 states which make up the United States of America, 38 have the death penalty, while four of them have not held executions since 1976, and federal law provides for 42 offences which may be punished by death,

32. Noting that in the United States of America the number of executions and death sentences has significantly dropped in recent years and many states are considering adopting a moratorium or its abolition, which reflects decreasing public support for the death penalty,

33. Welcoming the fact that some states, including Montana, New Jersey, New York and North Carolina have moved against the death penalty through measures including a moratorium on executions or its abolition,

34. Noting that the United States Supreme Court has recently issued landmark judgements that have put more safeguards in place and take into account evolving standards of justice,

35. Welcoming the decision by the Governor of New Mexico in March 2009 to ban capital punishment in his state, as "inconsistent with basic American principles of justice, liberty and equality",

[Appendix 5] OSCE parliamentary assembly Resolution on a moratorium on the death penalty and towards its abolition

36. Noting that, on 19 March 2009, a United States Senator introduced a “Federal Death Penalty Abolition Act” to abolish the death penalty at the federal level, The OSCE Parliamentary Assembly:

37. Condemns all executions wherever they take place;

38. Calls upon participating States applying the death penalty to declare an immediate moratorium on executions;

39. Encourages the participating States that have not abolished the death penalty to respect safeguards protecting the rights of those facing the death penalty as laid down in the United Nations Economic and Social Council Safeguards;

40. Calls on Belarus to take immediate steps towards abolition of the death penalty by promptly establishing a moratorium on all death sentences and executions with a view to abolishing the death penalty as provided by the United Nations General Assembly resolution 62/149, adopted on 18 December 2007, and resolution 63/168, adopted on 18 December 2008;

41. Calls upon the Government of the United States of America to adopt a moratorium on executions leading to the complete abolition of the death penalty in federal legislation and to withdraw its reservation to Article 6(5) of the International Covenant on Civil and Political Rights;

42. Calls upon the Republic of Kazakhstan, with a view to the complete abolition of the death penalty, to amend its Criminal Code in accordance with its constitutional amendment of 21 May 2007;

43. Calls upon Latvia to amend its Criminal Code in order to abolish the death penalty for murder with aggravating circumstances if committed during wartime;

44. Calls upon the retentionist participating States to encourage ODIHR and OSCE Missions, in co-operation with the Council of Europe, to conduct awareness-raising activities against recourse to the death penalty, particularly with the media, law enforcement officials, policy-makers and the general public;

45. Further encourages the activities of NGOs working for the abolition of the death penalty.

Resolution Calling on State Parties to Observe the Moratorium on the Death Penalty

The African Commission on Human and Peoples' Rights, meeting at its 44th Ordinary Session held from 10th to 24th November 2008 in Abuja, Federal Republic of Nigeria:

RECALLING Article 4 of the African Charter on Human and Peoples' Rights, which recognises the right of everyone to life, and Article 5(3) of the African Charter on the Rights and the Welfare of the Child which guarantees the non-application of death penalty for crimes committed by children;

CONSIDERING ACHPR/Res 42 (XXVI) calling on States to consider observing a moratorium on the death penalty, adopted at the 26 th Ordinary Session of the African Commission on Human and Peoples' Rights held from 1 st to 15 th November 1999 in Kigali, Rwanda;

RECALLING Resolution 62/149 of the General Assembly of the United Nations, adopted in 2007 calling on all States that still retain the death penalty to, inter alia, observe a moratorium on executions with a view to abolishing the death penalty;

BEARING IN MIND Resolution 2005/59 adopted on 20 April 2005 by the United Nations Human Rights Commission calling on all States that still retain the death penalty to totally abolish the death penalty and, in the meantime, to observe a moratorium on executions;

CONSIDERING Resolution 1999/4 of the United Nations Sub-Commission on the Promotion and the Protection of Human Rights calling on all States that still retain the death penalty and are not observing a moratorium on executions, as part of the celebration of the millennium, to at least commute death penalty sentences into life imprisonment by 31 st December 1999, and to commit themselves to observe a moratorium on the execution of death sentences throughout the year 2000;

