TFLMUN'26

LEGAL STUDY GUIDE

Agenda Item: Legal Inspection of Capital Punishment and Applicability of International Law in Member Countries

Table of Contents

Letter from the Secretary General

Esteemed delegates of TFLMUN'26,

It is a great honour to welcome you to one of the most vivid and inspirational events in our city. As the Secretary General of this valuable conference, it is my pleasure to be a part of the experience.

Our special executives and deliberately selected organization members have set their first priority to seek all of your interests, and we all specifically see our event as a mission to be superior and the most inspirational. Speaking for myself and our team, we worked tirelessly day and night without hesitation for your best interests and to provide you the opportunity to express yourself in every aspect as a delegate of TFLMUN'26. We state that each and every one of our conference's delegates is held in high esteem, and you are welcomed equally. We believe that TFLMUN'26 is going to be one of the only events where everyone is free to be themselves comfortably and enjoy the spirit of Model United Nations.

By attending our conference, you will have the opportunity to engage in meaningful debates, challenge yourself in the aspect of self-confidence, and improve yourself intellectually. You will feel the excitement of new friendships, and most importantly, you will experience the quality of the sensational conference first-hand. We urge you to comprehend that besides being a platform to debate, our conference will be the journey to your personal growth along with unique entertainment.

We look forward to witnessing all of our delegates' efforts and determination. Let TFLMUN'26 be the step for your excellence and self-growth!

Yours faithfully,
Adal Çavuşlu
Secretary General of TFLMUN'26
cavusluadal@gmail.com

1. Letter From the Under Secretaries General

Dear Delegates of the LEGAL Committee,

Welcome to the TFLMUN'26 LEGAL Committee. We are Hamza Talha Çakan and Buğlem Okçu, your Under Secretaries General, and it is an honour for us to guide you throughout this conference.

We are looking forward to seeing you solving problems, proposing new ideas, clashing minds for our critical, important, concerning all of humanity topic:
"Legal Inspection of Capital Punishment and the Applicability of International Human Rights Law in Member Countries"

This topic challenges you to examine the balance between state sovereignty and international human rights, while approaching the issue through legal reasoning and diplomacy. Your preparation and active participation will be key to a productive committee.

Feel absolutely free to contact us if you come to have any questions.

We are pleased to welcome you all and we look forward to meeting you all at TFLMUN'26.

Best regards,

Buğlem Okçu-Hamza Talha Çakan
Under Secretaries General of LEGAL Committee

buglemmokc7@gmail.com & hamzacakan67@gmail.com

2. Introduction to the Committee

a) What is LEGAL?

LEGAL is the sixth and final committee of the United Nations General Assembly. LEGAL is the committee or body responsible for ensuring that an institution's internal order complies with legal frameworks and for monitoring adherence to applicable laws. It is composed of individuals specializing in various fields of law and plays a vital role in ensuring the protection of legal and ethical values. It is seen as a central point for addressing legal issues, ensuring that institutions and organizations are aware of any legal developments that may affect their activities.

b) What does LEGAL do?

The LEGAL committee is tasked with offering legal advice to ensure that decisions made by the organization align with relevant legal requirements. It plays a crucial role in monitoring and ensuring compliance with both national and international legal standards. By providing guidance on necessary regulatory adjustments and internal policy changes, the committee helps minimize legal risks and preserve the integrity of the organization.

The committee is also responsible for resolving legal disputes, offering strategies to address conflicts, and recommending appropriate legal actions when required. It reviews, drafts, and ensures the legal soundness of documents, such as contracts, agreements, and policies, safeguarding the organization from potential legal complications arising from poorly drafted or ambiguous documents.

LEGAL committee may also represent the organization in legal proceedings, advocating for the organization's interests and ensuring its rights are defended in court or during negotiations. Through its various functions, the LEGAL committee ensures that the organization remains legally compliant and prepared to address legal challenges effectively.

3. Introduction to the Agenda Item

a) Keywords

Capital Punishment: The legal practice of executing a person as punishment for a serious crime.

Indictable offence: A grave crime that is typically tried in a higher court before a judge and jury.

