How States abolish the death penalty
How States abolish the death penalty

Table of content

- Foreword by Foreign Minister Espen Barth Eide ................................................................. 3
- Message from the President of the International Commission against the Death Penalty ........ 4
- Introduction ............................................................................................................................ 6
- Review of selected countries ................................................................................................ 10
  - Argentina ............................................................................................................................ 11
  - Cambodia ............................................................................................................................ 11
  - France ................................................................................................................................. 13
  - Haiti ..................................................................................................................................... 15
  - Kyrgyzstan ......................................................................................................................... 15
  - Mexico ............................................................................................................................... 17
  - Mongolia ............................................................................................................................ 18
  - Philippines ......................................................................................................................... 20
  - Rwanda .............................................................................................................................. 22
  - Senegal .............................................................................................................................. 24
  - South Africa ....................................................................................................................... 25
  - Turkey ............................................................................................................................... 28
  - USA ................................................................................................................................... 30
    - Connecticut ..................................................................................................................... 31
    - New Mexico .................................................................................................................... 32
- Lessons learnt from the experiences of states in abolishing the death penalty ..................... 33
Foreword by Foreign Minister Espen Barth Eide

Norway gives high priority to the fight against the death penalty, and we oppose the death penalty in all circumstances as a matter of principle. Killing sanctioned by the state dehumanises society. It is not an effective deterrent, and we know that innocent people have been executed in a number of cases. The death penalty is cruel and inhuman and we believe its abolition is essential in order to protect human dignity. And we are not alone.

Currently, an estimated 150 UN Member States have abolished the death penalty or have introduced a moratorium, either in law or in practice. Moreover, states that favour abolition of the death penalty have different legal systems and cultural and religious traditions. Public support for the death penalty is diminishing. Nevertheless, governments need to take the lead in national debates on issues of this nature. Most countries that have abolished the death penalty have done so despite public opposition, and yet people in those countries have quickly come to accept this reform.

The more familiar people are with the facts surrounding the death penalty, the less resistant they are to its abolition. It is therefore important for states to show greater transparency with regard to the use of the death penalty. In the long term, this could foster an open debate based on facts. The purpose of this publication is to give examples of how governments have proceeded in abolishing capital punishment and to provide lessons learnt for states considering such a move. The aim has been to provide sound, practical and relevant steps that will inspire states to abolish the death penalty.

The mandate of the International Commission against the Death Penalty (ICDP) is to reinforce the fight against the death penalty in all regions of the world. The ICDP aims to supplement the actions carried out by international and regional organisations, civil society and representatives of the political world.

Norway is honoured to support and assist the ICDP in its current role as president of the ICDP cross-regional support group. We are also pleased to be one of the main partners and sponsors of the Fifth World Congress against the Death Penalty, to be held in Madrid in June 2013.

It is no longer a question of if we will achieve full abolition, but of when. Following on from this it is natural to ask: Which countries will be the last to take this step? Who will be the last to join the global trend? I hope that this publication will further strengthen the international movement away from the death penalty.

Espen Barth Eide
Minister of Foreign Affairs of Norway
Message from the President of the International Commission against the Death Penalty

The International Commission against the Death Penalty (ICDP or Commission) was founded in October 2010 to promote and support abolition of the death penalty. It was established as a result of a Spanish government initiative to campaign against the death penalty throughout the world.

ICDP is composed of 15 high-profile Commissioners and includes former presidents, prime ministers, government ministers, senior United Nations (UN) officials, a former US state governor, former judges and a former president of the International Court of Justice, and a leading academic. The Commissioners represent all world regions – demonstrating that abolition of the death penalty is a global concern and not the cause of a particular region. They do not represent their country and they act with independence in their decision making. Each Commissioner has expertise in human rights and is committed to the global abolition of capital punishment. Their experience and knowledge enables them to address politically sensitive issues and engage with senior officials from countries where the death penalty is still retained. Their knowledge, influence and broad geographical representation provides ICDP with a high profile in the international arena.

The personal involvement of ICDP members with the abolition of the death penalty means that the Commission is well placed to engage with senior officials from countries that have yet to abolish capital punishment. Robert Badinter was Minister of Justice in France and was a key figure in France’s decision to abolish the death penalty in 1981. Gloria Macapagal-Arroyo was President of the Philippines and in June 2006 she signed into law “Republic Act 9346” which prohibits the imposition of the death penalty in the Philippines. Bill Richardson was Governor of New Mexico (2003–2011) and signed into law an abolition bill on 18 March 2009. Former Justice Minister Ibrahim Najjar submitted a draft law to repeal the death penalty in Lebanon. There has been a de facto moratorium on executions in Lebanon since July 2008 following his refusal to sign execution warrants.

ICDP is supported and funded by a geographically diverse group of 16 countries from all world regions that are committed to the abolition of the death penalty. This Support Group is composed of: Algeria, Argentina, Dominican Republic, France, Italy, Kazakhstan, Mexico, Mongolia, Norway, Philippines, Portugal, South Africa, Spain, Switzerland, Togo and Turkey. Seven of these countries are among the 13 country case studies in this document.

Over the past decades an increasing number of countries have recognized that state killing undermines human dignity and respect for human rights. This move towards abolition of the death penalty is being witnessed in all regions in the world regardless of political system, religion, culture or tradition. According to the UN some 150 states have either abolished the death penalty or do not practise it. The challenge is now to encourage those states which retain the death penalty to abolish this punishment for all crimes and in all circumstances.
This paper originates from a panel discussion in New York organized by the United Nations (UN) in July 2012 when questions were raised about how states abolish the death penalty. This document reviews the processes towards abolition of capital punishment through studying the experiences of 13 states. Drawing on these lessons and experiences, the document provides guidance to states on how to abolish the death penalty.

In February 2013, ICDP organized a meeting of experts in Geneva to discuss steps states can take towards abolition of the death penalty. That meeting brought together death penalty experts from academia, intergovernmental organizations and non-governmental organizations and the discussion informed this document on how states abolish the death penalty. The result of the discussions as well as contributions received from some ICDP Commissioners and its Support Group were incorporated into this publication.

ICDP’s goal is universal abolition of the death penalty. To achieve this goal there are a number of steps which states can take. This paper is intended to facilitate and contribute to that ultimate goal – a death penalty-free world.
INTRODUCTION

The global trend towards worldwide abolition of the death penalty has accelerated over the past two decades. Progress towards abolition at the end of the Second World War was at first slow but sharply increased from the early 1990s onwards. When the UN was founded in 1945, only eight states had abolished the death penalty for all crimes. Twenty years later, in 1965, twenty-five countries had abolished the death penalty, eleven of them for all crimes and fourteen for ordinary crimes in peacetime. The turning point came in 1995: for the first time in world history a majority of states had abolished the death penalty in law or practice. According to the UN, as of February 2013 some 150 UN Member States have abolished the death penalty in law or no longer execute. Among those states, 105 have abolished the death penalty in law – 97 for all crimes in civil and military law and eight for ordinary crimes leaving it possible to sentence a person to death, for example, under military law. This continuing trend towards abolition is positive but it must not be forgotten that billions still live in countries which retain capital punishment and thousands of prisoners continue to be executed every year or remain under sentence of death.

Opposition to the death penalty is not exclusive to any particular region, political system, world religion, culture or tradition. This global concern for abolition has in part led the UN General Assembly to call, since 2007, for a worldwide moratorium on executions with a view to abolishing the death penalty. The fourth resolution was adopted in December 2012. One hundred and eleven countries voted in favour of the resolution. Seventy-five states are also party to the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) aiming at the abolition of the death penalty and are legally bound not to execute anyone within their jurisdiction.

This publication looks at the processes by which 13 countries achieved abolition of the death penalty and the role played by various actors including government officials, the courts, the media, professional organizations, religious bodies and non-governmental organizations (NGOs) in that process. It does so by reviewing abolition in different countries around the world. As the 13 country case studies show, there are many different ways in which states chose to abolish the death penalty. The pattern to reach abolition has also changed and increasingly countries adopt a more rapid transition process towards total abolition.

Abolition in some of the country case studies is often associated with marking a break with a repressive past, as happened at the end of apartheid in South Africa, the end of the Duvalier regime in Haiti, the aftermath of the genocide in Rwanda and a ceasefire and peace agreement after massive human rights violations in Cambodia. Argentina, Mexico and Turkey have achieved abolition at the end of periods of martial law or by removing codes of military justice from their statute books. Personal experience of leaders also plays its part, for example political leaders in South Africa and the Republic of Korea had themselves faced the possibility of execution.

Abolition of the death penalty requires political leadership. Leadership against the death penalty may come from politicians, judges, religious figures and individuals within civil society. Political leadership has been very important in overcoming national opposition. This has been the case in countries such as France, Mongolia, Philippines, Senegal and in the USA where leadership by the governors in the states of Connecticut, Maryland and New Mexico was important for abolition of the death penalty. Presidents have also regularly used their prerogative to grant clemency and/or impose a moratorium on executions in France, Mexico, Mongolia and the Philippines. Such action paved the way for legislative or constitutional repeal of capital punishment. Other political leaders, including members of parliament, have shown leadership in acting for abolition even though public opinion supported retention of the death penalty.
The risk of executing innocent people has also been recognized by political leaders when making the decision to abolish the death penalty. While he was governor of the US state of New Mexico, Bill Richardson, who is an ICDP Commissioner, signed into law an abolition bill on 18 March 2009. In a statement released that day Governor Richardson said:

In a society which values individual life and liberty above all else, where justice and not vengeance is the singular guiding principle of our system of criminal law, the potential for wrongful conviction and, God forbid, execution of an innocent person stands as anathema to our very sensibilities as human beings.

Once free of colonization, traditional values about the sanctity of life in some African cultures influenced developments against the death penalty in countries such as Senegal and South Africa, while in Latin America long-standing abolitionist traditions, shaped in reaction to executions of political figures, reinforced the death penalty debate after independence of these countries in the nineteenth century.

