



## General Assembly

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### Seventy-ninth session

#### Agenda item: Moratorium on the execution of the death penalty

Sponsors: Algeria, Brazil, Botswana, Fiji and Mexico,

*The General Assembly,*

*Reaffirming* the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child and the International Convention on the Elimination of All Forms of Racial Discrimination,

*Recognizing* that the right to life is an inalienable birth right of every human being and that its protection is a cornerstone of international justice and human dignity,

*Reaffirming* the International Covenant on Civil and Political Rights,<sup>4</sup>

*Recognizing* the importance of regarding the sentencing and execution of ensuring transparency regarding the death penalty,

*Recognizing* the importance of impartial public opinion polling,

*Recognizing* the importance of understanding the impact of the abolition of the death penalty on society,

*Recognizing* the importance of promoting discussion in countries where the death penalty exists,

*Recognizing* that home countries can assist foreigners sentenced to death,

*Recognizing* the importance of making an unbiased social questionnaire,

*Recognizing* the importance of promoting understanding of the death penalty,

*Recognizing* that the death penalty is disproportionately applied to persons of race, nationality, religion, and other minorities,

*Recognizing* that trials are not conducted equally for all people,

*Recognizing* the importance of providing concrete measures for the implementation of equal justice,

*Underscoring* that the denial of legal assistance by the tribunal reviewing the death sentence of an indigent convicted person precludes an effective review of the conviction and sentence by the higher tribunal, and that such denial of legal assistance constitutes a violation of article 14 (3) (d) and (5) of the International Covenant on Civil and Political Rights,

*Stressing* that those convictions resulting in the death penalty based on information obtained through torture or cruel, inhuman or degrading treatment of interrogated persons violate article 15 of the Convention against Torture and articles 7, 14 (3) (g) and 6 of the International Covenant on Civil and Political Rights,

*Recognizing* the importance of compliance with Article 7 and other international laws,

To prevent false convictions to the greatest extent possible and to create an environment conducive to their detection

*Stressing* that the term “the most serious crimes” has consistently been read restrictively and interpreted as pertaining only to crimes of extreme gravity involving intentional killing, and stressing also that under no circumstances can the death penalty ever be applied as a sanction against specific forms of conduct, such as apostasy, blasphemy, adultery, consensual same-sex conduct or relations, establishing political opposition groups or offending a head of State, and that States parties that retain the death penalty for such offenses commit a violation of their international obligations,

*Recognizing* the importance of continuing to work until a problem is truly solved,

*Recognizing* that continued efforts towards the abolition of the death penalty are necessary;

1. *Emphasizes* the universal foundation of human rights, centered on the right to life, and that this right should be respected as an unshakable foundation in any society;
2. *Recalls* the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms, when discussing the death penalty or sentencing or executing a person to death;
3. *Emphasizes* that arbitrary death penalty includes the following: arbitrary death penalty refers to death penalty imposed without due legal procedures and human rights must be protected by laws or based on unfair or discriminatory criteria,
  - a. Abuse of the death penalty for political or repressive purposes, such as executing someone for participating in non-violent anti-government protests
  - b. Death sentence imposed on the basis of coerced confessions as a result of torture and other cruel, inhuman or degrading practices
  - c. Certain groups or vulnerable groups, especially immigrants, the poor, ethnic minorities, and other nationalities, who are excessively more likely to be sentenced to death than other defendants charged with similar crimes