CONSIDERING the exclusion of the death penalty from the sentences that can be pronounced by the International Criminal Court, the Extraordinary Chambers of the Tribunals of Cambodia, the Special Court of Sierra Leone, the Special Juries for serious crimes in East Timor, the International Criminal Tribunal for the Former Yugoslavia, and the International Criminal Tribunal for Rwanda; and

NOTING that at least 27 State Parties to the African Charter on Human and Peoples' Rights have abolished the death penalty in law or de facto;

NOTING also that only six out of 53 State Parties to the African Charter on Human and Peoples' Rights have ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights on the abolition of the death penalty;

NOTING further that some State Parties have so far failed to give effect to all the above resolutions relating to the observation of a moratorium on the death penalty, and others have observe the moratorium but have resumed the execution of death sentences or have expressed their intention to resume the execution of such sentences;

CONCERNED by the fact that some State Parties to the African Charter on Human and Peoples' Rights apply the death penalty under conditions not respectful of the right to a fair trial guaranteed under the African Charter on Human and Peoples' Rights and other relevant international norms:

1. Exhorts State Parties to the African Charter on Human and Peoples' Rights that still retain the death penalty to:
* Fully comply with their obligations under this treaty; and
* Guarantee that every person accused of crimes for which capital punishment is applicable, benefits from all the guarantees of a fair trial included in the African Charter and in other relevant regional and international norms and treaties.

2. Urges State Parties that still retain the death penalty to observe a moratorium on the execution of death sentences with a view to abolishing the death penalty in conformity with Resolutions ACHPR/Res 42 (XXVI) of the African Commission and 62/149 of the General Assembly of the United Nations;

3. Calls on all State Parties that have not yet done so, to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights on the abolition of the death penalty;

4. Calls on State Parties to the African Charter to include in their periodic reports information on the steps they

[**Appendix 6**] ACHPR/Res.136(XXXVIII).08:

Resolution Calling on State Parties to Observe the Moratorium on the Death Penalty

are taking to move towards the abolition of the death penalty in their countries;and

5. Implores all State Parties to give their full support to the Working Group on the Death Penalty of the African Commission on Human and Peoples' Rights in its endeavour to work towards the abolition of the death penalty in Africa.

Done in Abuja, Federal Republic of Nigeria on the 24th November 2008

Madrid Statement

Madrid Statement

**Ministerio de Asuntos Exteriores y de Cooperación
- Casa Árabe**

Madrid, 14th - 15th of July, 2009

1) We, the participants of the civil society of the Arab countries, have met in Madrid, Spain, the 14th and the 15th of July at the kind invitation of The Ministry of Foreign Affairs and Cooperation and the Casa Árabe, to discuss the situation of the death penalty in Arab countries, and to consult on possible ways of working together towards a moratorium on the use of the death penalty in these countries.

2) Recalling the Alexandria Declaration, which calls upon the Arab countries to implement UNGA Resolution 62/149 on the Establishment of a Moratorium on the use of the Death Penalty;

3) Reiterating that we consider the use of the death penalty to be a violation of the most fundamental human right, i.e. the right to life; and that it has not succeeded in deterring or in preventing criminality in any country;

4) Regretting the fact that death sentences and executions continue to be carried out in numerous Arab countries;

5) Noting with concern the increasingly high number of crimes, punished by the death penalty,

6) Request the Arab governments, each according to its own circumstances, to fully comply with the United Nation General Assembly's resolutions 62/149 and 63/168 and to support the objective of a moratorium in forthcoming UN debates.

7) Urge Arab governments that have not yet done so to ensure that their penal and criminal procedure codes comply with international standards, in particular minimum standards, as set out in the annex to Economic and Social Council resolution 1984/50 of 25 May 1984;

8) Reiterate Alexandria and Algiers Conferences' recommendations on the Arab Charter for Human rights concerning the article 7 which does not comply with international standards concerning the prohibition of the death penalty for capital offences committed by juveniles under the age 18 years and urge the Arab League to take all needed measures to take action on this¹.

9) Urge the Arab countries to provide the UN Secretary General (on an annual basis) with official statistical data on the number of persons sentenced to death and executed and for which crimes, by age and gender, and to publish this information.

