



10th October World Day Against Death Penalty



Geneva International Centre *for* Justice
(GICJ)

www.gicj.org

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World Day Against Death Penalty – 10 October 2017



On occasion of the World Day Against Death Penalty on 10th October 2017, Geneva International Centre for Justice (GICJ) highlights that the death penalty is cruel, inhuman and degrading and breaches the most fundamental human rights enshrined in the Universal Declaration of Human Rights: the right to life and the right to live free from torture. While an increasing number of States is turning away from the death penalty, people continue to be executed by States as punishment for various crimes, including acts that should not be criminalized. Death sentences continue to be imposed in grave breach of major international standards, including the right to a fair trial and the principle of non-discrimination. The states with the world's highest execution rates China, Iran, Saudi Arabia, and Iraq breach these fundamental provisions.

Key facts:



104 countries had completely abolished the death penalty by the end of 2016.



1,032 people were executed in 2016 (excluding China) – down 37% on 2015.



1,000S of people were likely executed in China, but the numbers remain classified

A Brief History of the Abolition of Death Penalty

15 years ago, in 2003, the World Coalition Against the Death Penalty (WCADP)¹ inaugurated October 10th as the World Day Against Death Penalty with the objectives of strengthening the international movement against the death penalty to influence public opinion and government authorities, and of increasing pressure on all States to abolish capital punishment sentences and executions.



Abolition of the death penalty was begun in the Americas, with Venezuela being the first country to terminate capital punishment in 1863² and six out of eight countries leading abolitionism for all crimes at the 1945 creation of the United Nations being in Central and South America. Since 1977, the number of abolitionist countries in the Americas has gradually increased, and since 2009, with the exception of the USA, the region has been execution-free.

At a time when only 16 countries had abolished the death penalty in 1977, the International Conference on the Abolition of the Death Penalty issued the Stockholm Declaration, which constituted the first international abolitionist manifesto, calling upon all governments to effect the immediate and total abolition of the death penalty.



Since the 1980s, a global trend towards the abolition of the death penalty has been recorded, which continues until today. 16 countries had legally abolished the death penalty for all crimes in 1977. Throughout the years, UN Member States from all regions with various legal systems, traditions, cultures and religious backgrounds, have acknowledged that the death penalty undermines human dignity and have either abolished the death penalty or placed a moratorium

¹ The World Coalition Against the Death Penalty is an alliance of NGOs, bar associations, local bodies and unions whose that aim to strengthen the international anti-death penalty movement.

² The Roman Republic had already banned capital punishment in 1849. However, Venezuela is the first existent State to have abolished the practice.

in its use. Today, two-thirds of all countries (141) are now abolitionist in law or in practice. Yet, several Member States continue to submit prisoners to executions.



Execution methods employed by States today include beheading, electrocution, hanging, lethal injection, and shooting in the back of the head and by firing squad – which constitute horrendous forms of cruel, inhuman and degrading treatment and torture.

The fundamental principles of fair trial and non-discrimination are violated on different grounds in the imposition of death penalty, disproportionately affecting people from socioeconomically disadvantaged and racial, ethnic, and religious minority groups.



This year's World Day Against the Death Penalty aims at raising awareness about the root causes of people living in poverty being at greater risk of the death penalty. This mostly stems from the fact that socioeconomic inequality affects access to justice for those sentenced to death as they may lack (social, financial, political) resources to defend themselves or experience discrimination due to social status. The discriminatory implementation of capital punishment implies that the most vulnerable people are disproportionately affected. In addition to addressing *socioeconomic origin or status* as basis for States' breach of fair trial and non-discrimination standards, GICJ will shed light on further grounds of discriminatory imposition of the death penalty in a discussion of country situations – notably *race, color, descent or national or ethnic origin and other related grounds such as sex, language, religion, and political or other opinion*. These grounds tend to be intricately linked, with members of minority groups often facing heightened poverty, therefore becoming more marginalized.



International Legal Framework

The death penalty is in grave violations of the fundamental human rights to life and to live free from torture – enshrined in the Universal Declaration of Human Rights. Moreover, the following international laws entail explicit bans on the use of the death penalty, except under certain circumstances during times of war:

- The Second Optional Protocol to the International Covenant on Civil and Political Rights
- Protocol No. 6 to the European Convention on Human Rights
- The Protocol to the American Convention on Human Rights to Abolish the Death Penalty

The European Convention on Human Rights (Protocol No. 13) bans use of the death penalty at all times, even during war.