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- d. A death sentence is imposed under the following circumstances where the accused is not given the legal assistance necessary to receive a fair trial
    - i. The accused is represented by an inexperienced person who does not have the appropriate legal credentials.
    - ii. Court-appointed counsel is not selected when the defendant cannot afford counsel.
    - iii. Contact between defence counsel and the accused is excessively restricted.
    - iv. Interpretation or translation assistance is not provided when the trial or defence is conducted in a language the defendant does not understand.
  - e. Judgments rendered based on improper legal procedures, such as decisions made behind closed doors and not disclosed to the public.
4. *Encourages* countries with the death penalty to ensure transparency in sentencing and execution by collecting the following information and making it available to the public to the extent possible without breaching privacy;
- a. Number of death sentences and executions per year
  - b. Number of death sentences and executions by type of crime
  - c. Percentage of defendants sentenced to death by ethnicity, religion, nationality, and socioeconomic background
  - d. Number of death sentences in which the defendant was suspected of being falsely convicted
5. *Encourages* all Member States to take the following precautions to avoid arbitrarily guiding public opinion when conducting questionnaires on the pros and cons of the death penalty or publicizing the results of such questionnaires;
- a. To conduct questionnaires on the public with as much information as possible, including both viewpoints.
  - b. To avoid questions that include one-sided assumptions and use neutral wording.
  - c. To select the target audience of the survey impartially and comprehensively, when limiting the target audience of the survey.
  - d. To disclose the tabulation method and data processing procedures of the survey results as much as possible.
  - e. To ensure the anonymity of the questionnaire.
6. *Recommends* that countries that abolish the death penalty in the future collect data on the changes in the following items before and after the abolition of the death penalty to avoid arbitrary inducement of arbitrary results;
- a. Public opinion on the abolition of the death penalty
  - b. Crime rates
  - c. Number of crimes for which the death penalty was imposed at the time of implementation
  - d. Recidivism rates for crimes for which the death penalty has been imposed
  - e. Number of death sentences and executions per year

- f. Number of death sentences and executions by type of crime
  - g. Relevant information broken down by gender, age, disability, nationality and race,
7. *Calls upon* countries where the death penalty exists:
- a. To promote debating the aim of examining the possibility of introducing a moratorium on executions.
  - b. To allow sufficient time for public debate between sentencing and execution.
  - c. To ensure that the death penalty is not applied on the basis of discriminatory laws, including laws which target individuals for exercising their human rights, or as a result of discriminatory or arbitrary application of the law.
8. *Recommends* all Member States to take the following precautions to avoid arbitrarily guiding public opinion when conducting questionnaires on the pros and cons of the death penalty or publicizing the results of such questionnaires;
- a. To conduct questionnaires on the public with as much information as possible, including both viewpoints.
  - b. To avoid questions that include one-sided assumptions and use neutral wording.
  - c. To select the target audience of the survey impartially and comprehensively, when limiting the target audience of the survey.
  - d. To disclose the tabulation method and data processing procedures of the survey results as much as possible.
  - e. To ensure the anonymity of the questionnaire.
9. *Reaffirms* that when a person who does not hold the nationality of a country, such as a foreign national, is sentenced to death, the defendant is entitled to the support of the country of his or her nationality.
10. *Urges* countries with the death penalty to deepen understanding of the death penalty by educating their citizens, judges, prosecutors and administrators about international trends, international human rights law and the death penalty itself;
11. *Urges* all Member States to ensure that all punishments, including the death penalty, are meted out equally regardless of race, religion, nationality or other minority group;
12. *Urges* all Member States to provide equal access to counsel and other assistance to ensure fair trials regardless of race, religion, nationality or other minority group at the time of trial;
13. *Encourages* all members to implement the following provisions to ensure equal trial;
- a. To ensure that defendants understand the language used in court, including by hiring free interpreters.
  - b. To maximize the use of technology, such as DNA testing, to prevent mistrials to the greatest extent possible.
  - c. To be given adequate time and facilities to prepare his or her defence and to communicate with counsel of his or her choice
  - d. To receive a trial without undue delay.

- e. If for any reason defendant is unable to retain counsel, the State will arrange for the accused to be represented by counsel of his/her choice
  - f. To examine or have examined witnesses against him, and to require the presence and examination of witnesses for him under the same conditions as witnesses against him
  - g. Not to be compelled to make a statement or confess to a crime that is prejudicial to himself/herself.
  - h. Not to use statements or confessions made through torture or ill-treatment in proceedings
  - i. to have the right to appeal.
14. *Urges* all Member States to refrain from executing persons who are insane at the time of execution, persons under the age of 18 at the time of the crime, pregnant women, and mothers of newborns, and to take the following measures;
- a. To conduct a psychiatric evaluation at the time of execution by qualified person.
  - b. If the age of the person in question is not known, the death penalty shall be postponed until such information is determined.
15. *Calls upon* state which have abolished the death penalty not to reintroduce it and encourage them to share their experiences in this regard;
16. *Urges* countries that retain the death penalty to take proactive steps to reduce the number of crimes for which the death penalty is imposed and to strictly limit the death penalty to the "most serious crimes";
17. Decides to continue the discussion and consideration of this matter at least 80 sessions under the item entitled "Promotion and Protection of Human Rights".