10) Call on Arab Governments that still make use of the death penalty to progressively restrict its use and reduce the number of offences for which it may be imposed;

11) Encourage the full collaboration between the governmental bodies, but also the members of the parliament, the judiciaries, the media and the civil society members to open a real debate at the national level on the establishment of a moratorium to executions with a view to abolishing the death penalty in the future.

12) Urge the Arab governments to establish an immediate moratorium on the use of the death penalty, which will serve as a viable tool to guarantee justice while a large debate on the revision of criminal codes is under progress among Arab countries.

13) Appeal to Arab states which have observed a de facto moratorium to remove this punishment from their legislation in order to prevent its circumstantial use;

14) Underline the need to target, as an ultimate goal, the ratification of the second optional protocol to the ICCPR;

15) Emphasize the need for the civil society to continue intensifying its activities to convince the public that narrowing and eventually abolishing the death penalty serves the ambition of the Arab people in fulfilling their aspiration to justice and human rights.

16) We encourage in every country full collaboration between the governmental bodies, members of parliament, the judiciary, the media and civil society members so as to open a real debate at a national level on the abolition of the death penalty, and while this is in process to establish an official moratorium on the imposition of all death sentences and executions.

¹ The Director of the Human Rights Department for the Arab League abstained from this recommendation.

[Notes]

- 1 Universal Periodic Review (UPR). Three times a year, the United Nations Organisation's Human Rights Council (which replaced the Commission on Human Rights) carries out a Universal Periodic Review of one of the member states and assesses the extent to which each state fulfills its obligations and commitments in relation to human rights. The assessment is carried out on the basis of information provided by the member state itself, of information collected by the Office of the High Commissioner for Human Rights and contained in reports from its treaty bodies, special procedures and other official United Nations documents; and finally, on the basis of other credible information from non-governmental organisations, national human rights institutions, human rights defenders, universities and research institutes, regional organisations and other interested parties. Excerpts and information relating to the UPRs carried out on the countries covered in this report are available in the UPR section of the website www.ohchr.org
- 2 "Smart on Crime: Reconsidering the Death Penalty in a Time of Economic Crisis", October 2009 and "The Death Penalty in 2009: Year end report", December 2009, www.deathpenaltyinfo.org
- 3 For detailed information on the death penalty and those involved with the issue in the Arab countries see also the World Coalition Against the Death Penalty's report "Fighting against the Death Penalty in the Arab World: Protagonists, Arguments and Prospects" by Mona Chamass, Paris, June 2008, available at www.worldcoalition.org
- 4 In 1971 and 1977, the United Nations General Assembly passed two resolutions reminding member states that abolition of the death penalty was "desirable".
- 5 The former Commission on Human Rights adopted a resolution on the death penalty at each and every one of its sessions. The last of these was Resolution 2005/59 of 20th April 2005 in which the Commission urged states which still had the death penalty to abolish it completely and to declare a moratorium in the meantime.