Countries have adopted different paths to abolish the death penalty. Some countries such as Cambodia, Haiti, Kyrgyzstan and Turkey abolished the death penalty by amending the constitution, mostly through provisions on the right to life, and then subsequently amended their penal code and other laws. Other countries, for example France and Mexico, first undertook legal reform before embodying abolition in their constitutions. A constitutional prohibition of the death penalty provides a powerful safeguard to secure abolition. Countries such as Argentina, Philippines, Rwanda and Senegal abolished capital punishment through legal amendment but have yet to enshrine a provision in their constitutions. Mongolia announced its move towards abolition by undertaking an international commitment to abolish the death penalty and becoming a party to the Second Optional Protocol to the ICCPR pending the repeal of the death penalty in national law. In South Africa it was the Constitutional Court that played a key role in abolition when it decided that the death penalty violated human rights as a form of cruel, inhuman or degrading punishment. In the USA, individual states are taking steps to repeal capital punishment although at federal level the death penalty remains in force. The US state of Maryland recently became the eighteenth state to repeal capital punishment. Domestic courts can play an important and progressive role in restricting the use of the death penalty as happened, for example, in India, Kenya and the USA.

Authoritative studies carried out at the request of parliaments, countries’ executives or by professional organizations or NGOs have information about the use of the death penalty including data about death sentences and executions. Such studies have provided powerful arguments for abolition in highlighting the discriminatory and arbitrary nature of many judicial processes, which in some cases have resulted in innocent people being executed. Official studies on the application of the death penalty have, for example, been carried out in France, Mongolia and the state of Connecticut in the USA.

Domestic NGOs, sometimes in partnership or alliance with international NGOs, professional organizations and academics, have provided detailed and impartial information about the lack of deterrent effect of the death penalty and its arbitrary and discriminatory use. Such information and studies contributed to abolition in Mongolia, the Philippines, South Africa, and the US state of New Mexico. Professional organizations, notably bar associations, medical associations and law enforcement organizations, have worked in a number of countries to abolish the death penalty, as have some national human rights institutions. The role played by religious organizations in opposing capital punishment was significant, for example in the Americas, the Philippines and South Africa.
International pressure has also played an important role. There is mounting pressure for abolition resulting from resolutions adopted by the UN General Assembly and the former UN Commission on Human Rights. Its successor, the Human Rights Council, routinely raises questions about the death penalty in its peer review of states’ respect for human rights under the system of Universal Periodic Review (UPR). Authoritative statements calling for worldwide abolition, for instance from the Council of Europe, the European Union, the UN and individual Member States, are important and persuasive. The UN Special Rapporteur on extrajudicial, summary or arbitrary executions regularly raises specific concerns about violations of international standards and safeguards on the death penalty and restrictions on its imposition.

International NGOs have campaigned for abolition and supported national NGOs in their advocacy. The recognition of 10 October as the World Day against the Death Penalty, the Cities for Life event on 30 November and the World Congress against the Death Penalty held every three years are examples of international pressure from civil society organizations.

The development of international human rights instruments have also furthered the abolition of capital punishment and the role of human rights jurisprudence cannot be underestimated in this regard. The ICCPR contains a number of provisions including articles on the right to life, deprivation of liberty and fair trial guarantees which all impact on the use of the death penalty. Of particular importance is Article 6 which provides that every human being has the inherent right to life, to be protected by law, and that “No one shall be arbitrarily deprived of his life”. Article 6 also encourages states to move towards abolition by stating “nothing in this article shall be invoked to delay or prevent the abolition of capital punishment in any State party to the Covenant”. The jurisprudence of the Human Rights Committee (HRC), which monitors implementation of the ICCPR, is important in ensuring that the provisions are understood and respected and it also makes important recommendations after reviewing states’ observation of the ICCPR. The HRC has also issued General Comment No. 24 declaring the prohibition on arbitrary deprivation of life to be part of customary international law and a peremptory norm or jus cogens, which cannot be overridden by other norms. The Second Optional Protocol to the ICCPR aiming at abolition of the death penalty is also a key development in furthering abolition.

Regional human rights standards have also had a marked influence on abolition. In the Organization of American States (OAS), 25 states have ratified the American Convention on Human Rights, which prohibits reinstatement of the death penalty in countries that have abolished it. More recently, in August 2012, the Inter-American Commission on Human Rights of the OAS, which includes the USA, called for a moratorium on executions in the region. In Europe, Protocol No. 6 to the European Convention on Human Rights provides for the abolition of the death penalty in peacetime, and has been ratified by 46 states, whereas Protocol 13 to the same Convention, requiring abolition in all circumstances without reservations or derogations, has been ratified by 43 states. All the Council of Europe’s 47 members have abolished capital punishment or instituted a moratorium on executions. Abolition of the death penalty is now a prerequisite for membership of the Council of Europe. The European Union has made abolition a condition of membership. The Organisation for Security and Co-operation in Europe (OSCE) does not require participating states to abolish the death penalty but it does monitor developments on the death penalty in the OSCE area and reports on the issue annually at its Human Dimension Implementation Meeting. The African Commission on Human and Peoples’ Rights has adopted two resolutions, in 1999 and 2008, calling on states party to the African Charter on Human and Peoples’ Rights to observe a moratorium on the death penalty (ACHPR/Res 42 (XXVI) and ACHPR/Res.136(XXXXIII).08) In 2011 the Chairpersons of the African Commission and

International tribunals and criminal courts have had a significant influence on the abolition of the death penalty. International courts and tribunals supported by the UN do not allow capital punishment and nor does the International Criminal Court (ICC). The move to abolish the death penalty in Rwanda was in part because the International Criminal Tribunal for Rwanda did not provide for the death penalty (see case study on Rwanda).

Peace processes and agreements can also be important in achieving abolition. In Cambodia, for example, the UN’s insistence on excluding the death penalty played a role in that country’s eventual abolition of capital punishment (see case study on Cambodia).

Retentionist states often rely on the argument that the public favours the death penalty, which makes it very difficult to abolish capital punishment. They argue that traditional societal values support retribution and therefore retention of the death penalty. It is therefore important that retentionist states ensure that information and statistics regarding the death penalty are publicly available. Nevertheless, even with such information public opinion can fluctuate dramatically, particularly in response to serious crimes and the media coverage of such crimes. States face difficulties if popular sentiment is allowed to determine penal policy. Public opinion can be difficult to gauge accurately as much will depend on how questions are phrased and whether alternatives are offered as well as the individuals’ knowledge and understanding of the death penalty. While public views on the death penalty are relevant, ultimately it is the state that must decide to abolish the death penalty. Experience shows that capital punishment has been abolished even when public opinion favours such punishment. This was the case, for example, in Canada, France, Germany, the United Kingdom and among the 18 states in the US which repealed the death penalty. Once abolished, historical experience has shown that the majority of the public has not opposed this decision and has shown willingness to accept death penalty abolition.

ICDP works for global abolition of the death penalty. ICDP has produced this publication which covers the experiences of 13 countries where steps have been taken towards full abolition of the death penalty. These 13 countries represent all regions of the world. This narrative is followed by a brief description of lessons learned from the experiences of these countries. The publication concludes with a section on the ICDP and its Commissioners.
ARGENTINA

Argentina has a long abolitionist tradition. The last legal execution took place in 1916 and was followed by periods of complete abolition, from 1921, and reinstatement of the death penalty under military governments in the 1970s. Argentina abolished the death penalty by law for ordinary crimes in 1984 and for all crimes in 2008. In 1994 the death penalty was prohibited in the constitution for political crimes.

Argentina had already abolished the death penalty for ordinary criminal offences in 1921 but laws passed in 1950 and 1951 provided the death penalty for politically related offences: espionage and sabotage, as well as acts punishable under the Code of Military Justice provisions intended to try the leaders of rebellions. These laws were repealed under the first government of President Juan Perón. However, the de facto governments (1966–1973) reintroduced the death penalty for political crimes in 1970 and under criminal law in 1971. These legal changes met with strong opposition from jurists and others, leading to the abolition of the death penalty in 1972 under General Lanusse, except in the Military Penal Code.

After the military coup of 24 March 1976 that deposed Isabel Martínez de Perón, the death penalty was reintroduced for violent crimes and attacks on public services, in so-called “crimes with the purpose of subversion”. This penalty could be imposed on any person over 16 years old. During the last military dictatorship, which ruled from 1976 to 1983, no judicial death sentences were imposed, but the military junta resorted to large-scale extrajudicial executions, torture and enforced disappearances, among other violations of human rights.

In December 1983 the constitutional president, Raúl Alfonsín, restored the rule of law in Argentina. The government was committed to breaking with the repressive policies of the military junta, taking steps to establish the liability of widespread human rights violations committed during the dictatorship. The Alfonsín government adopted a comprehensive legislative reform that included the removal of the decree laws that established the death penalty. In August 1984 the National Congress passed Law 23077 which eliminated the death penalty in the Penal Code for ordinary criminal offences. In March 1984, Argentina ratified the American Convention on Human Rights, which requires that once a country has abolished the death penalty “it shall not be re-established”.

The death penalty could still be imposed by special legislation. The Military Justice Code of 1951 remained in force, and the military courts could apply the death penalty during armed conflict or in peacetime for crimes of treason, espionage, rebellion and mutiny (offences under the Military Penal Code). Article 759 of the Code of Military Justice established the death penalty for desertion in time of war, and Articles 131 and 132 established that both civilians and military could be summarily executed by applying the emergency regulations. Legislation adopted in 1984 reduced the scope of military justice, imposing mandatory intervention by a federal appeals court to review all decisions of military courts.

