

Capital Punishment

Background

Capital punishment (also known as the 'death penalty') is the execution of a person by the state following a judicial process. This is different from extra-judicial state killings, paramilitary killings or political assassinations.



UN Secretary General Ban Ki-moon on the abolition of capital punishment:

"The death penalty has no place in the 21st Century. Leaders across the globe must boldly step forward in favour of abolition ... together, let us end this cruel and inhumane practice" (2014)

Typically, people are executed for the most serious crimes such as murder, but historically (in the UK and elsewhere) crimes against the state, like treason, could also lead to the death penalty. Some jurisdictions impose capital punishment for non-homicide offences like drug dealing or rape. This contravenes [Article 6 of the International Covenant on Civil and Political Rights](#), which states that for those countries which retain the death penalty, individuals can only be executed for crimes which involve '*intentional killing*'. This Article also states that all human beings have an '*inherent right to life*'.

The [2014 Amnesty International report on Death Sentences and Executions](#) raises concerns that in this year alone, many people were executed for crimes that did not meet this threshold. The report also notes that there have been executions of young people (less than 18 years of age) and those who had not had a fair trial in contravention of international law.

The UK's commitment to abolitionism

The UK abolished the use of capital punishment in 1965 with the Murder (Abolition of the Death Penalty) Act 1965. However, it was only in 1998 that the UK abolished this penalty for treason, and in the mid-2000s that it formally adopted the position of opposing the death penalty in all circumstances. The UK Government now supports the worldwide abolitionist movement (which calls for an end to the death penalty under any circumstance).

In 2011, the [Government produced a report](#), that outlined its strategy to pursue three goals:

- To further increase the number of abolitionist countries
- To impose further restrictions on retentionist countries (those that retain the death penalty) and to see reductions in the number of executions carried out
- For those countries that retain the death penalty, to ensure that EU minimum standards are imposed in those countries.

Worldwide use of the death penalty

Around 150 countries of the 193 United Nations member states have either officially abolished the use of the death penalty or no longer use it in practice. The [Amnesty International report](#) mentioned above found that in 2014, executions took place in 22 countries throughout the world. At least 607 executions were carried out, but this figure does not include data from Syria or China (the latter is estimated to have carried out executions in the thousands). In China, data on capital punishment is not made publicly available, although it is recognised as the country with the highest number of judicial executions, although other countries have higher rates of execution per capita..

Arguments for

Some supporters of the death penalty argue that:

- The death penalty is a *just* punishment: an individual who has unlawfully killed another deserves to lose his/her life also. This is considered a proportionate response to the harm caused. This is also known as the 'eye for an eye' argument and has its roots in retributivism (See [SCCJR 'What's prison for?'](#)).
- Individuals who commit murder are beyond rehabilitation and are 'irredeemable'; this renders imprisonment futile. Using the death penalty saves wasting time and financial resources on rehabilitating an individual who is beyond rehabilitation.

- Deterrence: the existence of the death penalty as a possible sanction discourages others from committing crime, particularly murder.

Arguments against

In a [2014 UN Report](#) calling for the abolition of the death penalty, the following points were made:

- Wrongful convictions are not completely avoidable, but capital punishment (unlike life imprisonment) cannot be reversed.
- There is no conclusive evidence to support the deterrent effect of having the death penalty as an available sanction.
- The death penalty is time-consuming and expensive if there are extensive legal processes, and so amounts to two punishments, a long-term prison sentence and an execution..
- Delays in executions (e.g. those spending decades on 'Death Row' in US prisons) delay closure and healing for the families of the victims (as well as for the offenders).
- Given the nature of who commits crime and ends up in the prison system (see [SSCJR 'Who's in prison? A snapshot of Scotland's prison population'](#)), often vulnerable members of society are those most likely to receive a sentence of execution; in the US it is widely acknowledged that even when controlling for the nature of the crime, race influences who is most likely to receive a death sentence.
- The death penalty violates the basic human right to life.
- The death penalty has the potential to be misused: for example, it can be used to target specific social or political groups.

Further Reading

United Nations Human Rights, Office of the High Commissioner (2014) *Moving Away from the Death Penalty: Arguments, Trends and Perspectives*. Available from:

<http://www.ohchr.org/Lists/MeetingsNY/Attachments/52/Moving-Away-from-the-Death-Penalty.pdf>

Amnesty International (2014) *Death Sentences and Executions*. Available from:

https://www.amnesty.org.uk/sites/default/files/death_sentences_and_executions_2014_en.pdf



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United Nations (1976) *International Covenant on Civil and Political Rights* Available from: <https://treaties.un.org/doc/Publication/UNTS/Volume%20999/volume-999-I-14668-English.pdf>

Foreign and Commonwealth Office (2011) *HMG Strategy for Abolition of the Death Penalty 2010-2014*, Human Rights and Democracy Department. Available from: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/35448/death-penalty-strategy-oct-11-15.pdf