Human Rights: The fundamental rights and freedoms to which all individuals are inherently entitled.

Justice: The principle of fairness by which individuals are treated in accordance with the law.

Fair Trial Standards: The legal principles that ensure a person receives a just and impartial hearing in a court of law.

Law Enforcement: The implementation and enforcement of laws by the relevant authorities**.**

International Law: The set of rules and principles that govern relations between states and international organizations.

State Authority: The legal power of a government to govern and enforce laws within its territory.

Human Dignity: The inherent worth and respect owed to every individual.

Crime Prevention: The implementation of policies and measures designed to deter and reduce criminal activity.

b) Key International Legal Instruments Capital Punishment

i) International Covenant on Civil and Political Rights (ICCPR)

ICCPR is a binding treaty that obligates states to protect civil and political rights. The treaty completes the civil and political dimension of the Universal Declaration of Human Rights. It was adopted by the United Nations General Assembly on 16 December 1966 through Resolution 2200 A (XXI) and opened for signature on 19 December 1966. Except for Article 41 (concerning the establishment of the Human Rights Committee), all provisions entered into force on 23 March 1976.

The ICCPR, together with the International Covenant on Economic, Social and Cultural Rights (ICESCR) adopted in 1966, is considered an implementation instrument of the 1948 Universal Declaration of Human Rights. These three documents, along with the two Optional Protocols of the ICCPR, are collectively referred to as the "International Bill of Human Rights."

The preamble of the ICCPR emphasizes that all human beings possess "inherent dignity and equal and inalienable rights." Respect for and protection of human dignity are defined as the foundation of freedom, justice, and peace. The treaty clearly states that states must take various measures to ensure the effective protection of civil and political rights derived from this dignity.

Article 6:

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.

3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.

4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.

5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.

6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

ii) ICCPR Second Optional Protocol

The Second Optional Protocol to the International Covenant on Civil and Political Rights is a special agreement adopted with the aim of abolishing the death penalty in all circumstances. It was adopted by the United Nations General Assembly on 15 December 1989 through Resolution 44/128 and entered into force on 11 July 1991 after ten states ratified it without reservations.

The main obligation of the Protocol is that states parties undertake not to execute anyone within their jurisdiction. The Protocol allows only a very limited reservation in time of war for the most serious military crimes and requires states to notify the United Nations of such reservations through their ministries of foreign affairs.

States parties must also report the national measures they have taken to abolish the death penalty to the UN Human Rights Committee. The provisions of the Protocol complement those of the Covenant and do not permit derogation under any circumstances.

Over time, 92 states have become parties to the Protocol. Türkiye ratified it in 2006, while some countries that still apply the death penalty -such as the United States, China, Japan, and India- have not yet joined.

As a gradual intergovernmental approach, the Protocol encourages the abolition of the death penalty in law and the adoption of alternative punishments such as life imprisonment. Jurisprudence from UN bodies and human rights courts has also emphasized that the death penalty should be limited to the “most serious crimes” and should never be applied to children.

Overall, the Protocol establishes a strong obligation for the complete abolition of the death penalty in national legislation. States are encouraged to reflect these obligations in domestic law, declare whether they accept the competence of the Human Rights Committee under the First Optional Protocol, and ensure any necessary safeguards where applicable.

Article 1:

1. No one within the jurisdiction of a State Party to the present Protocol shall be executed.

2. Each State Party shall take all necessary measures to abolish the death penalty within its jurisdiction.

Article 2:

1. No reservation is admissible to the present Protocol, except for a reservation made at the time of ratification or accession that provides for the application of the death penalty in time of war pursuant to a conviction for a most serious crime of a military nature committed during wartime.

iii) Europen Convetion on Human Rights (ECHR)

The ECHR is a binding international treaty adopted by the Council of Europe in Rome on 4 November 1950 . It entered into force in September 1953 after ratification by the necessary number of member states. The Convention guarantees a range of fundamental rights -such as the right to life, prohibition of torture, right to a fair trial, and freedom of expression- and imposes positive obligations on states. It is judgments are enforced through binding judgments of the European Court of Human Rights (ECtHR) in Strasbourg, with compliance supervised by the Committee of Ministers . Forty-seven Council of Europe states (including the UK) are parties. The UK remains committed to the Convention post-Brexit and implements it via the Human Rights Act 1998.