When the majority of countries still used the death penalty in the early 1960s, the drafters of the International Covenant on Civil and Political Rights (ICCPR) were moving towards its abolition in international law. Although Article 6 of the ICCPR permits the use of the death penalty in limited circumstances, it also determines that “nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.” In 1984, the UN Economic and Social Council (ECOSOC) adopted Safeguards guaranteeing protection of the rights of those facing the death penalty, which determined, *inter alia*, that capital punishment:

- may be imposed only for “the most serious crimes”;
- must not be applied to persons below 18, to pregnant women or new mothers, or mentally ill persons;
- may be imposed only when the guilt of the person charged is based upon clear and convincing evidence;

- and may only be carried out pursuant to a final judgement rendered by a competent court after legal process which gives all possible safeguards to ensure a fair trial.

In 1989, the UN General Assembly adopted the Second Optional Protocol to the ICCPR, which determined that “abolition of the death penalty contributes to enhancement of human dignity and progressive development of human rights” and that State Parties to the Protocol shall not execute anyone within their jurisdictions. The General Assembly repeatedly adopted resolutions urging States to respect international standards that protect the rights of those facing the death penalty and to phase out capital punishment.

The Office of the High Commissioner for Human Rights (OHCHR) is a strong advocate for the universal abolition of the death penalty, building on the fundamental nature of the right to life; the inadmissible risk of executing innocent people; and the absence of proof that the death penalty serves as a deterrent to crime. Special Procedures whose Mandates entail the use of the death penalty are the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on extrajudicial, summary or arbitrary executions.

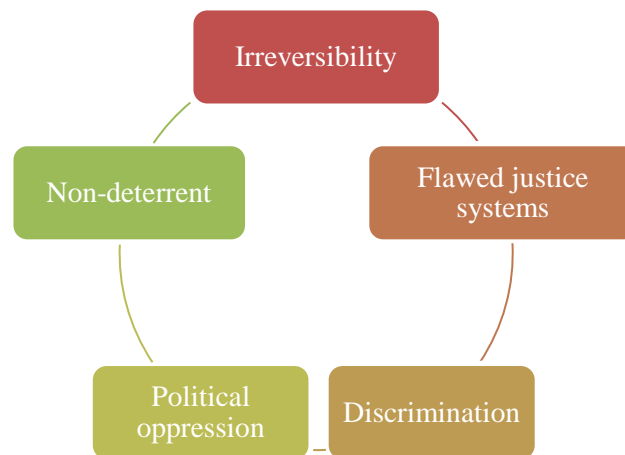
The execution of juvenile offenders (under the age of 18) is expressly prohibited in the International Covenant on Civil and Political Rights, the American Convention on Human Rights and the Convention on the Rights of the Child. Nonetheless, countries like Iran continue to execute juveniles.

Crucially, the principle of non-discrimination and the right to a fair trial are enshrined in international law in relation to the death penalty: The International Covenant on Civil and Political Rights determines that all people are entitled to the equal protection of the law without discrimination, while the UN safeguards on the use of the death penalty provide that people must have received a fair trial, including the right to adequate legal assistance, at all stages.



Central Concerns Regarding Death Penalty

When the UN marked the World Day against Death Penalty three years ago in 2014, the Assistant Secretary-General discerned three fundamental reasons for abolition, *inter alia*, the need to avoid executing those subjected to wrongful convictions; the disproportionately high execution rates among those from marginalized communities; and the lack of statistical evidence indicating that the death penalty is a useful deterrent. An increasing number of States has recognized the failure of capital punishment as means to exact justice – as it does not deter crimes more than any other punishment. Furthermore, research points towards victims and their families seeking justice without revenge or retribution. Central concerns arising with regards to the use of the death penalty include:



Irreversibility: While execution is the ultimate, irrevocable punishment, the risk of executing an innocent person cannot be eliminated. In the US, for instance, 150 people submitted to death row have later been exonerated since 1973. Others have been executed despite serious doubts about their guilt.

Non-Deterrent: While states cling to the death penalty cite it as means of deterrence from committing crimes, this claim has been discredited for lack of evidence for it being any more effective in reducing crime than imprisonment.

Flawed justice systems: Some of the states upholding capital punishment have deeply flawed legal systems. The highest executing countries, including China, Iran and Iraq, continue to issue death sentences after unfair trials and after having obtained “confessions” under the use of torture.

Political oppression: States like Iran and Iraq employ the death penalty against political opponents, under false accusations of “terrorism” or related “security” offenses.

