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# amnesty international

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## THE DEATH PENALTY Questions and Answers

APRIL 2000

AI INDEX: ACT 50/01/00  
DISTR: SC/DP/PO

### **Why does Amnesty International oppose the death penalty?**

Amnesty International opposes the death penalty in all cases without exception. The death penalty is the ultimate denial of human rights. It is the premeditated and cold-blooded killing of a human being by the state in the name of justice. It violates the right to life as proclaimed in the Universal Declaration of Human Rights. It is the ultimate cruel, inhuman and degrading punishment.

There can never be any justification for torture or for cruel treatment. Like torture, an execution constitutes an extreme physical and mental assault on an individual. Consider the disgust most people feel when they hear accounts of individuals receiving 100 volts of electricity to sensitive parts of the body as a method of torture. Surely we should feel even more disgusted by the use of 2000 volts applied to a person's body with the intent to deliberately kill? The physical pain caused by the action of killing a human being cannot be quantified, nor can the psychological suffering caused by foreknowledge of death at the hands of the state.

The death penalty is discriminatory and is often used disproportionately against the poor, minorities and members of racial, ethnic and religious communities. It is imposed and carried out arbitrarily.

The death penalty legitimizes an irreversible act of violence by the state and will inevitably claim innocent victims. As long as human justice remains fallible, the risk of executing the innocent can never be eliminated. Amnesty International continues to demand unconditionally the worldwide abolition of the death penalty.

## **In opposing the death penalty, isn't Amnesty International showing disrespect for victims of violent crime and their relatives?**

In opposing the death penalty, Amnesty International in no way seeks to minimize or condone the crimes for which those sentenced to death were convicted. As an organization deeply concerned with the victims of human rights abuses, Amnesty International does not seek to belittle the suffering of the families of murder victims, for whom it has the greatest sympathy. However, the finality and cruelty inherent in the death penalty render it incompatible with norms of modern-day civilized behaviour and an inappropriate and unacceptable response to violent crime.

## **Is the death penalty used by governments to suppress dissenting voices?**

The death penalty has been and continues to be used as a tool of political repression, as a means to silence forever political opponents or to eliminate politically "troublesome" individuals. In most such cases the victims are sentenced to death after unfair trials.

It is the irrevocable nature of the death penalty that makes it so tempting as a tool of repression. Thousands have been put to death under one government only to be recognized as innocent victims when a new government comes to power. As long as the death penalty is accepted as a legitimate form of punishment, the possibility of political misuse will remain. Only abolition can ensure that such political abuse of the death penalty will never occur.

## **What does international law say about the use of the death penalty?**

The Universal Declaration of Human Rights -- adopted by the United Nations General Assembly in December 1948 in response to the staggering extent of state brutality and terror witnessed during World War II -- recognizes each person's right to life and categorically states that "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment". In Amnesty International's view, the death penalty violates these rights.

Further support is also evident by the adoption of international and regional treaties providing for the abolition of the death penalty:

- ***The Second Optional Protocol to the International Covenant on Civil and Political Rights***, aiming at the abolition of the death penalty, adopted by the UN General Assembly in 1989, provides for the total abolition of the death penalty but allows states parties to retain the death penalty in time of war if they make a reservation to that effect at the time of ratifying or acceding to the Protocol.
- ***Protocol No. 6 to the European Convention for the Protection of Human Rights and Fundamental Freedoms*** ["European Convention on Human Rights"] concerning the abolition of the death penalty, adopted by the Council of Europe in 1982, provides for the abolition of the death penalty in peacetime; states parties may retain the death penalty for crimes "in time of war or of imminent threat of war".
- ***The Protocol to the American Convention on Human Rights to Abolish the Death Penalty***, adopted by the General Assembly of the Organization of American States in 1990, provides for the total abolition of the death penalty but allows states parties to

retain the death penalty in wartime if they make a reservation to that effect at the time of ratifying or acceding to the Protocol.

Furthermore, under the *Statute of the International Criminal Court* adopted in 1998, the death penalty is excluded from the punishments which this court will be authorized to impose, even though it has jurisdiction over extremely grave crimes such as crimes against humanity, including genocide, and violations of the laws of armed conflict. Similarly, in establishing the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda in 1993 and 1994 respectively, the UN Security Council excluded the death penalty for these crimes.

*An up-to-date list of states that have ratified the above treaties on the death penalty is available on the death penalty page of the AI website [www.amnesty.org](http://www.amnesty.org).*

### **But surely there are times when the state has no choice but to take someone's life?**

Self-defence may be used to justify in some cases the taking of life by state officials, for example when a country is locked in warfare (international or civil) or when law enforcement officials must act immediately to save their own lives or those of others. Even in such situations the use of lethal force is surrounded by internationally accepted legal safeguards to inhibit abuse. This use of force is aimed at countering the immediate damage resulting from force used by others.