In 1994 the National Constitution was amended. One of the most important changes was the incorporation of international human rights treaties in the constitution, giving them constitutional hierarchy. It also introduced a specific provision, in Article 18, that the “Death penalty for political causes […] is forever abolished”. Finally, in August 2008 under President Christina Kirchner, the Code of Military Justice was abolished by law, military courts of justice ceased to exist and the death penalty was abolished for all crimes.

CAMBODIA

Cambodia has the longest period of abolition of capital punishment of any country in Asia. Along with the Philippines, it is one of two Association of Southeast Asian Nations (ASEAN) states to have abolished the death penalty for all crimes. The date of the last execution is not known. The death penalty was prohibited for all crimes in 1989 by amendment to the 1981 constitution. Abolition of the death penalty was subsequently effectively incorporated in transitional legislation passed in 1992 under UN supervision and was then secured in the new 1993 constitution, rooted in an agreement to settle the long-standing Kampuchean conflict that was reached under international auspices in Paris in 1991.

Between 1975 and 1979 between 1 and 2 million Cambodians were arrested, tortured, executed or starved to death under a policy of forced relocation to the countryside carried out by the Government of Democratic Kampuchea, led by Pol Pot. He headed the Communist Party of Kampuchea, known as the “Khmer Rouge”.

A 1979 decree, passed after the Pol Pot government was overthrown, provided death as punishment for genocide and its scope was extended under the 1980 Decree Law No. 2 for offences including treason against the revolution and theft of public property, murder and rape. However, the death penalty did not apply to anyone convicted of genocide or treason who vowed political loyalty to the new government of the People’s Republic of Kampuchea (PRK). At least five men were sentenced to death under the decree for genocide and treason under the PRK government. Three of them, including Khmer Rouge leader Pol Pot, were tried in absentia.

In Cambodia, the death penalty was abolished by constitutional amendment in 1989. The April 1989 constitutional amendment changed the name of the country to the State of Cambodia and included Article 35 which abolished the death penalty for all crimes. The amendment was intended to signify new policies at the end of the Pol Pot regime and subsequent fighting between forces of the PRK government, led by Hun Sen, and armed opposition forces in the Coalition Government of Democratic Kampuchea (CGDK), later renamed the National Government of Cambodia (NGC). The opposition coalition included the “Khmer Rouge” (then called the Party of Democratic Kampuchea) and Prince Norodom Sihanouk’s National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (FUNFINPEC).
International pressure and assistance also played a substantive part in the abolition of the death penalty. International efforts had intensified to bring the protracted Kampuchean conflict to an end. A ceasefire was eventually agreed in 1991 and the Paris Peace Agreement was concluded in October 1991, signed by the government of the State of Cambodia, led by Hun Sen, three opposition parties – the Khmer Rouge, FUNCINPEC and the Khmer People’s National Liberation Front (KPNLF) – as well as by all five Permanent Members of the UN Security Council and 13 other governments.

The agreement commits Cambodia, in Article 15 (2), “To ensure respect for and observance of human rights and fundamental freedoms in Cambodia” and “to adhere to relevant international human rights instruments”. Annex 5 to the Agreement sets out the Principles for a New Constitution for Cambodia, to include special measures to assure protection of human rights, a constitutional declaration of fundamental rights including the right to life, and the need for consistency of constitutional provisions with the (UN) Universal Declaration of Human Rights. Under the accord, the UN Transitional Authority in Cambodia (UNTAC) was established to supervise the ceasefire as well as law enforcement and judicial processes including preparing Cambodia for a new constitution fostering “an environment in which respect for human rights shall be ensured”.

International NGOs had pushed for strong human rights provisions in the Paris Agreement and in the new constitution, including an exclusion of the death penalty. Amnesty International, for example, had written to PRK leaders in July and September 1988 to express concern about the use of the death penalty and to urge that enforceable guarantees for respecting international human rights standards be included in any political settlement that would also include an end to the death penalty. Amnesty International also pressed these proposals from the early stages of negotiations on the three opposition parties participating in the talks, one of whose leaders, Prince Norodom Sihanouk, responded in September and October 1988 expressing support for ending the death penalty in Cambodia.

UNTAC was deployed in 1992 and offices were established in March 1992. UNTAC assisted in drafting legal texts on civil and criminal law. In September that year the Supreme National Council, the legitimate transitional body, adopted the Provisions Relating to the Judiciary and Criminal Law and Procedure Applicable in Cambodia during the Transitional Period. This transitional law, prepared with UNTAC’s assistance, states in Article 67 “the death penalty is abolished in Cambodia”.

On 24 September 1993 Cambodia adopted a new constitution based on the human rights provisions articulated in the Paris Peace Agreement. Article 32, prepared under the UN mandate of legal assistance to Cambodia, states “Every Khmer citizen shall have the right to life, personal freedom and security”. It then specifically provides: “There shall be no capital punishment”. The constitution was criticized, however, for excluding anyone who was not a “Khmer citizen” from the constitutional human rights provisions. The transitional Code of Criminal Law and Procedure continued to apply for some time until a new Penal Code entered into force in December 2010, which also does not provide for the death penalty.

At the UN General Assembly in 2007, Cambodia voted in favour of resolution A/RES/62/149 calling for a moratorium on executions worldwide with a view to abolishing the death penalty, and voted for all subsequent death penalty resolutions adopted in 2008, 2010 and 2012. Cambodia is a not yet a party to the Second Optional Protocol to the ICCPR aiming at abolition of the death penalty.
FRANCE

France abolished the death penalty by law for all crimes in 1981 thus joining the 13 other European countries which had already achieved abolition. Abolition followed a long public debate, presidential pardons, a cross-party study group, legal action in the courts and decisive action by President Mitterrand who publicly advocated abolition notwithstanding a majority of the French public favouring the death penalty. In 2007, abolition of the death penalty was incorporated in the constitution. The last execution took place in 1977.

France’s first Penal Code of 1791, adopted during the French Revolution, provided for decapitation and since then the death penalty was always carried out by guillotine. An 1848 decree, confirmed in 1853, abolished the death penalty for political crimes. During the nineteenth century the death penalty was debated among academics, legal scholars and political and literary figures, among them Victor Hugo, who described the last day of a condemned man to illustrate his opposition to capital punishment.

The last public execution took place in Versailles in 1939. It revived the public debate about the death penalty after pictures of the execution, employing a faulty guillotine, were widely distributed in the press. The government promptly banned all publicity surrounding executions, except for summary official announcements. From then on, secrecy surrounded executions.

Executions by guillotine for death sentences pronounced by special courts occurred regularly during the time of German occupation of France and the period immediately after the war saw a high execution rate. However, there were fewer executions after the 1950s. For example, between 1959 and 1979, 51 people were condemned to death for ordinary crimes, of whom 14 were executed, as well as two members of the paramilitary OAS (Organisation Armée Secrète). A strong abolitionist tradition emerged in French literature and film. The writer Albert Camus wrote a book in 1957 reflecting on the guillotine and, with Arthur Koestler, he wrote reflections on the death penalty, with a plea for abolition. French films during this period highlighted the inhumanity of the death penalty.

After a consultation with judicial and administrative officials, French presidents exercised their powers to grant clemency more frequently and judges also showed more reluctance to hand down death sentences. However, a number of crimes against children in the 1970s galvanized public opinion in favour of the death penalty, with up to 65% of the population supporting retention. Executions in 1972 attracted international criticism, occurring at a time that most European countries were abolishing the death penalty. However, the relatively low rate of executions in the 1960s and the opinions expressed and actions taken by French presidents on the death penalty, ambivalent as they were, enlarged scope for public debate on capital punishment.
In April 1974 Presidential candidate Valéry Giscard d’Estaing expressed his ‘profound aversion’ to the death penalty, but added that he would not counter the profound sentiments of the French people on the matter. Once elected, however, he permitted three executions. His failure to grant clemency leading to a July 1976 execution attracted negative criticism in the press and revived the public debate about capital punishment. President Giscard D’Estaing said he wanted a thorough analysis of executions. Various professional organizations debated the death penalty and in 1976 the Syndicat de la Magistrature (Trade Union of Magistrates) voted for abolition with a wide margin. The National Assembly established a cross-party study group and the Commission for Revision of the Penal Code expressed its opposition to the death penalty. The Protestant and Catholic churches also strongly voiced their abolitionist views.

The death penalty was also challenged in the courts. Robert Badinter, a lawyer and socialist politician, persuaded judges six times from 1976 to 1980 to spare the life of a murderer by opposing the death penalty as cruel and inhuman punishment and which risked innocent persons being sentenced to death. President Mitterrand, who had declared his opposition to the death penalty just a few weeks before the 1981 elections, appointed him to be Minister of Justice in his new socialist government.

One of the first acts of the new socialist government was to commute three death sentences passed in May 1981 and for Minister of Justice Badinter to introduce an abolitionist bill in the National Assembly in September under the quick vote procedure. It also attracted the support of centre-right parties. On 9 October 1981 the death penalty was abolished for all civil and military offences under Article 1 of Law No. 81-809, after votes in favour in the National Assembly (363 to 117), and the Senate (160 to 26). This happened at a time when 60–65% of the French people favoured capital punishment.

As a final step to securing the strongest guarantee against the death penalty, abolition was enshrined in the constitution at the initiative of President Chirac by constitutional amendment passed in parliament in 2007. Article 66-1 of the Constitution provides that “no one shall be sentenced to the death penalty”.

France’s position against the death penalty was underlined by its ratification of Protocol 6 of the European Convention on Human Rights in February 1986, providing for abolition of the death penalty in peacetime. In October 2007, France also acceded to Protocol 13 of the Convention, abolishing the death penalty in all circumstances.