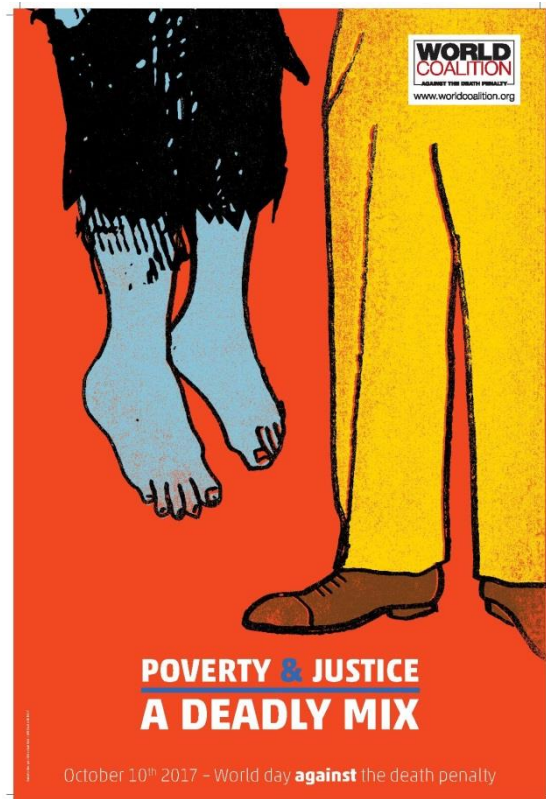
Discrimination: Death penalty disproportionately affects people from racial, ethnic or religious minorities or the socioeconomically marginalized, due to discriminatory justice systems. A lack of legal resources of the poor and marginalized compounds their capacity to defend themselves.

The Link Between Death Penalty and Poverty

On 6 October 2017, UN human rights experts called for urgent action to cease the disproportionate impact of the death penalty on people from socioeconomically disadvantaged groups. The class-based discriminatory use of capital punishment was described as arbitrary killing. The reasons discerned are manifold:

“They are an easy target for the police, they cannot afford a lawyer, the free legal assistance they might receive is of low quality, procuring expert evidence is beyond their means, tracing witnesses is too costly, and access to appeals often depends on being able to afford extra counsel. Many cannot afford bail and therefore remain in custody before their trials, further hindering their efforts to prepare an effective defence.”

[\(OHCHR\)](#)



Often, by the time the case finally reaches court, fair trial may no longer be possible. Corruption of law enforcement officials can further compound the injustice. Furthermore, poverty deepens existing discrimination on the basis of gender, ethnicity, race, or migration status. The already vulnerable and disadvantaged groups in society such as people of African descent and refugees are thus further disenfranchised and fall victim to unfair justice systems.

Particularly migrants caught up in the criminal justice system face tremendous obstacles in challenging charges laid against them, including limited awareness of their rights, financial constraints, lack of social support, and unfamiliarity with legal language and procedures. Discrimination by law enforcement officials is likely to influence the verdict against them, leaving them vulnerable to receiving death penalty. Discrimination against women is exacerbated by poverty, further inhibiting their ability to gain access to justice on an equal basis with men. Death sentences on women for alleged offences are rarely mitigated on basis of evidence of domestic abuse and self-defense.

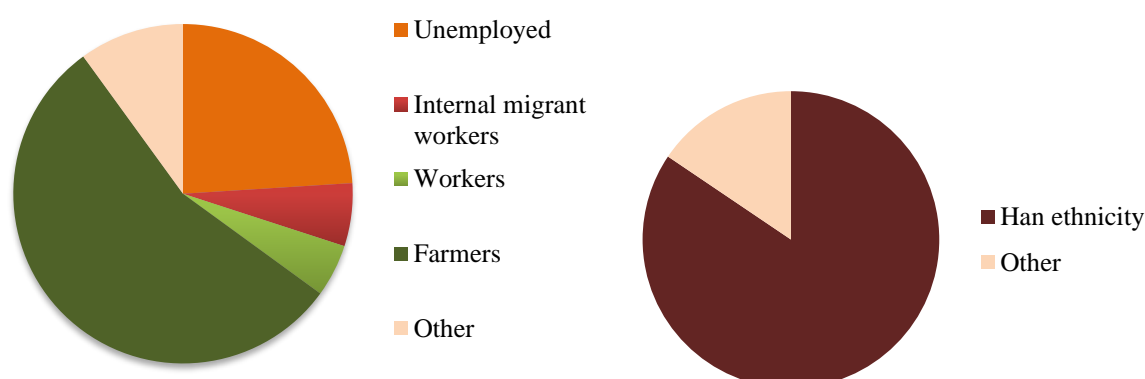
The discussion reveals that core international standards of the right to a fair trial and the principle of non-discrimination are being violated by States imposing the death penalty. This finding not only holds true with regards to unfair procedures on grounds of socioeconomic status but also on racial, ethnic and religious grounds or political or other opinion – as becomes clear in the following discussion of country situations.