- 6 There are many texts which deal with the question of the death penalty and restrict its application. These include the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and the African Charter on Human and Peoples' Rights. Four of these texts are clearly abolitionist and one is international in its scope. The latter is the Second Optional Protocol to the International Covenant on Civil and Political Rights, which is aimed at abolishing the death penalty and which was adopted by the United Nations General Assembly in 1989 and came into force on 11th July 1991; the other three are regional treaties (protocols 6 and 13 to the European Convention on Human Rights concerning the abolition of the death penalty and the protocol to the American Convention on Human Rights to abolish the death penalty, which was adopted in 1990 by the General Assembly of the Organization of American States. Finally, the Rome Statute, which was adopted on 17th July 1998 and created the International Criminal Court, excludes the use of the death penalty to punish even the most serious crimes (genocide, crimes against humanity and war crimes).
- 7 In the interests of clarity, it may be useful to offer a definition of the word moratorium at this point. While abolition is permanent, a moratorium is a temporary provision and may take several forms : a moratorium on death sentences, a moratorium on executions or a moratorium on a particular execution method. It may be the result of a political decision and be officially declared, in which case it is referred to as a statutory moratorium, or it may arise as a result of practice on the ground in cases where executions simply no longer take place. A *de facto* moratorium is generally considered to exist after a period of ten years has transpired.
- 8 The text of the various declarations and resolutions can be found in the appendices to this report.
- 9 Declaration of Madrid (15th July 2009), on the initiative of the Spanish Ministry for Foreign Affairs.
- 10 The term "retentionist" is generally used in opposition to the term "abolitionist" to describe states' positions on the death penalty.
- 11 The text of both *Note Verbale* can be found in the appendices to this report.
- 12 The *Note Verbale* also cites a number of other reasons for their position.
- 13 Togo abolished the death penalty in 2009, but during the two votes of the Resolution, in 2007 and 2008, it was in a situation of moratorium on executions.
- 14 See www.peinedemort.org
- 15 Zubeir Fadel, July 2007. Figure given at a regional conference on the death penalty organised by Penal Reform International and the Amman Center for Human Rights Studies, Jordan.
- 16 www.peinedemort.org
- 17 Article 6 of the May 2004 text of this charter states that "*Sentence of death may be imposed only for the most serious crimes in accordance with the laws in force at the time of commission of the crime and pursuant to a final judgement rendered by a competent court. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence.*" However, it does not ban the use of the death penalty for children since article 7 states that the death penalty "*shall not be imposed on persons under 18 years of age, unless otherwise stipulated in the laws in force at the time of the commission of the crime*".
- 18 Universal Periodic Review (UPR). Three times a year, the United Nations Organisation's Human Rights Council (which replaced the Commission on Human Rights) carries out a Universal Periodic Review of one of the member states and assesses the extent to which each state fulfills its obligations and commitments in relation to human rights. The assessment is carried out on the basis of information provided by the member state itself, of information collected by the Office of the High Commissioner for Human Rights and contained in reports from its treaty bodies, special procedures and other official United Nations documents; and finally, on the basis of other credible information from non-governmental organisations, national human rights institutions, human rights defenders, universities and research institutes, regional organisations and other interested parties. Excerpts and information relating to the UPRs carried out on the countries covered in this report are available in the UPR section of the website www.ohchr.org
- 19 In January 2009, at a conference organised by the CNPPDH in Algiers, both the Minister for Religious Affairs and Waqfs (MRAW) and the High Islamic Council (HIC) declared that they opposed the abolition of the death penalty. MRAW representative Youcef Belmahdi said "*that abolishing the death penalty is not in humanity's interest*". He believes that supporters of abolition take into account the interests of the accused alone and that they ignore the rights of the victim's family.