At the UN General Assembly in 2007, France voted in favour of resolution A/RES/62/149 calling for a moratorium on executions worldwide with a view to abolishing the death penalty and voted for all subsequent death penalty resolutions adopted in 2008, 2010 and 2012. In October 2007 France became a party to the Second Optional Protocol to the ICCPR aiming at abolition of the death penalty.
HAITI

_Haiti abolished the death penalty for all crimes by constitutional amendment in 1987. The last known judicial execution was carried out in 1972._

The death penalty was retained in the country’s 1853 Penal Code after French colonial rule ended in 1804. The Penal Code of 1953 provided the death penalty for criminal and political offences. During the Presidency of Dr François Duvalier between 1957 and 1971 numerous death sentences were imposed following summary trials, and executions were frequently carried out in public. Death sentences were also handed down by courts martial under a special anti-Communist law of 1969.

A 1985 governmental decree abolished the death penalty for political offences except high treason. Following the collapse in February 1986 of the Jean-Claude Duvalier government, which had been responsible for widespread human rights abuses, former government officials were sentenced to death for human rights violations but all pending death sentences were commuted under the new constitution of 1987, which provided for abolition of the death penalty. It had been approved in a national referendum on 29 March 1987 under President Henri Namphy. Article 20 of the constitution provides that the death penalty is abolished for all crimes. Following a military coup the following year, the 1987 constitution was temporarily abolished, but the then president, Leslie Manigat, issued a decree on 12 July 1988 reaffirming abolition of the death penalty.

At the UN General Assembly in 2007, Haiti voted in favour of resolution A/RES/62/149 calling for a moratorium on executions worldwide with a view to abolishing the death penalty, and voted for all subsequent death penalty resolutions adopted in 2008, 2010 and 2012. Haiti is not a party to the Second Optional Protocol to the ICCPR aiming at abolition of the death penalty or the Protocol to the American Convention on Human Rights to Abolish the Death Penalty.

KYRGYZSTAN

_Kyrgyzstan abolished the death penalty for all crimes by a 2006 amendment to the constitution followed by an amendment to the Criminal Code in 2007. Abolition followed a series of moratoria on executions that had been in place since 1998, declared and renewed by presidential decree, as well as a 2002 policy decree and 2004 amendments to the Criminal Code reducing the number of offences carrying the death penalty. The last execution was carried out in 1998._

Following independence from the Soviet Union in 1991, the constitution provided in Article 18 for the death penalty in exceptional cases. In its initial report to the (UN) Human Rights Committee in July 2000, the Kyrgyzstan delegation reported that there was a growing trend in Kyrgyz society in favour of abolishing the death penalty. A 1997 bill led to abolition of capital punishment for some crimes including economic crimes but retained it for crimes resulting in loss of life. It was supported by the president, Askar Akayev, who issued a decree establishing a two-year moratorium in 1998. The moratorium was extended four times, until President Kurmanbek Bakiyev declared an indefinite moratorium in 2005 pending abolition.
During the period of the moratorium on executions, death sentences continued to be handed down by the courts and possibly even after the abolitionist amendment to the constitution. The number of death sentences carried out before the moratorium was considered a state secret and relatives were not informed of forthcoming executions.

There was pressure from the international community and civil society organisations on Kyrgyzstan to abolish the death penalty. The EU had consistently urged Kyrgyzstan to abolish the death penalty and there were similar calls at OSCE Human Dimension Implementation Meetings. In December 2002, a coalition of Kyrgyz and international human rights organizations, including the Kyrgyz Bureau on Human Rights and Rule of Law and the Kyrgyz Committee for Human Rights, welcomed the moratorium on executions and urged President Akayev to abolish the death penalty.

A decree was issued in 2002 stating that one of Kyrgyzstan’s objectives was the gradual reduction of the application of the death penalty and its eventual abolition. The next step was introduction of amendments to the Criminal Code in 2004 which reduced the number of capital offences from six to three. However, in 2005 and 2006 parliament rejected draft laws and amendments to the constitution prepared by the Ministry of Justice and the Constitutional Council as well as a bill for accession to the Second Optional Protocol to the ICCPR aiming at abolition of the death penalty. President Bakiyev, who assumed office in August 2005, had announced before taking up his position that he wished to exclude the death penalty from the constitution.

The following year, in November 2006, President Bakiyev signed a new constitution stating “every person in the Kyrgyz Republic has an inalienable right to life. No one can be deprived of life.” On 27 June 2007, President Bakiyev signed a law amending the Criminal Code and abolishing the death penalty, replacing it with imprisonment for life. Following abolition, the Supreme Court reviewed the cases of 133 prisoners on death row and automatically commuted their sentences to life imprisonment. The new constitution, prohibiting the death penalty, was later approved by public referendum in June 2010.

MEXICO

Mexico abolished the death penalty in 2005 for all crimes in law and later the same year by constitutional amendment. The last execution for ordinary crimes was carried out in Puebla state in 1937. The last execution under the Military Code of Justice, of a soldier, took place in 1961.

Moves to abolish capital punishment in Mexico are grounded in strong abolitionist trends in south and central America in the nineteenth century. The 1857 constitution specifically prohibited the death penalty for political crimes at a time when there was widespread condemnation of the death penalty in the media. This signalled a break with the past when the death penalty had been used to eliminate political opponents. However, Mexico’s constitution retained the death penalty for ordinary crimes for a long time. The Political Constitution of the United Mexican States of 1917 prohibited the death penalty for political offences in Article 22, but retained the punishment for murder and other criminal as well as some military offences.

The death penalty included in the 1871 Penal Code was removed from the 1930 Federal Penal Code and subsequent Penal Codes. Most Mexican states had abolished capital punishment by the end of the nineteenth century.

The Code of Military Justice did, however, retain the death penalty for specific offences, and people were occasionally sentenced to death under its provisions. In practice, presidents routinely used their constitutional powers to ensure commutation of a death sentence to long-term imprisonment. This happened as late as November 2003 after a military court had sentenced a man to death for murder.

In April 1988 a presidential candidate announced he might consider holding a referendum on reintroducing the death penalty, but the idea met with widespread resistance from the public, Catholic bishops, political leaders, senators and prominent lawyers and the referendum was never held.

Mexican and international human rights organizations continued to urge the Mexican government to totally repeal the death penalty in law. The year 2005 was decisive for abolition. On 21 April 2005 the only remaining provision in Mexican criminal law permitting the death penalty was abolished. The Mexican Chamber of Deputies unanimously voted to reform the Military Penal Code and replace the death penalty with prison terms of 30 to 60 years for serious offences.

To reinforce abolition at constitutional level, the Mexican House of Representatives approved a constitutional reform bill in June 2005 by 412 votes in favour and two abstentions which explicitly prohibits the death penalty for all crimes. President Vicente Fox signed the bill amending Articles 14 and 22 of the Constitution of the United Mexican States and it came into force on 9 December 2005. The following day, President Fox described the publication of the constitutional changes in the official gazette as “historic”, adding: “Mexico shares the opinion that capital punishment is a violation of human rights”.


There were some attempts to reinstate the death penalty in the face of mounting violence and kidnappings. In December 2008, the governor of northern Coahuila state sponsored a bill in the Mexican Congress to reinstate the death penalty for kidnappers resorting to murder. One political party advocated the death penalty in all homicide cases. However, moves to reintroduce the death penalty were strongly opposed by human rights activists, the Roman Catholic Church and some politicians and did not succeed.

Since 2000, the government has tried to provide legal assistance to hundreds of Mexicans under sentence of death in the USA. The International Court of Justice upheld Mexico’s appeal requesting the USA in 2004 to review the cases of 51 Mexican nationals on death row as the USA had failed to meet its obligations under the 1963 Vienna Convention on Consular Relations by not facilitating their access to Mexico’s consular officials. Mexico will also not extradite criminal suspects to the USA without an undertaking that they will not face a death sentence or life imprisonment without the possibility of parole.

In 1981 Mexico became a party to the Inter-American Convention on Human Rights, which bars countries that have abolished the death penalty from reinstating it. In September 2007 Mexico acceded to the Second Optional Protocol to the ICCPR aiming at abolition of the death penalty and the Protocol to the American Convention on Human Rights to Abolish the Death Penalty.

At the UN General Assembly in 2007, Mexico voted in favour of resolution A/RES/62/149 calling for a moratorium on executions worldwide with a view to abolishing the death penalty, and voted for all subsequent death penalty resolutions adopted in 2008, 2010 and 2012.

MONGOLIA

The President, Tsakhiagiin Elbegdorj, systematically commuted death sentences and announced a moratorium on executions in January 2010, underlining the need to follow the worldwide trend towards abolition. Mongolia undertook an international commitment to abolish the death penalty by its March 2012 accession to the Second Optional Protocol to the ICCPR, and is taking steps to abolish capital punishment in law. The last execution was in 2008.

The death penalty was included in the country’s first Criminal Code of 1926. Eight offences carried the death penalty under the 1961 Penal Code allowing 171 people to be sentenced to death between 1980 and 1990, of whom 118 were executed. The collapse of the Soviet Union marked the start of democratic reform in 1990, when a multi-party system was established. A new constitution was promulgated in 1992, which, in Article 16(1), provided for the death penalty for serious crimes. A new Criminal Code was enacted in 2002 retaining the death penalty for 59 listed crimes, although it excluded women, men over 60 or anyone below 18 years of age. There was also a reported rise in the number of death sentences handed down after the promulgation of the new constitution. Executions were a regular occurrence until 2008 when the last execution took place. Secrecy surrounded executions - families did not receive prior notification or information about where those executed were buried.
President Elbegdorj was elected in June 2009 and began systematically commuting death sentences. A crucial step towards abolition was taken on 14 January 2010 when the president announced an executive moratorium on all executions and commuted death sentences of all those on death row who had appealed to him for clemency to 30-year prison terms. Reflecting on the worldwide trend towards abolition, President Elbegdorj told the BBC: “The majority of the world’s countries have chosen to abolish the death penalty. We should follow this path.”