Article 2:

1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:

a) in defence of any person from unlawful violence;
b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
c) in action lawfully taken for the purpose of quelling a riot or insurrection.

Protocol No. 6: The purposes this Protocol are:

a) This Protocol stipulates that the abolition of the death penalty in peacetime is binding upon the contracting states. Accordingly, the death penalty is abolished and its application to individuals is prohibited.

b) While the death penalty is absolutely prohibited in peacetime, a limited exception is allowed only for crimes committed in time of war or imminent threat of war; moreover, the Protocol cannot be derogated from even in times of emergency, and no reservations may be made to it.
c) In practice, states remove the death penalty from their domestic legal systems, and violations can be brought before the European Court of Human Rights through individual applications. The Committee of Ministers supervises the implementation of the provisions, and under **Article 5**, states are required to specify the territories to which the Protocol applies.

Protocol No. 13: The purpose this Protocol are:

a) The death penalty is prohibited in all circumstances, clearly stating that no one may be executed, while the Protocol cannot be suspended even in times of emergency and is not subject to any reservations.
b) This Protocol is an additional instrument open to states that have ratified the Convention; states abolish the death penalty in their domestic law, violations may be brought before the European Court of Human Rights through individual applications, the Committee of Ministers supervises the implementation of its provisions, and under Article 4, states may specify the territorial scope of its application

c) Background of Capital Punishment

i) Historical Background

Capital punishment has a long history, appearing in many legal systems since the first organized societies. Before modern prisons, execution was often seen as a strong way to stop crime and prevent repeat offenses. Historical records show that early legal systems used different punishments, including fines, physical punishment, exile, social exclusion, and execution. More serious crimes usually lead to harsher punishments, even when some communities used compensation or public apologies to settle disputes. As legal systems changed and ideas about human rights grew, discussions about the justification and limits of capital punishment began to emerge.

Mesopotamia

The Code of Hammurabi, a pioneering legal document, is the earliest known example of a system that allowed for the death penalty. This code mandated the death penalty for numerous transgressions, encompassing theft, perjury, and adultery. Retributive justice, especially the concept of proportional punishment, underpinned the legal system of this era. Capital punishment functioned as both a legal consequence and a tool for upholding social structure and stability within nascent state societies. Its implementation underscored the authority of sovereigns and the imperative to ensure order within the burgeoning urban environments of the time.

Ancient Ages

On the other hand, in Ancient Greece, capital punishment was applied in cases involving threats to the state, such as treason and impiety. The execution of Socrates illustrates how legal systems could intersect with political and philosophical tensions. Greek practices varied between city-states, but the underlying rationale often involved preserving civic order and moral values.

In Ancient Rome, the use of capital punishment became more systematized and stratified. Legal distinctions were made based on citizenship status, with Roman citizens afforded less degrading methods of execution, such as beheading, while slaves and non-citizens were subjected to crucifixion or execution in public arenas. These practices reinforced social inequality and demonstrated the authority of the Roman state, using punishment as both deterrence and spectacle.

And in China, during the Tang Dynasty (618–907), the death penalty was briefly abolished in 747 by Emperor Xuanzong of Tang. Instead of execution, officials were instructed to apply alternative punishments such as severe flogging or exile, depending on the crime. However, the death penalty was reinstated in 759 following the An Lushan Rebellion. At that time, only the emperor could authorize executions, and they were relatively rare.

The two main execution methods were strangulation and decapitation. Strangulation was used for less severe capital crimes, while decapitation was reserved for more serious offenses like treason. Many people preferred strangulation due to cultural beliefs about preserving the body intact out of respect for ancestors.

High-ranking officials sentenced to death could sometimes receive permission to commit suicide instead. Executions were usually carried out in public as a deterrent, and severed heads were displayed or sent to the capital as proof.

Middle Ages

Before the advent of contemporary prison systems, Europe in the medieval and early modern eras relied heavily on the death penalty, even for relatively minor transgressions. The early modern period also saw a surge of fear surrounding witchcraft, which fueled widespread hysteria throughout Europe and North America. This culminated in the execution of tens of thousands, with women disproportionately affected, during the infamous witch trials.