The Highest Executioners

At least 1,032 people were executed in 23 countries in 2016. The states that imposed most executions were China, Iran, Saudi Arabia, and Iraq. For the first time since 2006, the USA was not among the States with the highest execution rates. At a closer look, it becomes strikingly evident that the top executioners fail to comply with fundamental principles of international law in their imposition of the death penalty, including due process and fair trial guarantees and non-discrimination.

China

China has remained the state with the highest execution rates, with thousands of death penalties imposed yearly – a figure that is larger than that of all other countries combined. Yet, the sheer extent of the use of death penalty remains unknown because the data is classified state secret under the country's sophisticated secrecy system aimed at obfuscating the shocking scale of executions. A 2017 [study](#) by Amnesty International based on an analysis of 701 approved death sentences found in the China Judgements Online database reveal that the executions are imposed on a discriminatory basis, disproportionately affecting socioeconomically disadvantaged and ethnic minority groups – particularly the Han ethnicity.



Iran

Iran continues to rank among the highest executioner countries across the globe. Death penalty is used extensively - to the point that in 2015, Iran alone accounted for 82 percent of all recorded executions in the Middle East. In 2017, Iran's execution rate remains high and accounts for 66 percent of all recorded executions in the region. The majority of those executed are sentenced on drugs charges, thus not meeting the threshold of most serious crimes under international law; others are executed for murder or after being convicted on vague security charges. Such death sentences are often handed down following unfair trials, with major concerns including the denial of access to legal counsel, incommunicado detention and solitary confinement, torture or other ill-treatment aimed primarily at obtaining "confessions" and the absence of fair and

adequate procedures for seeking pardon and commutation of death sentences from state authorities.



Numerous among those executed in Iran are members of ethnic and religious minorities convicted on false blasphemy charges and drug related offenses, including Kurdish political prisoners and Sunni Arabs. Ahwazi Arabs, Baloch and Kurds are disproportionately represented on the death row and in executions. Many of those convicted were political dissidents. Notably, these minorities have restricted access to the legal resources needed to defend themselves in the discriminatory justice system, poverty, marginalization and living in militarized zones. In Balochistan, large groups have been executed under the pretext of “fighting drug trafficking”. Some of them were executed without trials or in secret trials before biased judges and lacking legal representations. Moreover, by executing juvenile offenders, Iranian authorities systematically breach the core principles of international law, in particular the Convention on the Rights of the Child.

Saudi Arabia

Saudi Arabia executed at least 154 people in 2016 and has carried on its execution spree unabated in 2017. On 2 October 2017, the Saudi Arabian authorities executed another person, bringing the total number of people put to death so far this year to 100, with 60 people executed in the past three months alone. Since July 2017, the government has executed five people per week.



Protesters against the beheading of foreign workers in Saudi Arabia stage a mock beheading.

The death sentences and executions are imposed following severely flawed court proceedings that often breach international fair trial standards. Persons are often convicted on the basis of “confessions” retrieved under torture and other ill-treatment, are denied legal representation in secret trials, and do not receive insights into the legal proceedings in their case.

Death penalty is used on discriminatory grounds against political opponents in an effort to crush political dissent. They are regularly sentenced on accusations of representing a “threat to national security”. Lastly, Saudi Arabia imposes the death penalty for a wide range of offences not considered “most serious crimes” under international human rights law, which are limited to crimes involving intentional killings.

Iraq

The Iraqi authorities have a shocking track record regarding the use of the death penalty. In the majority of cases, people are sentenced to death and executed after deeply unfair trials and after being tortured to “confess”.



Under its so-called “anti-terror campaigns”, Iraq is resorting to mass executions. Under the Anti-Terrorism Law No.13 of 2005, capital punishment is state-legalized for anyone who is allegedly involved in a terrorist act, or is alleged to have financed, provoked, planned, or enabled such an act. Under the vague and broad provisions of the law, the death penalty of a person being charged by the government on any one of 48 terrorism charges can be justified. Such charges do not necessarily entail lethal acts, such as “threats which aim to bring fear among people”. The “fight against terrorism” hence justifies mass executions of oftentimes innocent Iraqis. Under the practice of enforced disappearance, many detainees are executed in secret, with their bodies being found days, weeks, or even months later. Their corpses often show signs of torture and execution.