However the death penalty is not an act of self-defence against an immediate threat to life. It is the premeditated killing of a prisoner who could be dealt with equally well by less harsh means.

### **What do you say to the argument that the death penalty is an important tool for a state to fight crime?**

Too many governments believe that they can solve urgent social or political problems by executing a few or even hundreds of their prisoners. Too many citizens in too many countries are still unaware that the death penalty offers society not further protection but further brutalization.

Scientific studies have consistently failed to find convincing evidence that the death penalty deters crime more effectively than other punishments. The most recent survey of research findings on the relation between the death penalty and homicide rates, conducted for the United Nations in 1988 and updated in 1996, concluded: "...research has failed to provide scientific proof that executions have a greater deterrent effect than life imprisonment. Such proof is unlikely to be forthcoming. The evidence as a whole still gives no positive support to the deterrent hypothesis".

It is incorrect to assume that people who commit such serious crimes as murder do so after rationally calculating the consequences. Often murders are committed in moments when emotion overcomes reason or under the influence of drugs or alcohol. Some people who commit violent crime are highly unstable or mentally ill -- the execution of Larry Robison, diagnosed as suffering from paranoid schizophrenia, in the USA on 21 January 2000 is just one such example. In none of these cases can the fear of the death penalty be expected to deter. Moreover, those who do commit premeditated serious crimes may decide to proceed

despite the risks in the belief that they will not be caught. The key to deterrence in such cases is to increase the likelihood of detection, arrest and conviction.

The fact that no clear evidence exists to show that the death penalty has a unique deterrent effect points to the futility and danger of relying on the deterrence hypothesis as a basis for public policy on the death penalty. The death penalty is a harsh punishment, but it is not harsh on crime.

**Isn't it necessary to execute certain prisoners in order to prevent them from repeating their crimes?**

Unlike imprisonment, the death penalty entails the risk of judicial errors which can never be corrected. There will always be a risk that some prisoners who were innocent will be executed. The death penalty will not prevent them from repeating a crime which they did not commit in the first place.

It is also impossible to determine whether those executed would actually have repeated the crimes of which they were convicted. Execution entails taking the lives of prisoners to prevent hypothetical future crimes many of which would never have been committed anyway. It negates the principle of rehabilitation of offenders.

There are those who argue that imprisonment alone has not prevented individuals who have been imprisoned from offending again once set free. The answer is to review the parole procedures in place with a view to preventing relapses into crime. The answer is certainly not to increase the number of executions.

**Surely a person who commits a horrendous crime or who kills another individual deserves to die?**

An execution cannot be used to condemn killing. Such an act by the state is the mirror image of the criminal's willingness to use physical violence against a victim. Additionally, all criminal justice systems are vulnerable to discrimination and error. No system is or could conceivably be capable of deciding fairly, consistently and infallibly who should live and who should die. Expediency, discretionary decisions and prevailing public opinion may influence the proceedings from the initial arrest to the last-minute decision on clemency.

Central to human rights is that they are inalienable -- they are accorded equally to every individual regardless of their status, ethnicity, religion or origin. They may not be taken away from anyone regardless of the crimes a person has committed. Human rights apply to the worst of us as well as to the best of us, which is why they are there to protect all of us. They save us from ourselves.

In addition experience demonstrates that whenever the death penalty is used some people will be killed while others who have committed similar or even worse crimes may be spared. The prisoners executed are not necessarily only those who committed the worst crimes, but also those who were too poor to hire skilled lawyers to defend them or those who faced harsher prosecutors or judges.

**Isn't the death penalty needed to stop acts of terrorism and political violence?**

Officials responsible for fighting terrorism and political crimes have repeatedly pointed out that executions are as likely to increase such acts as they are to stop them. Executions can create martyrs whose memory becomes a rallying point for their organizations. For men and women prepared to sacrifice their lives for their beliefs -- for example suicide bombers -- the prospect of execution is unlikely to deter and may even act as an incentive.

State use of the death penalty has also been used by armed opposition groups as a justification for reprisals, thereby continuing the cycle of violence.

**Isn't it more cruel to lock up a prisoner for long periods or for life rather than to execute the individual?**

As long as a prisoner remains alive he or she can hope for rehabilitation or for exoneration in the case of a prisoner who is subsequently found to be innocent. Execution removes the possibility of compensation for judicial error or rehabilitation of the offender.

The death penalty is a unique form of punishment entailing conditions not present in imprisonment: the cruelty of the execution itself, and the cruelty of being forced to wait on death row -- often for many years -- contemplating one's intended execution.

**What do you say to those countries which claim that calling for a worldwide moratorium on capital punishment is in effect another attempt by the West to "impose their cultural values on us"?**

Amnesty International welcomes the multiplicity of discourses on human rights grounded in different cultures and religions and believes that different visions contribute to our understanding of human rights. At the same time, the organization believes that human rights are universal, indivisible and interdependent. Although they may have been often developed in a Western context, they are not Western in content but derive from many different traditions and are acknowledged by all the members of the United Nations as the standards by which they have agreed to abide.