Capital punishment was also applied to sexual offences such as sodomy. In early Islamic history, various and sometimes inconsistent reports describe severe punishments ordered by early caliphs, including execution methods such as stoning or other forms. Similarly, the Buggery Act of 1533 in England mandated hanging for those convicted of such crimes, with executions persisting into the 1800s.

In regions governed by early Islamic law, non-Muslims were subject to the dhimmi system, which enforced both legal and social limitations. These restrictions encompassed specific taxes, such as jizya, constraints on religious observances, and, in certain instances, harsh penalties for offenses including apostasy or blasphemy.These pressures could lead to conversion or, in certain instances, execution.

Despite its widespread use, the death penalty was not without criticism. The 12th-century scholar Moses Maimonides argued that executing even one innocent person was worse than acquitting many guilty individuals, emphasizing the need for absolute certainty in criminal justice.

By the Age of Enlightenment, the justification of the death penalty began to change. Instead

of being based on religious ideas, it was increasingly seen through the concept of the social contract-as a deterrent and a means of protecting society rather than a divine punishment.

19th-20th Centuries

During the 19th century, the death penalty was still widely used, especially in the British Empire, but its purpose and use began to change. It was used not only to punish ordinary crimes but also to control politics, especially in colonies where it was used to put down uprisings and keep imperial power. Different methods of execution were used, such as hanging, guillotining, and even more extreme methods like execution by cannon, which were chosen based on how they affected the local population psychologically and culturally. Executions were often done in public, and bodies were often displayed or mutilated to make them more effective as a deterrent. But by the middle of the nineteenth century, debates about penal reform in Britain made these practices more closely watched, and there were efforts to standardize and, in some cases, make capital punishment more humane across the empire. Executions weren't always common, but they were very symbolic and carefully staged to have the biggest effect.

And throughout the twentieth century, the use and perception of the death penalty underwent significant fluctuations, particularly in the United States and under various political regimes. Between 1907 and 1917, several U.S. states abolished or restricted capital punishment; however, this reform was short-lived due to political instability, fears triggered by the Russian Revolution, and social tensions during World War I, leading most states to reinstate it by 1920. In 1924, new execution methods such as cyanide gas were introduced in an attempt to make executions more “humane.” From the 1920s to the 1940s, executions resurged, influenced by criminological theories and social crises such as Prohibition and the Great Depression, with the 1930s marking the highest execution rates in U.S. History. Authoritarian governments also used the death penalty a lot to keep people from speaking out. For example, during the Great Purge in the Soviet Union and the Cultural Revolution in China, many people were killed. In Nazi Germany, people were killed in different ways, like by hanging, shooting, and cutting off their heads. Military systems also used death sentences to keep order. But after World War II, things started to change a lot. People started to care more about human rights and harsh punishment didn't work, so support for the death penalty dropped, especially from the 1950s on, and executions dropped sharply. At the same time, modern penal philosophy increasingly focused on rehabilitation and restitution rather than retribution, with prisons evolving from purely punitive institutions into systems aimed at reforming offenders through education, improved conditions, and reintegration into society. Overall, the twentieth century represents a turning point in which the death penalty, though still widely used in some contexts, became increasingly challenged, restricted, and reconsidered within the framework of human rights and modern criminal justice.

Present Day

In the twenty-first century, the global use of the death penalty reflects a complex and uneven landscape shaped by legal reform, political change, and human rights discourse. Across continents, a clear pattern of abolition has emerged: nearly all of Europe has eliminated capital punishment, largely influenced by integration requirements and democratic transitions, while many countries in the Americas and Oceania have also abandoned it. In contrast, retention remains more common in parts of Asia and Africa, with countries such as China, Japan, and India continuing to apply the death penalty. Despite this global decline, its use is heavily concentrated in a small number of states. China is believed to carry out the highest number of executions, though exact figures are not publicly available, while Iran and Saudi Arabia frequently impose death sentences for a range of offences, including non-violent crimes. The United States remains a notable exception among developed nations, maintaining capital punishment with significant variation between states and ongoing legal and ethical debates.