Legislative action was required to consolidate steps towards abolition. In a landmark speech to the State Great Khural (parliament) in January 2010 the president listed eight reasons for rejecting the death penalty in law, including the irreparable nature of public error, historical use of the death penalty as a means to effect political purges, the international community’s calls for universal abolition of the death penalty and the demonstrable failure of the death penalty to have a deterrent effect. He said: “There are instances where the death penalty was imposed on an innocent individual instead of the actual offender. Without fully abolishing it, we cannot completely end miscarriages of justice for this form of penalty.” As a sign of its new policy, Mongolia voted for the first time, on 21 December 2010, at the UN General Assembly in favour of a resolution calling for a moratorium on executions having previously voted against such resolutions.

The death penalty was widely discussed in Mongolia among judges, lawyers, parliamentarians and NGOs, including an association of victims. Mongolia’s National Human Rights Commission carried out studies on the use of the death penalty on its own and with Amnesty International Mongolia. The National Human Rights Commission consistently advocated abolition and cited, in support, conclusions of the UN Special Rapporteur on torture following his 2005 visit as well as of the UN human rights treaty bodies which called for abolition of the death penalty. In January 2011 the President of the ICDP wrote to the Members of the Parliamentary Committee on Security and Foreign Affairs to support Mongolia’s ratification of the Second Optional Protocol to the ICCPR aiming at abolition of the death penalty.

President Elbegdorj continued to play an important role in pursuing the abolition of capital punishment. Gungaa Bayasgalan, State Secretary in the Ministry of Justice and Home Affairs told the (UN) Human Rights Committee on 21 March 2011 in New York, “We want to introduce a culture of supporting the abolishment of the death penalty” adding that this would require the president to play an essential role as such issues took time. On 12 October 2012, the Legal Policy Adviser to the President condemned the death penalty and called on other countries to reject it.

Overcoming considerable opposition from legislators, on 5 January 2012 the Mongolian parliament voted a bill that aimed to end the death penalty by approving a decision to accede to the Second Optional Protocol to the ICCPR, which prohibits all executions and requires each state party to take all necessary steps to abolish the death penalty. Mongolia acceded to the Second Optional Protocol without reservations on 13 March 2012. The government is currently taking steps towards abolishing the death penalty in law but has yet to remove the death penalty from the Criminal Code and other relevant legislation, including the Law on State Secrets.

At the UN General Assembly in 2007, Mongolia voted against resolution A/RES/62/149 calling for a moratorium on executions worldwide with a view to abolishing the death penalty. It did the same in 2008 but voted in favour of UN resolutions calling for a worldwide moratorium in 2010 and 2012.
PHILIPPINES

The Philippines was the first country in Asia to abolish the death penalty for all crimes. It did so in 1987 by a constitutional provision which, however, under Article III section 9, allowed the death penalty to be reinstated by Congress “for compelling reasons involving heinous crimes”. The death penalty was reintroduced in 1993 and the Philippines resumed executions in 1999, but they were stopped the following year. Capital punishment was eventually abolished by the Congress and President Gloria Macapagal Arroyo in 2006 after the President had earlier announced a policy of commuting death sentences. NGOs and the church played a crucial role in this complex process. The last execution took place in 2000.

After the overthrow of the Marcos government in 1986 the new president, Corazon Aquino, formally restored democracy and a new constitution was promulgated in 1987 which abolished the death penalty on the grounds that it infringed human rights. President Aquino announced in April 1986 that all death sentences were commuted to life imprisonment, a move benefitting over 500 prisoners sentenced to death mainly by military tribunals, including those convicted during the repressive period of martial law under President Marcos between 1972 and 1981.

However, public concern about spiralling crime rates and mounting pressure for restoration of the death penalty by senior military figures prompted President Fidel Ramos and the Philippines Congress to reintroduce the death penalty in December 1993 when “Republic Act 7659” was signed into law, taking effect on 1 January 1994. The Act allowed the death penalty to be imposed for 46 separate offences, including non-violent crimes, 23 of the offences incurring a mandatory death sentence. By 2002 there were 52 offences carrying the death penalty. Numerous death sentences were imposed by the courts, especially on the poorest defendants who could not afford lawyers to defend them and who were often tortured in custody and sometimes unable to understand the language in which court proceedings were conducted. The Philippines became a country with one of the highest rates of death sentences in the world. Approximately 900 prisoners were on death row in 1999, the year that executions resumed after an interval of 23 years.

A powerful Task Force was formed to campaign against the death penalty in 1997. Its members were the Free Legal Assistance Group (FLAG), the Coalition Against the Death Penalty (CADP), the Catholic Bishops Conference and Amnesty International. The Roman Catholic Church appealed to President Joseph Estrada who, although a supporter of the death penalty, recognized serious flaws in trials and that innocent people might be under sentence of death. The last execution took place in 2000 and in December that year the president imposed a one-year moratorium on executions, commuted all death sentences imposed by the lower courts and called on Congress to review how the death penalty was implemented.

The Philippines has been a party since 1987 to the (first) Optional Protocol to the ICCPR. In October 2000 the (UN) Human Rights Committee, which hears complaints of individual petitioners about alleged breaches of their rights under the ICCPR, expressed its concern about the execution in the Philippines of two men whose cases it was considering. The Human Rights Committee held “that the State committed a grave breach of its obligations under the Protocol by putting the alleged victims to death before the Committee had concluded its consideration of the communication” (Piandiong et al v The Philippines, Communication No. 869/1999, 19 October 2000, CCPR/C/70/D/869/1999).
President Gloria Macapagal-Arroyo announced in 2001 another moratorium on executions. A few months later, following a spate of kidnappings, she threatened to reverse her position, saying executions would resume. Capital punishment was widely debated, including in Congress, but no executions took place. In 2001, proponents of capital punishment introduced a bill to extend its scope even further, while the following year, in 2002, both senators and members of the House of Representatives prepared bills to repeal the death penalty.

NGOs continued to campaign and FLAG represented individuals charged with offences carrying the death penalty. The Philippines Commission on Human Rights strongly opposed re-imposition of the death penalty. Religious groups were divided: Philippine Evangelical Churches reaffirmed their support for the death penalty, but the Catholic Bishops’ Conference of the Philippines renewed its appeals for abolition of the death penalty. On 15 April 2006, on the occasion of Easter, President Arroyo announced a policy to commute death sentences to life imprisonment, affecting over 1,200 prisoners on death row. In a letter sent to Senate President Franklin M. Drilon, the president said there was an urgent need for “abolishing death penalty as its imposition was shown to have not served its principal purpose of effectively deterring the commission of heinous crimes” and that abolition would remedy the findings that death penalty is anti-poor as it was often the underprivileged who could not afford legal representation who were sentenced to death.

The Philippines Congress took swift action and on 6 June 2006 it passed bills abolishing the death penalty, the Senate voted 16–0, with one abstention, and the House of Representatives voted 119 for and 20 against. President Arroyo issued a statement saying: “We celebrate the victory of life as I thank Congress for its immediate action in abolishing the death penalty law. But make no mistake about it, the abolition of the death penalty will be complemented by a stricter and sterner enforcement of the law on all fronts.” The law entered into effect on 24 June 2006, with President Gloria Macapagal-Arroyo signing ‘An Act prohibiting the imposition of the death penalty in the Philippines’ (RA 9346).

At the UN General Assembly in 2007, the Philippines voted in favour of resolution A/RES/62/149 calling for a moratorium on executions worldwide with a view to abolishing the death penalty, and voted for all subsequent death penalty resolutions adopted in 2008, 2010 and 2012. In November 2007, the Philippines ratified the Second Optional Protocol to the ICCPR aiming at abolition of the death penalty.
RWANDA

In 2007 Rwanda became the first country in the Great Lakes region in Africa to abolish the death penalty for all crimes. This happened in the aftermath of the 1994 genocide in which an estimated 800,000 Rwandans were murdered. The last execution was carried out in 1998.

The death penalty existed under the Penal Code for a wide range of criminal offences and the State Security Court had jurisdiction over cases of a political nature, including offences carrying the death penalty. Executions were occasionally carried out. Between 1969 and 1974, 13 out of 120 people sentenced to death were executed. In 1982, President Juvenal Habyarimana commuted two death sentences imposed by the State Security Court in 1981 which had denied the defendants access to lawyers. However, two months later, in September 1982, the government signalled its intention to retain the death penalty when 43 prisoners were executed, mostly for murder. In July 1987 President Habyarimana commuted all confirmed death sentences to life imprisonment, a move benefitting 537 prisoners. The president then regularly commuted death sentences.

Following the 1994 genocide, the Rwandan authorities tried those charged with involvement in the genocide in domestic courts. In 1998, 22 people were executed on charges of leading the genocide. These were the last judicial executions to be carried out in Rwanda, although death sentences continued to be imposed until 2003.

Eventually, involvement of the international community in establishing accountability for the genocide triggered Rwanda’s successful move towards abolition of the death penalty. In November 1994, the UN Security Council established the International Criminal Tribunal for Rwanda (ICTR) to bring the perpetrators of genocide and other serious violations of international humanitarian law to justice. The death penalty was excluded as punishment notwithstanding strong opposition from Rwanda, which at the time had a seat in the Security Council. Rwanda’s representative argued in the Security Council that the draft clause excluding the death penalty as punishment in the court’s proposed statute was “not conducive to national reconciliation in Rwanda”.

The subsequent UN Security Council decision to exclude the death penalty as punishment from the ICTR statute presented a dilemma for the government: a fundamental injustice would occur if suspects tried in domestic courts were sentenced to death while the many thousands of genocide suspects living abroad, some held by the ICTR, including alleged ringleaders, received a sentence of life imprisonment as a maximum. Indeed, governments detaining those suspected of leading or participating in the genocide who had fled abroad as well as the ICTR refused to extradite to Rwanda suspects they were holding, fearing their execution. These governments and the ICTR were also concerned about the lack of fair trial guarantees.
which had been a long-standing concern in death penalty cases. These concerns first prompted the enactment, in 2007, of a special transfer law prohibiting execution of suspects due to be transferred from the ICTR to local Rwandan courts. Steps to abolish the death penalty for all crimes quickly followed.