- 20 Source : www.abolition.fr
- 21 Source : ACAT Benin
- 22 Source : www.lefaso.net : "Assises criminelles de Dédougou : 21 condamnations dont une à mort. "
- 23 Source : FIACAT
- 24 "As to abolishing the death penalty, Burkina Faso indicated that it was currently under study and believed that at the next Universal periodic Review, it would have become a *de jure* abolitionist State ", Report of the Human Rights Council, A/HRC/10/29, 20th April 2009, www.ohchr.org
- 25 This statement was verified at an awareness-raising workshop on the death penalty organised by the International Organisation of la Francophonie in June 2009 attended by FIDH and FIACAT.
- 26 Figures from Madagascar's Ministry of Justice. These are final decisions not subject to appeal. Due to irregularities and the lack of any analysis in the Ministry of Justice reports, it is not possible to explain why there were 57 people on death row in March 2009 and only 53 in May 2009, or how many prisoners who have been sentenced to death have an appeal to the Court of Cassation pending (1382 in May 2009).
- 27 Eight deaths in Moaranseta prison.
- 28 Before 30th July 2007, when new legislation on pre-trial custody was passed, there was no limit on the amount of time that a person accused of cattle rustling could be kept in custody. There is now a time limit.
- 29 "The death penalty in the OSCE area", OSCE background paper, 2009.
- 30 Report of the eleventh session of the Human Rights Council, 29th June 2009, A/HRC/11/37
- 31 Source : AFP 19/11/2009
- 32 The outcome of this long-running saga will depend to a large extent on the United Russia Party, which has an overwhelming majority in the Duma, and on its leader the influential prime minister, Vladimir Putin. In 2007, while he was president, Russia's strong man said that he was against capital punishment, calling it « *counterproductive* ». However, he has since refrained from asking parliament to ratify the protocol that would legalise the current situation. Source : AFP 19/11/2009
- 33 Source : Amnesty International report 2009
- 34 Statement reported by the daily newspaper The Public Agenda, 21/06/2009.
- 35 Idem
- 36 Sources: Ghana News Agency, 10/06/2009.
- 37 Source: Hands Off Cain
- 38 Source : www.peinedemort.org
- 39 Proceedings from the seminar organised by the CCDH and Ensemble contre la peine de mort (ECPM), October 2008, Morocco <http://www.abolition.fr/test/upload/docs/actesmaroc2008-FRdef.pdf>
- 40 Source: *Korea Times*
- 41 For a law or an article of law to be considered anti-constitutional, the support of six judges is required.
- 42 "South Korea. Constitutionality of death penalty to be reviewed", 6th October 2008, Hands off Cain.
- 43 National Human Rights Commission of Korea (NHRC)
- 44 The survey questioned 2020 people, of whom 1604 were members of the general public, the others being members of civil society organisations or legal, prison-system, media or parliamentary circles;
- 45 Such as Father Lee Young Woo of the Catholic Social Correction Apostolate Committee
- 46 There is no formal procedure for pardon in the Republic of Korea, it depends on presidential good will.
- 47 They both also signed the *Note Verbale* in 2008. In 2009, Japan did not sign.
- 48 In February 2009, the governing party discussed the possibility of resuming executions for the worst crimes. For more information on the question see the open letter that AI sent to the President of South Korea: AI Index: ASA 25/002/2009
- 49 Source : www.peinedemort.org
- 50 Source : Amnesty International.
- 51 Declaration by Jordan to the Working Group on the Universal Periodic Review concerning the country, 29th May 2009.
- 52 The *Diyya*, or "blood money" system is part of the Islamic tribal tradition and allows the death sentence to be avoided if the family of the victim and that of the murderer manage to reach an agreement about financial compensation, which is then formally approved by a judge. But this system does not help women, the poor or immigrant workers. Nor does it apply to terrorist crimes, which are behind most death sentences in the country.
- 53 *Peine de mort* bulletin, Amnesty International, January 2006, index AI : ACT 53/001/2006
- 54 "(...) no executions have been carried out since April 2007, so that in a sense this is a sort of moratorium on implementation of this punishment", extract from the report of the Working Group on the Universal Periodic Review concerning the country, 29th May 2009.
- 55 This type of information has never been disclosed through official channels. However, it should be noted that in the national report which the country prepared for the UPR in February 2010, the government indicates that, "Prior to adopting the moratorium, capital punishment was applied for the last time in 2003, to 12 people".
- 56 The national report is already available on the UPR section of the website www.ohchr.org .
- 57 "The death penalty in the OSCE area", OSCE background paper, 2009.
- 58 Statements by the President of the Supreme Court Valiantsin Sukala, Vice-President of the same Valery Kalinkovitch, and Vladimir Makeï, head of the presidential administration. Source: The Human Rights Centre "Viasna" at <http://spring96.org/en/publications/29057/>
- 59 www.peinedemort.org
- 60 Including 725 men, 11 women, 40 minors at the time of conviction, and 100 prisoners who have been waiting to know their fate for more than 10 years. Figures provided by HURILAWS.
- 61 The initiative was led by HURILAWS in partnership with three Honourable Members of the Federal Parliament: Friday Itulah, Samson Osagie and Patrick Ihkariale.
- 62 Source: All Africa News.
- 63 Presidential Commission on the Reform of the Administration of Justice (PCRAJ)
- 64 Report by the working group on the Universal Periodic Review of Nigeria, February 2009: "Although Nigeria voted against a moratorium on the death penalty in the United Nations General Assembly resolution, it continues to exercise a self-imposed moratorium."