The persistence or abolition of the death penalty is often closely tied to political developments. Many countries have abolished it following transitions from authoritarian rule to democratic governance, or as part of broader legal reforms. At the same time, in countries that retain capital punishment, debates are frequently reignited by miscarriages of justice, leading more often to procedural reforms than outright abolition. Conversely, in abolitionist states, particularly severe crimes such as acts of terrorism or mass violence can revive public and political support for reinstatement. A clear example is Pakistan, which lifted its moratorium on executions in 2014 after the Peshawar school massacre and subsequently carried out hundreds of executions. Similarly, discussions about reinstating the death penalty have periodically emerged in countries like Turkey and Philippines, although such efforts do not always succeed.

At the same time, the twenty-first century has been marked by increasing awareness of wrongful convictions and the irreversible nature of capital punishment, contributing to declining public support in some regions. Methods of execution have also evolved, with many countries abandoning older practices in favor of those perceived as more humane, though these remain controversial. In some authoritarian contexts, the death penalty continues to function as a tool of political control, reinforcing state authority beyond ordinary criminal justice. Legal reforms have also continued in abolitionist directions, as seen in Kazakhstan, which formally abolished the death penalty in 2021 after a long-standing moratorium. Overall, the twenty-first century demonstrates a dual reality: while a strong global movement toward abolition continues to expand, capital punishment persists in certain regions, making it one of the most contested and politically sensitive issues in contemporary international law.

ii) Methods of Capital Punishment

Current Methods

Hanging: A system with a calculated drop to cause neck fracture and instant loss of consciousness.

Decapitation: The separation of the head from the body with a sharp mechanism or eqiupment.

Shooting: Being shot in vital organs such as the brain or heart. The shooting could be carried out by a single person or by a firing squad.

Lethal Injections: A combination of drugs that are injected into the body to cause death.

Gas chamber: A system in which a person is in a sealed chamber and exposed to toxic gas

Electrocution: Where a person is put in a chair and is passed a controlled electric current through their body.

Stoning: A group of people throwing stones at a condemned person until the person dies.

Former Methods

Crucifixion: A wooden cross which the person nailed to his hands and feet and left to die

Animals: Being crushed, bited or poisened by animals.

Burning: Tying the person to a wooden pole and burning alive.

Boiling: Carried out using a large cauldron filled with water, oil, tar, tallow, or even molten lead.

Drowning: Forcing a person to remain submerged in water until they suffucate and die.

Falling: The person was thrown from a high place such as a cliff or mountain.

Flaying: The removal of the entire skin.

iii) Indictable Offence

In many common law jurisdictions, an indictable offence is the most serious type of crime. A formal charge, is a written document from a prosecutor specifying the exact charge against the accused, is necessary for the prosecution. This distinguishes indictable offences from other, less serious crimes. As a result, indictable offences are generally tried in higher courts such as Crown court in the UK and its equivalents in other Commonwealth jurisdictions. The presence of a jury is particularly important as it ensures that a finding of guilt is supported by jurors from both the legal profession and the public, thereby reflecting the community's concepts of justice.

The legal system that governs indictable offence cases provides extensive procedural protections as indictable offences carry severe penalties that may range from life imprisonment to long jail terms. These protective measures, which are designed to safeguard the rights of the accused to a fair trial, generally include a presumption of innocence, the disclosure of all relevant information by the prosecution side, the right to counsel, and intensive supervision of the trial by the court. Judges are necessary for ensuring that the trial is conducted properly, that evidence is admissible, and that the rights of the prosecution and the defendant are protected.

Murder, sexual harrasm, drug trafficking, and money laundering are some of the examples of indictable offance. However, indictable offences also play an important symbolic role in the justice system. An indictable offence conveys a denunciation of society in the strongest moral terms, and affirms that there are some actions that are intrinsically incompatible with social order. Simultaneously, indictable offences are accompanied by a formal judicial process that affords the accused the maximum degree of legal protection.

iv) Moratorium on Capital Punishment

A moratorium on capital punishment means a government stops carrying out executions for a while, even though the death penalty may still be legal in that country. This is usually done to look at the justice system, deal with international human rights issues, or stop people from being wrongfully executed. A moratorium does not mean that the death penalty is no longer in effect. It may still be legal, but it is a step toward limiting or even ending the death penalty in the future. Moratoriums are thought to be a good way to protect people's rights and dignity, as well as to lower the chance of making mistakes in the justice system that can't be fixed.

