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Frequently Asked Questions: The UN Resolution on a death penalty moratorium

Isn't this resolution just an attempt by the West -- especially Europe -- to impose its own values on the rest of the world?

No. Ten countries representing all regions in the world -- Albania, Angola, Brazil, Croatia, Gabon, Mexico, New Zealand, the Philippines, Portugal (for the EU) and Timor Leste -- co-authored the draft resolution on a moratorium on executions that was tabled in the General Assembly and which its Third Committee is expected to act upon in mid-November. Once adopted by the Third Committee, the General Assembly, sitting in plenary, would then be expected to take action on the resolution in December this year.

Isn't the death penalty a question of criminal justice for each state to decide by itself -- not a human rights issue?

Although the death penalty is obviously part of some states' national penal laws, it is also a human rights issue. A resolution on the death penalty was a regular agenda item for the former UN Commission on Human Rights. The fact that two General Assembly resolutions on the death penalty specifically mentioned the need to guarantee the right to life and were adopted without a vote clearly demonstrates that the General Assembly considers the death penalty a human rights issue (General Assembly Resolutions 2857 (XXVI) of 20 December 1971 and 32/61 of 8 December 1977).

All but two states in the world are party to the Convention on the Rights of the Child and have accepted a clear human rights obligation -- also reflected in Article 6(5) of the International Covenant on Civil and Political Rights [ICCPR] -- not to apply the death penalty to child offenders. Moreover, although the ICCPR permits the death penalty, the restrictions and safeguards that its Article 6 requires from countries that still apply the death penalty are clearly human rights matters.

The Human Rights Committee -- which supervises implementation of the ICCPR -- stressed in an authoritative comment: "Article 6 [ICCPR] refers generally to abolition in terms which strongly suggest that abolition is desirable. The Committee concludes that all measures of abolition should be considered as progress in the enjoyment of the right to life" [General Comment 6 of 27 July 1982]. Furthermore, the prohibition to execute pregnant women or children may constitute a norm of customary international law, applying to all states, regardless of whether they are party to these human rights conventions.

Doesn't this resolution constitute interference in the internal affairs of sovereign states?

No. General Assembly resolutions are authoritative recommendations of a principal organ of the UN with universal membership but are not binding.

Article 18(3) of the UN Charter states that decisions of the General Assembly shall be taken by majority vote, and states are free to express their views in this process by voting and making statements. If this draft attracts the required number of votes, a resolution on a moratorium on executions will be a legitimate expression of the views of

the majority of member States, and does not constitute undue interference into the internal affairs of other states. The General Assembly already adopted resolutions on the death penalty in 1971, and did so without voting.

Doesn't the death penalty act as an important deterrent to crime in some countries?

All available studies, including those carried out by the UN, have shown that the death penalty has no demonstrable deterrent effect. The most recent survey of research on the death penalty and homicide rates, conducted for the United Nations in 1988 and updated in 2002, concluded: ". . .it is not prudent to accept the hypothesis that capital punishment deters murder to a marginally greater extent than does the threat and application of the supposedly lesser punishment of life imprisonment."

Isn't it possible to have a fair death penalty system that avoids miscarriages of justice?

No. All states that retain the death penalty run an inherent risk of executing innocent men or women. Innocent victims can never be brought back to life.

Amnesty International recently presented to the UN three men from Japan, the US and Uganda who had spent a total of 54 years on death row for crimes they did not commit . One of them comes from the USA, where, since 1973, 124 people on death row have been released from death row because they were innocent. Other prisoners have gone to their deaths despite compelling doubts about their guilt.

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