**By opposing the death penalty is Amnesty International implicitly criticizing the major world religions which sanction its use?**

Major world religions emphasise mercy, compassion and forgiveness in their teachings. Amnesty International's call for the cessation of all execution is consistent with these teachings.

All major religious demoninations are to be found in states which continue to use the death penalty in different regions of the world. Likewise states that have abolished the death penalty either in law or in practice are also found throughout the world, cross-cutting religious lines. The death penalty is not exclusive to any particular religion; thus it is would be wrong to interpret Amnesty International's campaign for the abolition of the death penalty as an attack on any particular religion. Amnesty International is an ethnically and culturally diverse, non-political organization which bases its work on international human rights. Its worldwide membership is drawn from across the globe and from a plethora of religions.

**How can states abolish the death penalty when the majority of public opinion is in favour of it?**

The reasons for a seemingly strong public support for the death penalty can be complex and lacking in factual foundation. If the public were fully informed of the reality of the death penalty and how it is applied, many people might be more willing to accept abolition.

Opinion polls which often seem to indicate overwhelming support for the death penalty tend to simplify the complexities of public opinion and the extent to which it is based on an accurate understanding of the crime situation in the country, its causes and the means available for combating it.

An informed public opinion is shaped by education and moral leadership. Governments should lead public opinion in matters of human rights and criminal policy. The decision to abolish the death penalty has to be taken by the government and legislators. The decision can be taken even though the majority of the public favour the death penalty which indeed has historically almost always been the case. Yet when the death penalty is abolished there is usually no great public outcry and it almost always remains abolished.

A government would not be justified in torturing a notorious prisoner or persecuting an unpopular ethnic minority simply because the majority of the public demanded it. Slavery was once legal and widely accepted. Its abolition came about through years of efforts by those who opposed it on moral grounds.

### **What signs are there that the battle to abolish the death penalty is being won?**

At the turn of the last century only three countries had permanently abolished the death penalty for all crimes. Today, at the beginning of the 21<sup>st</sup> century, over half the countries in the world have abolished the death penalty in law or practice. Indeed, over the past decade more than three countries a year on average have abolished the death penalty in law or having abolished it for ordinary crimes have gone on to abolish it for all crimes. Moreover, once abolished, the death penalty is seldom reintroduced.

This trend reflects the growing awareness that there are alternative punishments to the death penalty that are effective and which do not involve the premeditated and cold-blooded killing of a human being by the state in the name of justice.

Several petitions are currently being circulated calling for a worldwide moratorium on executions. Amnesty International is participating in the petition drive launched by the Community of Sant'Egidio, a small community in Rome that works to alleviate poverty in 20 countries. This petition, which has already been signed by over two million people, will be presented to the United Nations later in the year.

A striking example of the growing public support against the death penalty is the illumination of the Colosseum in Rome for two consecutive nights whenever a death sentence is suspended or commuted anywhere in the world. It will also be illuminated whenever a country establishes a moratorium on executions or abolishes the death penalty during 2000.

*An up-to-date list of abolitionist and retentionist countries is available on the death penalty page of the AI website [www.amnesty.org](http://www.amnesty.org).*

### **Is lethal injection the most painless and humane way to kill an individual?**

Problems have arisen in the use of lethal injection. In the first lethal injection execution in Guatemala on 10 February 1998, those charged with carrying out the lethal injection against Manuel Martínez Coronado were apparently so nervous (reportedly due in part to the distressing sounds of the prisoner's wife and children weeping) that it took them a long time to attach the line that was to deliver the poison. Then a power cut during the execution stopped the flow of poison and it took the prisoner 18 minutes to die. The entire ordeal was broadcast live on state television. In the USA, a number of lethal injection executions have been botched, with problems arising when the prisoner's veins are in poor condition due to intravenous drug use.

Lethal injection avoids many of the unpleasant effects of other forms of execution: bodily mutilation and bleeding due to decapitation, smell of burning flesh in electrocution, disturbing sights and/or sounds in lethal gassing and hanging, the problem of involuntary defecation and urination. For this reason it may be less unpleasant for those involved in carrying out the execution. However, lethal injection increases the risk that medical personnel will be involved in killing for the state, in breach of long-standing principles of medical ethics.

Any form of execution is inhumane. All known methods can be painful and have their own unpleasant characteristics. Moreover, it must be remembered the death penalty is not only about the minutes during which the prisoner is brought from the cell and killed; a prisoner lives with the penalty of death hanging over their head from the moment he or she is sentenced to the moment of unconsciousness and death.

The search for a "humane" way of killing people should be seen for what it is -- a search to make executions more palatable to those carrying out the killing, to the governments which wish to appear humane, and to the public in whose name the killing is to be carried out.

An extensive range of our materials on this and other subjects is available at <http://www.amnesty.org>.

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