Sri Lanka is a good example of a country that has had a long death penalty moratorium in place. The death penalty is still legal in the country, but for many decades, the country did not carry out any executions, which effectively kept the death penalty in place. Political priorities, human rights issues, and arguments over criminal justice reform have all played a

role in shaping this moratorium. Government officials have said at different times that they plan to start carrying out executions again, especially for serious crimes like drug trafficking. However, these plans have met with opposition both at home and abroad. Sri Lanka shows that a moratorium on the death penalty can be a fluid and controversial policy space, somewhere between keeping the death penalty and getting rid of it completely.

d) Applicability of International Law

In the international legal order, the status of the death penalty has been profoundly changed from an area of absolute state sovereignty to one that is a part of the universal human rights standards. Since the mid-twentieth century, and especially since the advent of the United Nations (UN) system after the Second World War, the right to life has constituted the core of the international normative system. While in the past the power of states to regulate criminal justice and penal policy within their domestic legal systems was considered inviolable, this power is now subject to supervision in terms of international treaties, customary international law and human rights monitoring mechanisms. The process of limitation and subsequent abolition of the death penalty has now become part of the positive international human rights law and has evolved from a matter of criminal justice into a fundamental human rights issue. This report describes in detail the application of the international law with regard to the death penalty in member states, the binding force of the relevant international conventions, the role of judicial mechanisms and the ways in which member states incorporate the norms into their domestic legal systems.

In international law, the oversight of the death penalty is based on a complex multi-tiered normative framework in which the topmost level is occupied by the Universal Declaration of Human Rights (UDHR, adopted in 1948), which contains an explicit acknowledgment of the right to life and prohibition of torture, but which for political reasons did not address the question of capital punishment. This occurs because in 1948 the vast majority of member states of the United Nations were still applying such a sanction and there was no full consensus that a death penalty is incompatible with the right to life. However, this began to change in the 1960s and abolitionism grew from the drafting stage of the International Covenant on Civil and Political Rights (ICCPR).

The extent of the applicability of international law within member states is dependent on the legal theory used in the constitutional system of each state. Two primary approaches, monism and dualism, influence the way in which international norms are approached by national courts.

States adopting the monist view consider international law and domestic law as components of the same legal system. Upon ratification of an international treaty, the treaty enters domestic law automatically and can be directly invoked by courts without the necessity of further legislative enactment. In a strictly monist system, where the national law conflicts with the international norm, the international norm will regulate while national law will be set

aside by judges. From a human rights standpoint, monism has the benefit of directly invoking and defending international constraints on the death penalty in domestic law. It should be noted that the success of this system depends on the knowledge and interpretive capacities of national judges with respect to international law. A misinterpretation may result in the international liability of the state. France, and many other continental European countries, tend to be monist.

Dualism takes the view that international and domestic law are separate spheres. In such a system, incorporation by an "implementing legislation" passed by the national parliament is required for an international treaty to be binding in domestic law. Until then, individuals lack rights that flow from international treaties and judges cannot apply those rules directly. Nations with a Common Law tradition, such as the United Kingdom and India, are largely dualist. With such a system, there must be ongoing review for "filtering out" or amendment of pre-existing national laws that conflict with international law. Otherwise, even if the state has taken an obligation at the international level, it may still violate that obligation in domestic law through judicial practice.