In 2016, Iraqi courts issued 92 death sentences within only six weeks. The trials violate international fair trial standards, as torture methods have reportedly been used to extract “confessions”. In January 2017, 31 Iraqis – who “confessed” to crimes or terrorist acts under serious allegations of torture and were speedily and unlawfully charged with offenses – were executed in a single day. Neither the names of those executed nor details of the trials were disclosed by the government, as has been the pattern during earlier state executions. The death penalty and extrajudicial executions are employed by the Iraqi government as tools of political repression, to eliminate political oppositions to sustain its rule, and to maintain a reign of terror over the Iraqi population. As the UN High Commissioner for Human Rights noted in a statement dated 27 September 2017, the mass execution of 42 prisoners on alleged “terrorism” charges on 24 September at Al Hoot prison in the southern Iraqi city of Nasiriyah constitutes a grave violation of the country’s human rights obligations, including due process and fair trial standards. The devastating situation of Iraqi civilians is exacerbated by the Iraqi governments’ and its allies’ reckless and cruel “counter-terrorism” campaigns.



GICJ's Position and Recommendations

GICJ has raised the pressing issue of death penalty since its establishment, notably in the form of letters and appeals to the High Commissioner and Special Procedure mandate holders as well as in statements and reports to the Human Rights Council. As capital punishment undermines human dignity and violates the most sacred right of all, the right to life, GICJ maintains that its abolition is integral to the advancement of the human rights of all. The discussed cases reveal that those States still imposing death penalty today do so in breach of fundamental provisions of non-discrimination and fair trial and due process standards. As a result, innocent people pay with their lives for crimes they have not committed. This appalling practice must end. Although international law still provides for the use of death penalty for the most serious crimes, the risk of people being committed on false charges cannot be eliminated. Indeed, some Member States execute innocent persons knowingly – on the basis of racial, ethnic, and religious discrimination and political persecution. Therefore, GICJ reiterates the call by the UN for the phasing out of capital punishment. In the meantime, Member States need to undertake urgent reforms to their criminal justice systems to comply with international standards, especially with regards to minority group and juvenile offenders.

Moreover, in light of this year’s focus on the link between the death penalty and poverty, GICJ calls upon all States to treat all persons caught up in the criminal justice systems with respect and dignity as equal rights holders, regardless of their socioeconomic status or other characteristics. The international community must make efforts towards the progressive abolition of the death penalty, along with the work to eradicate systemic and institutionalized discrimination against the most vulnerable people in our societies.

Geneva International Centre *for* Justice

Independent, non-profit, non-governmental organization



GICJ is an independent, non-profit, non-governmental organization dedicated to the promotion and reinforcement of commitments to the principles and norms of human rights. GICJ is based in Geneva, Switzerland and is governed by the Swiss Civil Code and its statutes. Basing its work on the rules and principles of International Law, International Humanitarian Law and International Human Rights Law, GICJ observes and documents human rights violations and seeks justice for their victims through all legal means available.

Mission

GICJ's mission is to improve lives by tackling violations and all forms of violence and degrading or inhumane treatment through the strengthening of respect for human rights; reinforcing the independence of lawyers and judiciaries; consolidating the principles of equity and non-discrimination; ensuring rule of law is upheld; promoting a culture of awareness on human rights; and combating impunity.

Work

GICJ has been tackling issues of justice and accountability since it was established. GICJ maintains a partnership with various NGOs, lawyers and a vast civil society network around the world. Through these channels, GICJ is able to receive documentation and evidences of human rights violations and abuses as they occur in several countries. GICJ continues to

bring this information to the attention of relevant UN bodies and Special Procedures in order to gain justice for all victims. In particular, GICJ engages extensively with UN human rights mechanisms through active participation in Human Rights Council (HRC) sessions and through the submission of reports, statements and urgent appeals.

Human Rights Training Courses

To contribute to the promotion of human rights, GICJ offers Training Courses. These include theoretical and practical components, including extensive information on human rights; the UN, its bodies and mechanisms; international law instruments; and the rules and mechanisms for civil society participation. The practical component includes participating in HRC sessions and possibly side-events. Successful participants will receive a Certificate of Completion from GICJ.

Internship

Through its internship programme, GICJ provides interns with opportunities to deepen their knowledge and acquire professional experience in the field of International Law (IL), International Human Rights Law (IHRL), and International Humanitarian Law (IHL) as well as multilateral diplomacy. Interns obtain a unique understanding of the workings of both international organizations and non-governmental organizations. Tasks and responsibilities of GICJ interns include participation in UN human rights meetings and activities, especially the HRC; research and analytical work on human rights violations and applicable international law; and the writing of reports, letters, statements, and urgent appeals to UN mechanisms.