In October 2006, the political bureau of the ruling party strongly recommended abolition and on 19 January 2007 the cabinet approved plans to abolish the death penalty. The Justice Minister, Tharcisse Karugama, said that prolonged public consultation showed that most Rwandans opposed capital punishment. Subsequently, the Chamber of Deputies, on 8 June 2007, and the Senate on 25 July 2007, passed bills abolishing the death penalty. The Law Relating to the Abolition of the Death Penalty entered into force on 25 July 2007 when it was ratified by President Paul Kagame and published in the Official Gazette of Rwanda. It abolished the death penalty for all crimes and removed the death penalty from the Penal Code.

President Kagame observed that his country’s violent history of genocide was a main factor behind abolition of the death penalty. All death sentences – of some 600 death row inmates – were commuted to life imprisonment. Louise Arbour, then UN High Commissioner for Human Rights and a former Prosecutor of the ICTR, welcomed the decision, saying: “A country that has suffered the ultimate crime and whose people’s thirst for justice is still far from quenched has decided to forego a sanction that should have no place in any society that claims to value human rights and the inviolability of the person. Rwanda is demonstrating leadership by action.”

In November 1999, the government hosted a meeting of the African Commission on Human and Peoples’ Rights, which adopted its first resolution on the death penalty, urging states to consider observing a moratorium on executions. In September 2009, the first Regional Conference on the Death Penalty was organized in Kigali, Rwanda, by the death penalty working group of the African Commission on Human and Peoples’ Rights to support the abolition of the death penalty in Central, Eastern and Southern Africa. Furthermore, in October 2011, Rwanda hosted a regional conference on the abolition of death penalty which Ms Duivier, ICDP Commissioner, attended.

As part of the 1993 Arusha peace accords, which have constitutional force in Rwanda, the government undertook to ratify the Second Optional Protocol to the ICCPR, which requires states to abolish the death penalty. This commitment to ratify was put into effect in December 2008.

At the UN General Assembly in 2007, Rwanda voted in favour of resolution A/RES/62/149 calling for a moratorium on executions worldwide with a view to abolishing the death penalty, and voted for all subsequent death penalty resolutions adopted in 2008, 2010 and 2012.
Since independence in 1960 Senegal has only carried out two executions, in 1965 and in 1967, both for the murder of political leaders. The country’s Penal Code provided the death penalty for offences including murder and was mandatory for, among others, espionage and treason.

Discussions about constitutional reform in 2001 included the possible abolition of the death penalty. The move was resisted by then President Abdoulaye Wade, who opposed abolition and argued this was a matter to be addressed by passing legislation that provided for the abolition of the death penalty. The 2001 constitution, in Article 7, states “all human life is sacred and inviolable” and that everyone has the right to life, liberty, security “and to corporal integrity, and especially to protection against physical mutilation”. No exception for the death penalty was mentioned and it remained in the statute books. In its July 2001 reply to Amnesty International on moves to abolish the death penalty, the government said: “A process is underway where all parts of society will be involved in discussing a possible change to the law.”

When the courts handed down death sentences in several cases in 2003 and 2004, a vigorous debate resumed among abolitionists and their opponents, especially when a bill was presented in parliament in 2004 aiming to abolish the death penalty. Four prisoners were then on death row.

Senegal is a predominantly Muslim country. Opponents of abolition included the Coalition of Islamic Associations, which supports the retention of the death penalty and who also argued its supposed deterrent effect. However, Justice Minister Sergine Diop stated that in countries where the death penalty existed, the crime figures were not lower than in abolitionist countries. Supporters of the bill included NGOs like the African Encounter for Human Rights and the Senegalese Committee for Human Rights, who relied on values of the sanctity of life in traditional Senegalese culture. The latter organization also emphasized that abolition of the death penalty was in line with the international movement to abolish the death penalty. Most importantly, President Wade had changed his mind and become a strong supporter of the abolitionist bill. The Bill was unanimously approved by the government on 15 July 2004 and on 10 December 2004 parliament abolished the death penalty for all crimes with a large majority and with the support of large sections of Senegalese society.

Senegal is a member of the Economic Community of West African States (ECOWAS) whose members remain divided on the issue of the death penalty. Debates in Senegal were closely watched by other ECOWAS members, six of whom are already considered to be abolitionist in practice, and one other, Togo, having abolished the death penalty for all crimes.

At the UN General Assembly in 2007, Senegal was not present when the Assembly adopted resolution A/RES/62/149 calling for a moratorium on executions worldwide with a view to abolishing the death penalty, and the country has abstained in the votes on the subsequent death penalty resolutions adopted in 2008, 2010 and 2012. Senegal is also not a party to Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty.
SOUTH AFRICA

South Africa abolished the death penalty in law for ordinary crimes in 1995, and for all crimes in 1997, after the Constitutional Court found the death penalty to be unconstitutional in 1995. The last execution took place in 1991.

During the apartheid era the death penalty was widely and disproportionately used against the black population. In 1995 the Constitutional Court, in a landmark judgement which separated post-apartheid South Africa from the repressive apartheid era, found the death penalty to be unconstitutional because it violated human dignity and the prohibition of torture or cruel, inhuman and degrading punishment. The death penalty was abolished for ordinary crimes in South Africa in 1995.

During the apartheid era, courts consisting of almost entirely white judges were widely reported to discriminate against black Africans and impose heavier sentences on them than on white defendants. Black defendants were nearly always poor and could not afford a lawyer. The death penalty applied to criminal offences as well as political offences. The latter were covered by the Terrorist Act, the Internal Security Act and the “Sabotage Act”. The first and the last of these laws placed the burden of proof on the accused. These laws were increasingly being used to impose the death penalty and Amnesty International reported in 1979 that South Africa had one of the highest rates of judicial executions in the world. Between 1978 and 1987, 1,593 people were sentenced to death, and the annual number of executions exceeded 100. Those executed included members of the banned African National Congress.

At the international level, a range of resolutions adopted by the UN Security Council and the UN General Assembly in 1964, 1982, 1987 and 1989 demanded that South Africa cease executing people “sentenced under arbitrary repressive laws for acts arising from opposition to apartheid”.

In South Africa, the increased execution rate, particularly for those convicted of political protests against apartheid, stimulated intense discussion about the death penalty among religious and political groups, trade unions, human rights groups and members of the legal profession. Opposition to executions resulted in the creation of the Society for the Abolition of Capital Punishment in South Africa in 1971. It was re-established in 1988, the year that the South African Council of Churches declared its total opposition to the death penalty.

In 1990, as the apartheid regime headed by President de Klerk entered its last days, the president announced a moratorium on executions. In July 1990 a Criminal Law Amendment Act removed the mandatory death penalty for murder, abolished it for housebreaking and provided for an automatic right of appeal.
1990 was a momentous year: anti-apartheid leader Nelson Mandela, who was tried for offences carrying the death penalty and had proclaimed it to be a barbaric punishment, was released from prison and negotiations for constitutional change started. Abolition of the death penalty became a litmus test for the creation of a new social order and a tribunal was established to review all death sentences imposed before July 1990. This led to the Minister of Justice proclaiming in 1992 a formal moratorium on executions pending the introduction of a Bill of Rights. The last execution had taken place in 1991. The Transitional Constitution of South Africa was adopted in 1993 and included a Bill of Rights which did not address the death penalty. That year two men who had been sentenced to death during the moratorium challenged the death penalty in court arguing its incompatibility with the human rights provisions in the Bill of Rights, laid down in Chapter III of the new constitution. The Minister of Justice intervened to support the appellants, and the Attorney General brought a case in the Constitutional Court for the death penalty to be declared unconstitutional.

This happened in the landmark judgement the State v T. Makwanyane and M. Mchunu, the first case heard by the new Constitutional Court. On 6 June 1995 the court found that the death penalty for ordinary crimes was inconsistent with the “human rights culture” which respected the right to life and to dignity as cornerstones of the new interim constitution. The court, which had held hearings on the death penalty in February 1995, firmly dismissed the argument of deterrence and held that the way to reduce violence in South Africa was to create that human rights culture which respects human life. One judge argued that the death penalty was part of South Africa’s colonial legacy and that judicial processes of its indigenous societies traditionally did not provide the death penalty for murder. The court held that the death penalty would be inconsistent with the spirit of reconciliation in the new, post-apartheid era and emphasized the specific obligations of the Constitutional Court in deciding what was right, not what was popular, even while public opinion might be ambivalent about the death penalty. The Court’s President Arthur Chaskalson wrote:

Public opinion may have some relevance to the enquiry but, in itself, it is no substitute for the duty vested in the Courts to interpret the Constitution and to uphold its provisions without fear or favour. If public opinion were to be decisive, there would be no need for constitutional adjudication ... The very reason for establishing the new legal order, and for vesting the power of judicial review of all legislation in the courts, was to protect the rights of minorities and others who cannot protect their rights adequately through the democratic process (State v Makwanyane (1995) (3) SA 391, para. 88).

In its judgement, the South African Constitutional Court drew extensively on international and comparative law. The Court distinguished the right to life provision in the South African constitution from the provision in the European Convention on Human Rights and the US constitution, which do not explicitly prohibit the death penalty. However, the Court, in the majority opinion, considered judgements in the US Federal and state Supreme Courts as well as the Supreme and Constitutional courts of Hungary and Canada for its conclusion that the death penalty was a form of cruel, inhuman or degrading punishment, prohibited in the interim constitution.
The Supreme Court’s ruling was contested in the press and by an apparent majority of the population, calling for the retention of the death penalty. Several opinion polls conducted at the time showed a majority (between 62% and 78%) in favour of the death penalty. However, with the African National Congress in favour of abolition of the death penalty, having a near two-thirds majority in the Constitutional Assembly, the latter adopted South Africa’s final constitution on 8 May 1996 which retained the wording in the 1993 interim constitution guaranteeing the right to life as a fundamental right and abolishing the death penalty. It was promulgated in December 1996.