One of the most highly controversial aspects of international monitoring in relation to the death penalty is the Vienna Convention on Consular Relations of 1963. This Convention provides protection for the rights of foreign nationals. As per Article 36 of the Convention, the detaining authority must notify without any undue delay that they are entitled to consular assistance. In matters relating to death penalty cases, such consular representation becomes highly significant because the consular representative may discover certain facts related to the personal circumstances of the accused, which might help build an effective case defense.

e) Position of Relative States

United States of America: The United States has remained a divisive country on the issue of capital punishment. The US has 27 states that allow the death penalty, although not all states carry out executions. Texas has historically carried out the most executions in the US, and recent executions have largely been in the South. Supporters of the death penalty claim it is the just punishment for the most heinous crimes and is also a deterrent against violent criminals. Critics of the death penalty point out that the death penalty is irreversible and there have been cases where condemned criminals have been acquitted. For up to one in eight death penalty cases in the US there is doubt about the conviction. Statistical trends also show racial disparities in the death penalty as black defendants are more likely to receive a death penalty than other defendants, which has raised concerns about fairness in the US criminal justice system. The death penalty remains a contentious issue in the United States as a legal and moral issue.

China: With the 2015 amendments to China's Criminal Law, the number of offences punishable by the death penalty was reduced from 55 to 46, including crimes such as murder,

drug trafficking, bribery, and certain acts considered harmful to public order. Since 2007, the Supreme People's Court has been responsible for reviewing and approving all death sentences, and some offenders are instead given a suspended death sentence with a two-year reprieve. In recent years, executions have largely been carried out through lethal injection, while the previously common method of execution by firing squad has gradually declined. Because official statistics are classified as a state secret, the exact number of executions remains unknown; however, international human rights organizations argue that China continues to execute thousands of people annually and remains the world's leading executioner. State media frequently emphasizes the use of the death penalty, particularly for offences such as drug-related crimes and corruption. In contrast, UN experts and NGOs continue to raise serious concerns regarding ongoing human rights violations within the Chinese judicial system, including restrictions on the right to legal defence, the use of forced confessions, and a persistent lack of transparency in legal proceedings.

Iran: The most common crimes punishable by capital punishment in Iran are intentional murder, large scale drug trafficking, and a number of vaguely worded crimes, including "waging war against God" (moharebeh) and "corruption on earth" (efsad-e fel-arz). Executions by hanging are common, and in some cases, are carried out in public. Stoning, while still legal, has not been common for many years despite being mentioned in the law. Because data on executions are considered a state secret, the number of people executed in Iran each year is uncertain. According to reports from civil society organisations, 900–1,000 people were executed in 2024, and more than 1,000 people were reportedly executed in 2025. After the "Mahsa Amini" protests in 2022, the authorities are said to have used execution as a new method of intimidation, and many protestors were sentenced to death in expeditious and unjust trials. Trials are said to not be in line with international standards and include torture to force "confessions", restrictions on access to legal counsel, and a lack of opportunities to appeal unjust verdicts. Minority groups (including Afghans, Kurds, and Baluch people), foreigners, and some women are subjected to a disproportionately high number of executions.

France: The death penalty in France was completely abolished by a law dated 9 October 1981, and this abolition was later закреπed in the Constitution in 2007 with Article 66-1, which clearly states that "no one shall be sentenced to death." Today, according to the official position, the death penalty is regarded as a punishment that violates human rights and is emphasized as being both ineffective in criminal justice and irreversible in its consequences. For this reason, France also refuses, under international law, to extradite suspects to countries where they may face the death penalty, and as a member of the Council of Europe and the European Union, it has ratified the relevant protocols of the European Convention on Human Rights, adopting the abolition of the death penalty as a fundamental requirement. In criminal law, the most severe punishment is now life imprisonment, and death sentences issued before 1980 were automatically commuted to life sentences. Although public debates and surveys show that more than half of the population supports the reinstatement of the death penalty, the government and mainstream political actors oppose such proposals and maintain the official stance. In summary, France's current position is to firmly reject the death penalty in

line with universal human rights commitments and to actively promote its abolition both in national law and in international policy.

