

Death Penalty

Key points

- The death penalty is a violation of fundamental human rights: the right to life and the right not to be subjected to cruel, inhuman or degrading treatment. It undermines civil relations in society and the dignity of the people that live in it.
- Capital punishment does not deter crime more effectively than other punishments. It is sometimes used disproportionately against the poor, minorities and political opponents. It is also impossible to ensure that innocent people are not executed: since 1976, 123 people have been released from death row in the USA after being wrongly convicted.
- The Council of Europe has made the abolition of capital punishment one of its main priorities. It has been fighting for 30 years to outlaw the death penalty across Europe and to make abolition a universally accepted value. As a result, no execution has taken place in the Council's member states since 1997.
- Many countries, including Japan and the USA, still use the death penalty. The Council of Europe is committed to continuing its fight against this cruel and inhumane punishment until it has been completely abolished both in Europe and worldwide.

Summary

The death penalty was once practised in most countries of the world and has still not been abolished in many states, including the USA and Japan. It has always been an emotional issue, especially in the wake of gruesome murders or terrorist attacks. Many people are in favour of capital punishment, arguing that a person who has committed an atrocious act deserves to die.

However, the death penalty neither deters crime nor helps the victims. Miscarriages of justice also occur far more often than most people realise. Furthermore, an innocent person can be executed on purpose, capital punishment being a notorious means of silencing political opponents. The death penalty is often applied in an unfair, arbitrary and discriminatory manner. Its irrevocable nature leaves it open to abuse. According to the US Death Penalty Information Centre, 123 people have been released from Death Row since 1976 after being wrongly convicted.

The death penalty may also make martyrs of members of groups which use violence as a means to achieve their goals, as well as promoting further violent actions. A UN study, updated in 1996, concluded that there is no proof that executions have a greater deterrent effect than life imprisonment. According to the American Civil Liberties Union, US states that have death penalty laws do not have lower crime or murder rates than other states.

The Council of Europe was created to unite Europe around the shared principles of the rule of law, respect for human rights and democracy. The European Convention on Human Rights, which was adopted in 1950, states that everyone's life shall be

protected by law and no one shall be deprived of life. However, the Convention did allow the death penalty to be imposed when it was provided for by law.

In the early 1980s, the Council of Europe became a pioneer for the abolition of capital punishment, considering it to be a grave violation of human rights. The organisation's Parliamentary Assembly gradually persuaded governments to help Europe become the first region in the world to permanently outlaw the death penalty. In 1982, the Council of Europe adopted Protocol No. 6 to the European Convention on Human Rights, which became the first legally-binding instrument abolishing the death penalty in peacetime. The protocol has today been ratified by 46 of the Council's 47 member states; the one exception – Russia – has committed itself to ratification.

In 1989, abolition of the death penalty was made a condition of accession for all new member states. Since then, all countries are committed to introducing an immediate moratorium on executions and ratifying Protocol No. 6 when joining the organisation. A number of mechanisms have been set up to monitor the respect of those commitments while assisting governments with their implementation.

In 2002, an important step was taken by the Council to ban the death penalty in all circumstances with the adoption of Protocol No. 13 to the European Convention on Human Rights, which requires the complete abolition of capital punishment - even for acts committed in time of war.

As a result, there has not been a single execution in any of the member states of the Council of Europe for 10 years. Across Europe, only Belarus - which is not a member of the organisation - still uses capital punishment. The Parliamentary Assembly now wishes to extend prohibition to countries enjoying observer status with the Council, including Japan and the United States.

A resolution calling for a global moratorium on executions will be introduced at the 62nd session of the United Nations General Assembly, which begins on 18 September 2007. Its adoption would be a milestone towards the abolition of the death penalty worldwide.

Questions and Answers

How many countries have already abolished the death penalty and how many still execute people?

According to [Amnesty International](#), 130 countries have abolished the death penalty in law or in practice. 29 of them are *de facto* abolitionist: they retain the death penalty in law but have not carried out executions for ten years or more. 67 other countries retain and use the death penalty, but the number of countries which actually execute prisoners in any one year is much smaller. Amnesty International estimates that 1,591 people were executed in 25 countries in 2006, according to information which is publicly available. However, this number could be much higher in countries where such statistics remain a state secret, such as China.

What are the main points of Protocols No. 6 and No. 13 to the European Convention on Human Rights?

Protocol No. 6 to the European Convention on Human Rights abolishes the death penalty in peacetime. It came into force on 1 March 1985. With Protocol No. 6, Europe's position changed from tolerating to prohibiting statutory killing. Protocol No. 13, which entered into force on 1 July 2003, bans the death penalty in all circumstances, including for crimes committed in times of war and imminent threat of war.

What is the Council's position on executions in the USA?

The Council of Europe strongly criticises the United States for continuing to use the death penalty. The Parliamentary Assembly has called on the US government to introduce a moratorium on capital punishment. The Secretary General regularly intervenes in individual cases requesting a stay of execution. The manner in which the death penalty is administered in the US is also a subject of concern, in particular its discriminatory nature. For instance, over half of those on death row in the United States are non-white. Discrimination against the poor, who are often unable to afford an adequate defence, also occurs.

Are there any signs that Japan will abolish the death penalty?

Executions are still carried out in Japan, where 96 people were on death row in 2006. In 2001, the Parliamentary Assembly of the Council of Europe asked Japan for the first time to adopt a moratorium on the death penalty and eventually to abolish it. Between 2005 and 2006, the Japanese government held a moratorium, but resumed executions in 2006 arguing that the Japanese people support the death penalty – 80% of the population, according to a 2005 government poll.

How has the Council of Europe contributed to abolition in Europe?

All Council of Europe member states but one have ratified Protocol No. 6 and Russia, which introduced a moratorium on executions in 1996, has made a commitment to ratifying it. Belarus, which is not a member of the Council of Europe, is the only country in Europe which still uses the death penalty. 45 Council of Europe members have so far signed Protocol No. 13 - all apart from Russia and Azerbaijan. Six countries – Armenia, France, Italy, Poland, Latvia and Spain – have signed the Protocol but have not yet ratified it. The Council of Europe has therefore played a major role in making Europe a *de facto* death penalty-free zone.

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