[Notes]

- 65 Nigerian citizens are regularly executed in other countries: see www.peinedemort.org
- 66 Source: Press Trust of India and Hindu
- 67 On 6th December 2009, in Varanasi, a man was sentenced to death for the rape of a seventeen-year-old girl, a crime which the court qualified as a "rarest-of-rare case" - Source: Chennai Online; on 3rd December 2009, in Ghaziabad, the same qualification was used to issue death sentences to six men who had killed four people from the same family over a land dispute - Source: Indian Express; however, on 3rd September 2009, the Supreme Court commuted a death penalty to life imprisonment for a man who, left without work, had killed his wife and two children before attempting to take his own life, asserting that the case did not fall into the "rarest-of-rare" category - Source: UN.
- 68 6 December 2009: "*Punishment for the rape of a child should be nothing less than a death sentence in any court of law, according to retired Supreme Court justice, Arijit Pasayat*" - Source: Times of India.
- 69 Source: www.abolition.fr
- 70 Source: Press Trust of India citing Minister of State Ajay Maken
- 71 According to figures submitted to WCADP by HFHRL, of the 109 clemency petitions filed from 1981 to 2009, only 9 prisoners received presidential pardons (67 petitions were dismissed while the others were still under examination).
- 72 Unless otherwise indicated, the information provided in this section has been taken mainly from the Death Penalty Information Centre reports: "Smart on Crime: Reconsidering the Death Penalty in a Time of Economic Crisis", October 2009 and "The Death Penalty in 2009: Year end report", December 2009, www.deathpenaltyinfo.org
- 73 The day before the execution of John A. Muhammad in Virginia, in November 2009, a Washington Post survey showed that 66% Virginians still approved of capital punishment while 31% were against it. Though still high, this approval rating was lower than 4 years earlier when it had been 72%. In 2008, the state registered the lowest number of executions since 1999.
- 74 <http://supreme.justia.com/us/408/238/case.html>
- 75 Of the 37 executions in 2008, 36 were by lethal injection and 1 was by electrocution. Of the prisoners executed, 20 were white and 17 were black (statistics produced by the Bureau of Justice Statistics (BJS) in its latest report available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/cp08st.pdf>). There were in fact more executions in 2009 (52) than in 2008 (37), due partly to the *de facto* moratorium on executions exercised for several months in 2008 pending the Supreme Court ruling on the controversial issue of lethal injection. Nevertheless, the number of executions in 2009 was 47 times lower than ten years earlier. Only 11 of the 35 states which still retain the death penalty carried out execution(s) in 2009.
- 76 This paragraph draws heavily on an article by Gant Daily who in turn cites Stephen F. Hanlon, American Bar Association Committee Chair, and Suzanna Linn, a professor of political science who co-authored "The Decline of the Death Penalty and the Discovery of Innocence" with colleagues Frank Baumgartner and Amber E. Boydston.
- 77 "Report of the Council to the Membership of The American Law Institute On the Matter of the Death Penalty", The American Law Institute, 15 April 2009.
- 78 <http://www.gallup.com/poll/1606/death-penalty.aspx>
- 79 The state of California spends an annual 137 million USD on its capital punishment system, which its own commission has found to be deeply flawed, describing it as "dysfunctional" and "broken". The state of Florida spends approximately 51 million USD per year, which represents a cost of 24 million USD per execution.
- 80 "*By pursuing life without parole sentences instead of death, resources not spent on the death penalty prosecutions and appeals could be used to investigate unsolved homicides, modernize crime labs, and expand effective violence prevention programs,*" excerpt from the Death Penalty Information Centre report: "Smart on Crime: Reconsidering the Death Penalty in a Time of Economic Crisis", October 2009.
- 81 Japan, Jordan, Mauritania and Pakistan were no longer part of the movement after the second Resolution in 2009 although they joined the *Note Verbale* in 2008.
- 82 These countries were Haiti, Dominican Republic, Cambodia, Ivory Coast, Mauritius, Rwanda, Mozambique, South Africa, Sao Tome and Principe, Burundi, El Salvador, Algeria and Mali. It is difficult to say what really motivated this shift in position: either, due to late EU organisation, certain of these States did not physically have the opportunity to sign the declaration of intent although they intended to sponsor the resolution from the start or, for some countries, it was an effort to minimise their official commitment.
- 83 Congo Republic, Kyrgyzstan and Palau (Cambodia is the only sponsor from 2007 that did not sponsor the resolution in 2008).