Despite strong pressure from some political parties in parliament to reinstate the death penalty, the South African Parliament endorsed the opinion of the Constitutional Court. In 1997 the Parliament formally abolished the death penalty for all crimes by passing the Criminal Law Amendment Act, which removed all references to the death penalty from the statute book. It entered into force in 1998 and prisoners under sentence of death were re-sentenced to terms of imprisonment. In November 2006 the Constitutional Court ruled that the government had fully complied with its 1995 judgement on the unconstitutionality of the death penalty.

Calls to reinstate the death penalty continued as a perceived means to combat the high crime rate in South Africa, including by the African National Party, but were rejected by South African leaders Nelson Mandela and former Archbishop Desmond Tutu. Such calls have not succeeded since the Constitutional Court successfully dismissed the supposed deterrent effect of the death penalty. On 15 December 2011, the South African President Jacob Zuma reconfirmed his government’s commitment to the abolition of the death penalty.

The Constitutional Court has also held that South Africa’s obligations extend extraterritorially to those within its jurisdiction who face extradition to a country where the alleged offence committed carries the death penalty. In 2001 the Constitutional Court ruled that the government should not have deported to the USA an illegal immigrant suspected of involvement in the bombing of the United States Embassy in Dar es Salaam without first obtaining an assurance of non-execution as it infringed the accused’s rights to life, to dignity and not to be subjected to cruel, inhuman or degrading punishment provided in its constitution. Similarly, on 27 July 2012, the Constitutional Court upheld the values in the constitution by rejecting an appeal by the government against a ruling that two accused men could be extradited to Botswana without the government first receiving prior assurance that they would not face the death penalty.

TURKEY

Turkey abolished the death penalty for ordinary crimes in 2001 and 2002 by constitutional and subsequent legal amendment. In 2004 Turkey prohibited the death penalty for all crimes by another amendment to the constitution and a subsequent amendment to the Penal Code. The lifting of martial law in 1987 facilitated abolition of the death penalty which took place after a de facto moratorium and the reduction in capital offences. The last execution took place in 1984.

Sixteen articles of the 1926 Turkish Penal Code, as amended, provided for a mandatory death penalty for crimes against the state, the government and the constitution. In addition, eight articles provided for a mandatory death sentence for common criminal offences such as murder. The death penalty could also be imposed under the Military Penal Code and the Law of Treason. Prisoners sentenced to death who had exhausted all legal remedies could not be executed unless their sentences were approved by the Grand National Assembly (Parliament) as Article 87 of the constitution required. The Judicial Commission of Parliament effectively halted some executions by not reviewing individual cases. Since the foundation of the modern Republic of Turkey in 1923, 588 people were executed for criminal and political offences.

Executions were more frequent following military coups in 1960, 1971 and 1980, although a de facto moratorium on executions was in place from 1973 to 1980 when death sentences were still passed but not confirmed by Parliament. The moratorium ended shortly after the military coup of 12 September 1980. According to Amnesty International, 50 people were executed between 1980 and 1984, 27 of them for politically related crimes under Articles 125 and 146/1 of the Penal Code. Most death sentences were imposed by military courts under martial law, which came into force in December 1978, in trials that fell short of international standards. The last execution took place in 1984 and caused an international outcry but death sentences continued to be handed down by the courts. Martial law was lifted completely in July 1987, a move that paved the way for abolition of the death penalty.

In November 1990, the Grand National Assembly ratified amendments to the Penal Code which reduced the number of offences punishable by death. The death penalty was, however, retained for 13 offences including murder and political offences such as separatism. In a further move towards abolition, the parliament passed the Anti-Terror Law in April 1991 which commuted all death sentences for crimes committed before 8 April 1991. This affected prisoners who were sentenced to death for politically related crimes under the Penal Code and those sentenced to death for rape and drug smuggling - offences punishable under the military code. The Prime Minister immediately withdrew the files of 276 prisoners whose death sentences were awaiting ratification by the Grand National Assembly. Although Turkey maintained a de facto moratorium on executions, the death penalty remained on the statute books, Turkish courts continued to sentence people to death and appeal courts upheld their sentences.
Turkey is a member of the Council of Europe and a party to the European Convention on Human Rights. At the Strasbourg Summit in 1997, Turkish State President Süleyman Demirel pledged to abolish the death penalty and meanwhile to uphold the existing moratorium on executions. A new draft penal code abolishing the death penalty and introducing a life sentence in its place was proposed by a parliamentary committee in 1997 and in early 1999 the government informed the Council of Europe that passing the bill was a priority for the government. By June 1999, 47 death sentences had been upheld by the Appeals Court.

Pressure to resume executions increased when PKK leader Abdullah Öcalan was sentenced to death on 29 June 1999 for “treason and separatism”, even though the presiding judge reportedly expressed his general opposition to the death penalty after the trial had concluded. European governments and intergovernmental organizations as well as NGOs called on Turkey to commute his death sentence and cautioned against a resumption of executions. The European Parliament warned Turkey in June 1999 that executing Öcalan “would be damaging for the process of integrating Turkey into the EU”. In January 2000 his death sentence was suspended pending a review by the European Court of Human Rights but in October 2002 the State Security Court commuted his death sentence before the ruling of the European Court.

Turkey is a candidate for accession to the EU which requires abolition of the death penalty as a precondition for membership. The EU called for maintaining the de facto moratorium on executions in the short term and for abolition of the death penalty in the medium term, including ratification of the relevant protocols to the European Convention on Human Rights. As required, Turkey began the implementation of the priority steps.

A constitutional amendment was passed in October 2001 in Article 38 prohibiting the death penalty for criminal acts but retaining it in times of war and for ‘terrorist crimes’. On 3 August 2002 the Turkish parliament then adopted a package of democratic reforms that included a law abolishing the death penalty in peacetime and replacing the death penalty for ‘terrorist crimes’ with life imprisonment. In November 2002, 180 members of the PKK and others had their death sentences commuted to life imprisonment. A year later, in November 2003, Turkey ratified Protocol 6 to the European Convention on Human Rights abolishing the death penalty in peacetime.

Two years into the term of the current government led by Prime Minister Recep Tayyip Erdoğan, Turkey took the final step, in 2004, of prohibiting the death penalty for all crimes in its constitution and the Penal Code. On 7 May that year the Turkish parliament adopted Law No. 5170, removing language from Article 15 of the constitution that allowed for the death penalty in wartime and adding to Article 38 that: “The death penalty ... shall not be imposed”. Then, on 14 July 2004, its parliament adopted Law No. 5218, the ‘ninth harmonization law’, which removed the death penalty from all articles of the Penal Code and replaced it with life imprisonment.

Further underlining its abolitionist commitment internationally, Turkey acceded in 2006 to Protocol 13 to the European Convention on Human Rights abolishing the death penalty and acceded to the Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty. At the UN General Assembly in 2007, Turkey voted in favour of resolution A/RES/62/149 calling for a moratorium on executions worldwide with a view to abolishing the death penalty and voted for all subsequent death penalty resolutions adopted in 2008, 2010 and 2012.
USA

Capital punishment was suspended in the United States between 1972 and 1976 after the Supreme Court’s decision in a number of consolidated cases that the death penalty had been administered in an unconstitutional way. Executions resumed in 1977 when Gary Gilmore waived his right to appeal and was executed by firing squad in Utah. In the United States, while the federal government retains the death penalty, an increasing number of states have repealed the death penalty. As of April 2013, 18 states have repealed the death penalty.

Executions are regularly carried out in a small number of states, mainly in the south, the highest number in Texas. Numerous studies have concluded that racial and geographic bias mark the application of the death penalty in the USA. It was the only democratic, developed country to impose the death penalty on persons under 18 years old, in breach of its obligations under international law, although the Supreme Court held in the case of Roper v. Simmons (Roper v. Simmons 543 U.S. 551, 2005) that this constituted “cruel and unusual punishment” prohibited by the US constitution. Until 2002 the USA also executed prisoners suffering from a serious mental or intellectual disability (Atkins v Virginia, 536 U.S. 304, 2002).

However, the number of annual executions has decreased in the last decade, as has public support for the death penalty in many states. Moves towards abolition are growing in a number of American states. Key factors are: the mounting evidence about a range of wrongful convictions resulting in innocent persons being sentenced to death and even executed, increasing doubts about the deterrent value of capital punishment, considerations about the very high costs of executions that could be better used for law enforcement purposes as well as growing appeals from victims’ families opposing capital punishment. In 2011 and 2012 there were 43 executions in the USA, a reduction of almost 60% since 1999. Since 1973, more than 140 death row inmates in the USA have been exonerated as a result of evidence of wrongful conviction.

Religious organizations, representatives of minority groups, civil leaders, lawyers, state bar associations, municipalities and psychiatric associations have forcefully campaigned against the death penalty across the country or drawn attention to flaws in the system. Civil society groups supporting the abolition of the death penalty including the Washington-based Death Penalty Information Center have played an important role in informing the public about wrongful convictions. The print media have also played a role in opposing a return of the death penalty, as happened in the states of Iowa and West Virginia, and many newspapers have convincingly argued in favour of abolition of the death penalty.

In the past six years the death penalty has been abolished in six states in the USA: Connecticut, Illinois, Maryland, New Jersey, New Mexico, New York and the state of Oregon have introduced a moratorium on executions. The abolition processes in two of these states are reviewed below. In the USA, a governor of a state may also have powers to grant clemency to condemned prisoners and to sign or veto a bill to abolish the death penalty once it has been passed by the legislature. State governors played an important role in these processes.