Turkiye: The death penalty in Turkıye has not been implemented in practice since 1984 and was completely abolished in 2004 as part of European Union harmonization reforms, being removed from both the Constitution and the Turkish Penal Code. With Law No. 5170, adopted on 7 May 2004, all constitutional provisions regarding the death penalty were eliminated; subsequently, with Law No. 5218 dated 14 July 2004, all death penalty provisions were removed from the Turkish Penal Code, and existing sentences were commuted to life imprisonment. As a result of these legal changes, courts can no longer impose the death penalty, nor can the Turkish Grand National Assembly approve it, and this prohibition has been further reinforced by Protocols No. 6 and 13 of the European Convention on Human Rights. Among political actors, although the ruling coalition brought the issue of reinstating the death penalty to the agenda—especially following strong public demand after the 2016 coup attempt—government officials have not passed such measures through parliament, citing the separation of powers and international obligations. Opposition parties, on the other hand, have refrained from proposing constitutional amendments in order to preserve fundamental rights. Some figures, such as MHP leader Devlet Bahçeli, have called for the death penalty in cases of serious crimes, emphasizing it as a "legitimate expectation of the nation" during the opening of parliament. Public opinion surveys generally indicate that a majority supports reinstatement. In summary, Turkıye's current official position is to firmly reject the death penalty in line with its commitments to the European Union and the Council of Europe, and to maintain its existing legal framework

Afghanistan: After the Taliban took control of Afghanistan in 2021, the death penalty under Sharia law was reinstalled in Afghanistan. Although the Constitution of 2004 allowed for the death penalty to be used for serious crimes, but not necessarily abolishing it, there have been only few executions performed prior to the Taliban's control. Now, executions, especially public ones in cases of murder, have been reintroduced by the Taliban government and are considered acceptable in accordance with religious law. Still, the UN and many human rights organizations around the world are strongly condemning these executions as they are considered contrary to human rights laws and are a violation of international legislation. Generally, although currently the de facto regime in Afghanistan is performing capital punishment based on religion, it does face strong criticism from abroad.

4. Question to be Answered

1- What measures can be taken to prevent procedural mistakes in capital punishment cases?
2- How can the supremacy of international law be achieved and maintained in member countries, particularly in relation to human rights abuses?
3- What ways can states ensure that cases in which the death penalty is involved are not prejudiced?
4- What is the role of the UN in such cases to be determined by those states that employ the death penalty?
5- How do nations employing capital punishment comply with human rights treaties?
6- What measures need to be considered in order to ensure fair trial in cases involving capital punishment?
7- Is there any contradiction between capital punishment and the prohibition of torture and inhuman treatment?
8- Which other kinds of penalties can nations adopt prior to the abolition of capital punishment?

Bibliography

https://www.ohchr.org/en/instruments-mechanisms/instruments/second-optional-protocol-international-covenant-civil-and

https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights

https://ccla.org/privacy/surveillance-and-privacy/summary-international-covenant-on-civil-and-political-rights-iccpr/

https://www.bbc.com/turkce/articles/c035pl6g1yeo

https://deathpenaltyinfo.org/stories/history-of-the-death-penalty-timeline

https://www.echr.coe.int/documents/d/echr/convention_tur

https://www.echr.coe.int/

https://www.law.cornell.edu/wex/capital_punishment

https://munuc.org/committees/legal-38/

https://unsdg.un.org/sites/default/files/2020-03/Death-Penalty.PDF

https://www.ohchr.org/en/topic/death-penalty

https://www.britannica.com/topic/capital-punishment

https://www.echr.coe.int/documents/d/echr/convention_tur

https://digitallibrary.un.org/record/3896434?v=pdf

https://www.crimemuseum.org/crime-library/execution/origins-of-capital-punishment/

https://www.amnesty.org/en/what-we-do/universal-declaration-of-human-rights/

https://deathpenaltyinfo.org/resources/high-school/about-the-death-penalty/history-of-the-death-penalty

https://web.archive.org/web/20190511094703/https://en.wikisource.org/wiki/The_Code_of_Hammurabi_(Harper_translation)

https://en.wikipedia.org/wiki/List_of_methods_of_capital_punishment

https://deathpenaltyinfo.org/facts-and-research/background/history-of-the-death-penalty/early-history-of-the-death-penalty

https://en.wikipedia.org/wiki/Capital_punishment

https://www.amnesty.org/en/documents/act50/9240/2025/en/

https://www.amnesty.org/en/documents/act50/7952/2024/en/

https://bjs.ojp.gov/topics/corrections/capital-punishment