The USA voted against UN General Assembly resolution A/RES/62/149 and subsequent resolutions calling for a moratorium on executions worldwide with a view to abolition.
Connecticut

On 25 April 2012, the state of Connecticut abolished the death penalty, becoming the seventeenth state in the USA to do so. Governor Dannel Malloy signed the bill that replaced the death penalty with life imprisonment without parole. Eleven people were at the time on death row, and abolition did not retroactively apply to them.

Connecticut had reinstated the death penalty in 1973. In line with Supreme Court rulings, Connecticut did forbid the death penalty if the offender was “mentally retarded” (ibid Atkins v Virginia) or under 18 years of age at the time of the crime (ibid Roper v Simmons,). One person was executed in the state following reinstatement of the death penalty.

In 2009 a bill to repeal the death penalty had been passed by both legislative houses in the state but was vetoed by the then governor. In 2011, a similar effort failed in the Senate, largely because of publicity surrounding a high profile death penalty trial.

Prominent campaigners against the death penalty in the state included the Catholic Church, the Connecticut Network to Abolish the Death Penalty (CNADP) and individuals formerly involved in law enforcement. Leading newspapers in the state carried editorials in favour of abolition. In 2004, the cities of New Haven and Hartford passed resolutions opposing the death penalty in Connecticut. In January 2003 the Connecticut Commission on the Death Penalty, created in 2001 by the Connecticut General Assembly (the state legislature), published a “Study of the Imposition of the Death Penalty” finding racial and geographic disparities in the imposition of Connecticut’s death penalty, which helped influence the debate.

In April 2012, the bill was passed by the Senate and the House of Representatives and Governor Dannel Malloy signed the bill into law. He said:

I spent years as a prosecutor ... I learned first-hand that our system of justice is ... subject to the fallibility of those who participate in it. I saw people who were poorly served by their counsel. I saw people wrongly accused or mistakenly identified. I saw discrimination. I came to believe that doing away with the death penalty was the only way to ensure it would not be unfairly imposed.

The governor also highlighted the important role played by victims’ families who opposed and lobbied the state’s legislature against the death penalty. The death penalty was abolished even though 48% of voters in the state were reported to favour the death penalty, with 43% against.
New Mexico

On 18 March 2009, New Mexico became the USA’s fifteenth abolitionist state when the state governor Bill Richardson signed into law a bill abolishing the death penalty, replacing it with life imprisonment without the possibility of parole. The law did not apply retroactively to the two prisoners on death row.

Since the resumption of executions in the USA in 1977, New Mexico had only carried out one execution, in 2001. Before that one execution, the then governor said “eliminating the death penalty in the future may prove to be better public policy, given the reality of the sentence today”. Four men had been sentenced to death in New Mexico in 1974 but were exonerated two years later. On 10 February 2001, a bill to repeal capital punishment in New Mexico was narrowly defeated by one vote in the state Senate. A state-wide poll in 2008 showed that 64% of New Mexicans supported replacing the death penalty with life without parole and restitution to victims’ families.

There was a committed and persuasive lobby against the death penalty in the state including prominent voices within the Catholic Church – New Mexico is a predominantly catholic state – as well as by the families of victims of murder. Some legislators cited the high cost of executions as a reason for supporting the bill, others the possibility of executing the innocent. In considering abolition of the death penalty, the state’s legislators also drew upon an authoritative 2008 study published in the New Mexico Law Review on the application of the death penalty between July 1979 and December 2007, which found that the imposition of the death penalty in New Mexico was influenced by legally irrelevant issues such as where or when the crime was committed and the race or ethnicity of the victim and the defendant.

New Mexico’s 2009 abolitionist bill was passed with cross-party support by the state Senate by a vote of 24–18 and by the lower House of Representatives by 40 votes to 28. After passage of the abolitionist bill by the legislature in March 2009, then Governor Bill Richardson sought the views of citizens and was urged by former US President Jimmy Carter to support the bill. The possibility of miscarriage of justice was a key consideration in the decision of the governor who had supported the death penalty when he assumed office, only to change his mind and sign the abolitionist bill. He said that his conscience was challenged by the very real risk that an innocent person could be executed and concluded that retaining the death penalty with the inherent risk that a serious miscarriage of justice might occur was wrong. Another factor had been the worldwide trend towards abolition, he said: “From an international human rights perspective, there is no reason the United States should be behind the rest of the world on this issue”. However, the decision to sign the bill had been “the most difficult decision of [his] political life”.

Mr. Bill Richardson
LESSONS LEARNT FROM THE EXPERIENCES OF STATES IN ABOLISHING THE DEATH PENALTY

In 1971 the UN General Assembly affirmed, in resolution 2857 (XXVI), that to guarantee the right to life in the Universal Declaration of Human Rights “the main objective to be pursued is that of progressively restricting the number of offences for which capital punishment may be imposed, with a view to the desirability of abolishing this punishment in all countries”. Since then, there has been enormous progress in abolishing of the death penalty in all regions of the world regardless of political system, religion, culture or tradition.

This publication has described the experiences of 13 states that have taken steps to abolish the death penalty. The following are some of the lessons learned from these experiences.

ACHIEVING ABOLITION

Some states proceeded directly to full abolition of the death penalty and ensured that their constitution prohibited the death penalty as a strong guarantee against reintroduction. In situations where full abolition was not immediately possible, states have taken intermediary steps including:

Domestic measures:

- Establishing an official moratorium on death sentences and executions and commuting all death sentences to terms of imprisonment.
- Ensuring that the death penalty is not imposed on persons below 18 years of age, and that pregnant or nursing woman, the elderly and persons suffering from a serious mental or intellectual disability are not executed.
- Reducing the scope of the death penalty to the “Most Serious Crimes.”
- Removing mandatory death sentences.
- Abolishing the death penalty for ordinary crimes.
- Ensuring that international human rights standards relevant to the application of the death penalty are fully incorporated in legal and administrative provisions.
- Ensuring that where there is risk that a person will be sentenced to death or executed he or she will not be expelled, returned, extradited or otherwise forcibly removed.

Other domestic measures:

- Publishing information regarding the use of the death penalty so that members of the public are fully informed, including the number of persons sentenced to death and executed and for which crimes they are sentenced.
- Enabling national institutions and civil society to engage in free and informed debate about the death penalty, and seeking the advice of relevant organizations including national human rights institutions, professional organizations, religious bodies and national and international non-governmental organizations.
- Encouraging empirical studies on the use of the death penalty, including compliance with international human rights standards and the principle of non-discrimination, for example, discrimination on grounds of ethnicity, economic deprivation or sexual orientation. Studies have also informed the public about the effects of capital punishment and the negative impact of the death penalty on those affected by its implementation.
• Requesting abolitionist states and intergovernmental organizations for advice, including assistance with accession to all international and regional instruments on the abolition of the death penalty.

**LEADERSHIP:**

• Providing principled leadership: Leadership by heads of state, governments and others in position of power is important for achieving abolition. Encouragement and support from leaders of other states has also been important in this respect.

**INTERNATIONAL MEASURES:**

• Becoming a party to and implementing the International Covenant on Civil and Political Rights and its Second Optional Protocol aiming at the abolition of the death penalty.

• At the Organization of American States, becoming a party to and implementing the American Convention on Human Rights, which prohibits reinstatement of the death penalty, as well as its Protocol to abolish the death penalty.

• At the Council of Europe, becoming a party to and implementing Protocols 6 and 13 of the European Convention on Human Rights which prohibit the death penalty, in peacetime and in all circumstances, including times of war, and doing so without delay.

• Implementing all relevant UN resolutions on the death penalty including the UN General Assembly resolutions entitled “Moratorium on the use of the death penalty”.
The International Commission against the Death Penalty

The International Commission against the Death Penalty (ICDP) was created on 7 October 2010 in Madrid as a result of the Spanish Initiative to reinforce the global trend towards the abolition of the death penalty. ICDP opposes capital punishment in all situations and urges the immediate establishment of a universal moratorium on executions as a step towards total abolition of the death penalty.

The Commission is composed of 15 high-profile Commissioners and led by its President, Federico Mayor. These Commissioners represent all world regions – demonstrating that abolition of the death penalty is a global concern and not the cause of a particular region. They do not represent their country and act with independence in their decision-making. Its members are:

Federico Mayor (Spain). President of ICDP. Former Director General of the UNESCO and Former Minister of Education and Science of Spain

Giuliano Amato (Italy). Former Prime Minister of Italy

Louise Arbour (Canada). Former UN High Commissioner for Human Rights and Former Chief Prosecutor of the International Criminal Tribunals for the former Yugoslavia and Rwanda.

Robert Badinter (France). Former Minister of Justice of France

Mohammed Bedjaoui (Algeria). Former Foreign Minister of Algeria, Former Judge at the International Court of Justice

Ruth Dreifuss (Switzerland). Former President and Minister of Home Affairs of the Swiss Confederation

Michèle Duvivier Pierre-Louis (Haiti). Former Prime Minister of Haiti

Hanne Sophie Greve is a judge and Vice President of the High Court in Bergen and has served as a judge at the European Court of Human Rights

Asma Jilani Jahangir (Pakistan). President of the Human Rights Commission of Pakistan

Ioanna Kuçuradi (Turkey). UNESCO Chairperson of the Philosophy and Human Rights Department and Director of the Centre of Research and Implementation of Human Rights in Maltepe University (Turkey)

Gloria Macapagal-Arroyo (Philippines). Former President of the Philippines

Rodolfo Mattarollo (Argentina). Former Deputy Secretary for Human Rights in Argentina

Ibrahim Najjar (Lebanon). Former Minister of Justice

Bill Richardson (USA). Former Governor of New Mexico

Honorary member Jose Luis Rodriguez Zapatero (Spain), Former Prime Minister of Spain

For more information on the ICDP see www.icomdp.org